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RESOLUTION NUMBER R- 304221

DATE OF FINAL PASSAGE OCT 21 2008

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO GRANTING SITE DEVELOPMENT PERMIT NO. 385300, PLANNED DEVELOPMENT PERMIT NO. 395298, AND MULTI-HABITAT PLANNING AREA BOUNDARY LINE ADJUSTMENT FOR THE NANCY RIDGE BUSINESS PARK PROJECT NO. 114358.

WHEREAS, Nancy Ridge Business Park, LLC, and Caryon Properties, LLC, Owners/Permittees, filed an application with the City of San Diego for a Site Development Permit [SDP], Planned Development Permit [PDP], and a Multi-Habitat Planning Area [MHPA] boundary line adjustment to construct two step-down, flat pads for outdoor storage use to be known as the Nancy Ridge Business Park project [Project], located at 5909 Nancy Ridge Drive, and legally described as the north half of the southeast quarter of the northeast quarter, in Section 9, Township 15 South, Range 3 West, San Bernardino Base Meridian, in the City of San Diego, County of San Diego, State of California (APN 343-010-21); and Lot 107 of Lusk Industrial Park Unit No. 4, Map 10819 (APN 343-010-31), in the Mira Mesa Community Plan area, in the AR-1-1 zone, which is proposed to be rezoned to the IL-2-1 zone; and

WHEREAS, on July 17, 2008, the Planning Commission of the City of San Diego considered SDP No. 385300, PDP No. 385298, and the MHPA boundary line adjustment, and pursuant to Resolution No. 4426-PC voted to recommend City Council approval of the permits and boundary line adjustment; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter required the City Council to act as a quasi-judicial body, a public

hearing was required by law implicating due process rights of individuals affected by the decision, and 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 OCT 07 2008, 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 SDP No. 385300, PDP No. 385298, and the MHPA boundary line adjustment:

**A. 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 Mira Mesa Community Plan [MMCP] designates the Project site for Open Space and Light Industrial uses. The area to be graded for the proposed storage use is entirely within the portion of the site designated for Light Industrial use and does not encroach into the area designated for Open Space. The Light Industrial area allows for manufacturing, storage, warehousing, distribution, and similar uses under the MMCP. The proposed use and the rezone from AR-1-1 to IL-2-1 to allow the open storage area is consistent with the MMCP's Light Industrial land use designation; therefore, the proposed development will not adversely affect the applicable land use plan.

**b. The proposed development will not be detrimental to the public health, safety, and welfare.** The Project site is located at 5909 Nancy Ridge Drive and the adjacent parcel to the south. The proposed on-site grading would create pads for outdoor storage and an access driveway on portions of the 25.79-acre site. The Project permits include conditions to assure compliance with City, regional, state, and federal regulations that prevent detrimental impacts to public health, safety, and welfare. The proposed development meets or exceeds all established guidelines or requirements for fire safety access, storm water runoff control, driveway and grading configurations, and all other requirements for public health, safety, or welfare.

**c. The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed on-site grading would create outdoor storage pads and an access driveway and would comply with the applicable regulations of the proposed IL-2-1 zone, with the exception of retaining wall height. The SDMC limits retaining wall height to 12 feet and the Project proposes a 31 foot plantable, keystone retaining wall. Development of the property shall meet all development regulations and criteria of the IL-2-1 zone, except as specifically allowed and modified by the PDP No. 385298 which permits flexibility from strict adherence to base zone regulations where it will result in a more desirable project. Specific conditions written into PDP No. 385298 would require continued compliance with all relevant City regulations in effect for this site. All relevant regulations shall be complied with at all times for the life of the project, except as allowed through specific deviations.

**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 Project site is located at 5909 Nancy Ridge Drive and the adjacent parcel to the south. The proposed on-site grading would create pads for outdoor storage and an access driveway on portions of the 25.79-acre site. The project site consists of two parcels located below Nancy Ridge Drive on south and west facing slopes. Both parcels contain moderate to steep slopes with elevations ranging from approximately 200 feet to approximately 280 feet Above Mean Sea Level. The northern parcel (APN 343-010-31) totals approximately 11.8 acres, and fronts a portion of Nancy Ridge Drive which extends from a point approximately 150 feet south of the Carroll Canyon Road/Nancy Ridge Drive intersection and continues south around a bend turning eastward for a total of approximately 0.48 miles. The southern parcel (APN 343-010-21) totals approximately 13.99 acres, and has no street frontage. Both parcels contain Environmentally Sensitive Lands due to Steep Hillides and Sensitive Biological Resources, are located partially within the City's Multiple Species Conservation Plan [MSCP] Subarea Plan Multi-Habitat Planning Area [MHPA], and contain wetlands.

Based upon the site topography and the location of the parcels, the Project was designed to limit overall grading quantities so that only 23.8 percent of the site would be developed where 25 percent is allowable. The Project design would also limit impacts to sensitive biological resources and result in a net gain of 4.36 acres of MHPA lands through the proposed MHPA boundary line adjustment.

**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 Project site is located at 5909 Nancy Ridge Drive and the adjacent parcel to the south. The proposed on-site grading would create pads for outdoor storage and an access driveway on portions of the

25.79-acre site. The proposed project, by utilizing plantable, keystone type retaining walls, will minimize the alteration of the natural land forms that might otherwise be reconfigured if fill slopes were to be utilized in lieu of the keystone walls. Additionally, by utilizing plantable retaining walls in lieu of fill slopes, the project improvements will not encroach into the flood plain and thus will minimize the effects of erosional forces and flood hazards. There will be no structures on site thereby minimizing any potential for a fire hazard.

**c. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** The Project site is located at 5909 Nancy Ridge Drive and the adjacent parcel to the south. The proposed on-site grading would create pads for outdoor storage and an access driveway on portions of the 25.79-acre site. Based upon the site topography and the location of the parcels, the Project was designed to limit overall grading quantities so that only 23.8 percent of the site would be developed where 25 percent is allowable. The Project design would also limit impacts to sensitive biological resources and result in a net gain of 4.36 acres of MHPA lands through the proposed MHPA boundary line adjustment. Additionally, all proposed development would occur outside of wetland areas and maintain a minimum 100-foot buffer. Potential indirect impacts occurring from drainage and sedimentation during construction would be mitigated through compliance with the MSCP Land Use Adjacency Guidelines and construction, post-construction and permanent Best Management Practices [BMP] maintenance consistent with the approved Water Quality Technical Report. All wetland areas would be protected on-site.

The proposed development would use plantable keystone type retaining walls in lieu of fill slopes. There will be substantially less encroachment into environmentally sensitive lands by the proposed development on this site or adjacent environmentally sensitive lands.

**d. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan.** The Project site is located at 5909 Nancy Ridge Drive and the adjacent parcel to the south. The proposed on-site grading would create pads for outdoor storage and an access driveway on portions of the 25.79-acre site. The proposed development would be consistent with the MHPA preserve boundary and result in a net increase of 4.36 acres of MHPA lands through the MHPA boundary line adjustment. By minimizing that portion of the site to be developed and restricting the remaining portion of the site's use as open space only, the proposed development conforms to the MSCP Subarea plan.

**e. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The Project site is located at 5909 Nancy Ridge Drive and the adjacent parcel to the south. The proposed on-site grading would create pads for outdoor storage and an access driveway on portions of the 25.79-acre site. The proposed project is located

several miles inland and, therefore, would not contribute to the erosion of public beaches nor would it impact the local shoreline sand supply. Runoff from the site would be directed to the graded pad areas, and primary filtering of storm water runoff would be achieved through catch basins on each pad level equipped with Kristar filter inserts, which would be discharged through rip rap dissipaters to the canyon area below the site. In addition, the site is designed with the use of keystone type retaining walls which will keep the development footprint out of that portion of the site subject to erosive conditions.

**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.** The Project site is located at 5909 Nancy Ridge Drive and the adjacent parcel to the south. The proposed on-site grading would create pads for outdoor storage and an access driveway on portions of the 25.79-acre site. A Mitigated Negative Declaration [MND] was prepared for the proposed Project and the associated Mitigation, Monitoring and Reporting Program has been incorporated into the development permit conditions to fully mitigate all potentially significant negative environmental impacts that may result from the proposed development.

**B. PLANNED DEVELOPMENT PERMIT – SDMC SECTION 126.0604**

**1. The proposed development will not adversely affect the applicable land use plan.** The project site is designated for Open Space and Light Industrial uses by the MMCP. The area to be graded for the proposed storage use occurs entirely within the portion of the site designated Light Industrial and does not encroach into the area designated Open Space. The Light Industrial designation is intended for manufacturing, storage, warehousing, distribution and similar uses. The proposed use and the rezone from AR-1-1 to IL-2-1 to allow the open storage area is consistent with the MMCP's Light Industrial land use designation and therefore, the proposed development will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The Project site is located at 5909 Nancy Ridge Drive and the adjacent parcel to the south. The proposed on-site grading would create pads for outdoor storage and an access driveway on portions of the 25.79-acre site. The Project permits contain conditions for compliance City, regional, state, and federal regulations to prevent detrimental impacts to public health, safety and welfare. The proposed Project meets or exceeds all established guidelines or requirements concerning fire safety access, storm water runoff control, driveway and grading configurations, and all other requirements for public health, safety, or welfare.

**3. The proposed development will comply with the regulations of the Land Development Code.** The proposed on-site grading to create an access

driveway and graded pads for outdoor storage use complies with the applicable regulations of the proposed IL-2-1 zone, with the exception of retaining wall height. The project is proposing a maximum 31-foot high retaining wall where the maximum height is 12-feet.

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 incorporated as conditions into PDP No. 385298. Development of the property shall meet all requirements of the regulations and development criteria of the IL-2-1 zone, except as specifically allowed and modified by PDP No. 385298 which allows for flexibility from the strict application of the regulations because this Project achieves the purpose and intent of the land use plan and is preferable to what would be achieved by strict conformance with the regulations. Therefore, with the approval of the PDP No. 385298 all relevant regulations would be complied with at all times for the life of the project, and as allowed through the deviation for the 31-foot height of the retaining wall.

**4. The proposed development, when considered as a whole, will be beneficial to the community** The Project site located at 5909 Nancy Ridge Drive and the adjacent parcel to the south. The proposed on-site grading would create pads for outdoor storage and an access driveway on portions of the 25.79-acre site. The proposed development will be beneficial to the community because it will provide local businesses in the area a nearby place to store their products, equipment, and/or inventory in lieu of more remote locations thereby lessening the impact to the environment resulting from trucks and vehicles on congested roadways in the area and the increased savings of non-renewable resources such as gasoline.

**5. 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 IL-2-1 zone, except as specifically allowed and modified by Planned Development Permit No. 385298 which provides flexibility from the strict adherence to the maximum retaining wall height limit because the higher plantable key stone design will result in a more desirable project.

The Planned Development Permit regulations allow for deviations from the base zone or development regulations that exceed limited deviations allowed under Chapter 14 of the SDMC if the proposed design is an imaginative and creative solution that is preferable to the design that would result from the strict application of the regulations. The Project would include an outdoor storage facility which minimizes impacts to environmentally sensitive lands and steep hillsides resulting from grading by constructing a series of plantable keystone retaining walls that are sensitive to adjacent properties. Therefore, the proposed Project design would be a preferable creative and imaginative design and the deviation in retaining wall height is allowable through the Planned

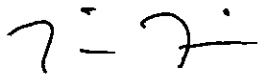
Development Permit regulations. The development's concept plans for the Project comply with all other development criteria in effect for the site.

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

BE IT FURTHER RESOLVED, that SDP No.385300, PDP No.385298, and the MHPA boundary line adjustment is granted to Nancy Ridge Business Park, LLC, 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

  
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Nina M. Fain  
Deputy City Attorney

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Or.Dept:DSD  
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**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 42-7003

**SITE DEVELOPMENT PERMIT NO. 385300**  
**PLANNED DEVELOPMENT PERMIT NO. 385298**  
**MULTI-HABITAT PLANNING AREA BOUNDARY LINE ADJUSTMENT**  
**NANCY RIDGE BUSINESS PARK [MMRP] – PROJECT NO. 114358**

**CITY COUNCIL**

Site Development Permit No. 385300 and Planned Development Permit No. 385298 are granted by the City Council of the City of San Diego to Nancy Ridge Business Park, LLC, and Caryon Properties, LLC, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] sections 126.0502 and 126.0602. The 25.79-acre site is located at 5909 Nancy Ridge Drive in the AR-1-1, (IL-2-1 proposed rezone), Airport Environs, Accident Potential Zone 1, MCAS Airport Influence Area, Brush Management, Multiple Habitat Planning Area, Floodplain Zone "A," Community Plan Implementation Zone "B," and Residential Tandem Parking zones of the Mira Mesa Community Plan area. The project site is legally described as the north half of the southeast quarter of the northeast quarter, in Section 9, Township 15 South, Range 3 West, San Bernardino Base Meridian, in the City of San Diego, County of San Diego, State of California (APN 343-010-21); and Lot 107 of Lusk Industrial Park Unit No. 4, Map 10819 (APN 343-010-31).

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct two graded level pads for outdoor storage use only and an access road on two parcel lots, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated OCT 21 2008, on file in the Development Services Department.

The project shall include:

- a. Site grading, drainage structures, and retaining walls to create an access driveway and two graded pads with 4 inches thick of Class 2 base cap for an outdoor storage area;



- b. A deviation is being granted to allow a retaining wall ranging in height from 12'-0" to a maximum of 31'-0" outside of required setbacks, as shown on Exhibit "A;"
- c. Landscaping (planting, irrigation and landscape related improvements); 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 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. This permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect 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 Owner/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 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.
5. The 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 Owner/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. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO 18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

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 site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

9. Construction 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.

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 Permit. The holder of this Permit shall 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.

11. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The 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, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permits by reference or authorization for the project

13. The mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 114358, shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 114358, satisfactory to the City Manager and the City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to, to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Land Use
- Biological Resources
- Paleontological Resources

15. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

**ENGINEERING REQUIREMENTS:**

16. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP] maintenance, satisfactory to the City Engineer.

17. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.

18. Prior to the issuance of any construction permit the Owner/Permittee shall incorporate and show the type and location of all post construction BMP's on the final construction drawings, consistent with the approved Water Quality Technical Report.

19. The drainage system for this project shall be private and is subject to approval by the City Engineer.

20. Prior to the issuance of any building permits, the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

21. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99 08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), 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 implemented concurrently with the commencement of grading activities, and a Notice of Intent (NOI) shall be filed 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 grading permit and by SWRCB Order No. 99-08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99-08 DWQ.

22. The Owner/Permittee shall construct a 26-foot wide standard driveway on Nancy Ridge Drive in conformance with all applicable City design requirements, standards, and guidelines. All work shall be completed and accepted by the City Engineer prior to open storage operations.

23. Fill placed in the Special Flood Hazard Area for the purpose of creating a building pad shall be compacted to 95 percent of the maximum density obtainable with the Standard Proctor Test Fill method issued by the American Society for Testing and

Materials (ASTM Standard D-698). Granular fill slopes shall have adequate protection for a minimum flood water velocity of 5 feet per second.

**GEOLOGY REQUIREMENTS:**

24. Additional geotechnical review will be required as part of the ministerial permit issuance process when a building or grading permit is required for this project.

**LANDSCAPE REQUIREMENTS:**

25. Landscape Construction Documents associated with grading, retaining walls, and building permits shall clearly demonstrate within the landscape scope of work, notes on plans, details, and/or landscape specifications that construction of retaining walls shall not exceed the limits of work as defined on Exhibit "A," Landscape Development Plan.

26. Landscape Construction Documents associated with grading, retaining walls, and building permits shall clearly demonstrate within the landscape scope of work and/or landscape specifications that planting which occurs in Brush Management Zone 2 and in the MHPA, as defined on Exhibit "A," Landscape Development Plan, shall be planted by hand, without the use of machinery. No mechanical or vehicular equipment shall be permitted.

27. Landscape Construction Documents associated with grading, retaining walls, and building permits shall clearly demonstrate within the landscape scope of work and/or landscape specifications that Brush Management Zone 2 shall be temporarily irrigated and shall consist of only above-ground piping as defined in the Land Development Manual: Landscape Standards. No trenching or mechanical equipment shall be permitted Brush Management Zone 2 and in the MHPA, as defined on Exhibit "A," Landscape Development Plan.

28. In the event that the Landscape Plan and the Site Plan conflict, the Site Plan shall be revised to be consistent with the Landscape Plan such that landscape areas are consistent with the Exhibit "A," Landscape Development Plan.

29. Prior to issuance of construction permits for grading, the Owner/Permittee or subsequent Owner shall submit landscape construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the Land Development Manual Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A."

30. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading and disturbance has been completed. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Land Development Manual: Landscape Standards.

31. The Owner/Permittee or subsequent Owner shall maintain all landscape in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

32. The Owner/Permittee or subsequent Owner shall ensure that all proposed landscaping, especially landscaping adjacent to native habitat and/or MHPA, shall not include exotic plant species that may be invasive to native habitats. Plant species found within the California Invasive Plant Council's [Cal-IPC] Invasive Plant Inventory and the City of San Diego's Land Development Manual, Landscape Standards are prohibited.

33. Construction Documents for grading shall include the following note:  
"Installation of landscaping associated with these construction documents shall require a minimum short-term establishment period of 120 days for all native/naturalized slope restoration and a minimum long-term establishment/maintenance period of 25 months." Final approval of the required landscaping shall be to the satisfaction of the Mitigation Monitoring Coordination section of the Development Services Department.

**BRUSH MANAGEMENT PROGRAM REQUIREMENTS:**

34. The Owner/Permittee and/or any subsequent Owner shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Plan.

35. Prior to issuance of any construction permits for grading, retaining walls, or buildings, Landscape Construction Documents shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A."

36. Prior to issuance of any construction permits for grading, retaining walls, or buildings, a complete set of Brush Management Construction Documents shall be submitted for approval to the City Manager and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A" and shall comply with the Uniform Fire Code, M.C. 55.0101; the Land Development Manual, Landscape Standards; and the Land Development Code, Landscape Regulations Section 142.0412 (Ordinance O-19413).

37. The Brush Management Program shall consist of two zones consistent with the Brush Management Regulations of the Land Development Code Section 142.0412 as follows: a standard Zone One of 35 feet and a standard Zone Two of 65 feet.

38. Within Zone One, combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc.) shall not be permitted while non-combustible accessory structures may be approved within the designated Zone One area subject to written Fire Marshall and City Manager approval.

39. The following note shall be provided on the Brush Management Construction Documents: "It shall be the responsibility of the Permittee to schedule a pre-construction meeting on-site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."

40. In Zone One, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Analysis Section [LAS] and the Environmental Analysis Section [EAS].

41. All new Zone Two planting shall be temporarily irrigated with an above-ground irrigation system until established. Zone Two shall be maintained on a regular basis by pruning and thinning plants, removing weeds, and maintaining the temporary irrigation system. Only native vegetation shall be planted or hydroseeded. If Zone Two is being revegetated, 50 percent of the planting area shall be seeded with material that does not grow taller than 24 inches.

42. Prior to final inspection, the approved Brush Management Program shall be implemented. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Land Development Manual, Landscape Standards.

**PLANNING/DESIGN REQUIREMENTS:**

43. 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 Owner/Permittee.

44. Other than the open storage use, as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"], the Owner/Permittee and/or any subsequent Owner shall not be allowed to convert, change or modify to any other uses or development on the site unless appropriate application(s) or amendment(s) to this Permit have been granted.

45. No storage of hazardous waste chemicals or materials, petroleum products, or motor vehicles shall be allowed on site.

46. Outdoor storage of merchandise, material, and equipment shall be permitted on this site provided that the area is screened by a solid fence, wall or combination thereof, not less than 6'-0" in height and not greater than 12'-0" in height. No merchandise, material, or equipment shall exceed the height of the screening fence, wall or combination thereof. Fences and/or walls which exceed a height of 6'-0" shall obtain a building permit as required by the Municipal and Uniform Building Codes.

47. The Owner/Permittee shall take measures to ensure that water quality is not adversely affected by runoff containing fuel and lubricants or other pollutants.

48. Prior to issuance of any construction permits, the Owner/Permittee shall provide a Litter Control Program to ensure that the property is kept free of litter, satisfactory to the City Engineer

49. Prior to issuance of any construction permits, the Owner/Permittee shall execute a covenant of easement to be recorded against title to the affected premises, identified as all areas outside the development footprint, not including the conveyance of 8.02 acres for the MHPA, as shown on the approved Exhibit "A," Nancy Ridge Business Park, and executed in favor of the City. The covenant shall contain information as required by SDMC sections 143.0152(a) (1-4).

50. 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.

51. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

**WASTEWATER REQUIREMENTS:**

52. The open storage area shall not contain any habitable structure or trailer on the site. Any future habitable building structure on the site shall require the Owner/Permittee and/or subsequent owner to provide a sewer study and possible upgrade of offsite public sewer mains, acceptable to the Metropolitan Wastewater Department Director and satisfactory to the City Engineer.

**WATER REQUIREMENTS:**

53. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water services, outside of any driveway or drive aisle and the removal of any existing unused water services within all rights-of-way adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

54. Prior to the issuance of any construction permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention devices on each water service (domestic and irrigation), in a manner satisfactory to the Director of Public Utilities, the City Engineer and the Cross Connection Control Group in the Customer Support Division of the Water Department.



55. No approved improvements or landscaping, including private water facilities, grading and enhanced paving, shall be installed in or over any easement prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.

56. Prior to the issuance of any certificates of occupancy, the Owner/Permittee shall install additional fire hydrants, if needed, at locations satisfactory to the Fire Department and the City Engineer.

57. All on-site water facilities shall be private including domestic, fire and irrigation systems.

58. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services and meters, shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.

59. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities as shown on the approved plans shall be modified at final engineering to comply with standards.

**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 §66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Council of the City of San Diego on OCT 07 2008, by  
Resolution No. R- 304221.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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

NANCY RIDGE BUSINESS PARK, LLC  
Owner/Permittee

By \_\_\_\_\_

CARYON PROPERTIES, LLC  
Owner/Permittee

By \_\_\_\_\_

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

PERMIT/OTHER - Permit Shell 11-01-04