

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

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CITY CLERK
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SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-3114

CONDITIONAL USE PERMIT NO. 132890
PLANNED DEVELOPMENT PERMIT NO. 263778
RANCHO BERNARDO INN [MMRP]
AMENDMENT TO CONDITIONAL USE PERMIT NO. 86-0936
CITY COUNCIL

This Planned Development Permit No. 263778 and Conditional Use Permit No. 132890 an amendment to Conditional Use Permit No. 86-0936, County Recorder's Office Document number 87 183965, dated April 7, 1987, is granted by the City Council of the City of San Diego to RBI INVESTORS, LP., a Delaware limited partnership, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0301. The 137.48 acre site is located at 17550 Rancho Bernardo Oaks Drive in the RS-1-14 of the Rancho Bernardo Community plan area. The project site is legally described as portions of Parcel 2 and 3, Map No. 4380, and Parcel 1 of Map No. 509, including other small contiguous parcels identified as APN 272-110-40.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to demolish nine (9) existing tennis courts and construct a 9,950 square foot meeting/ballroom, 1,150 square-feet of storage areas, a 2,560 square-foot kitchen, swimming pool, lawn areas, patio areas and accessory areas totaling 26,000 square feet of new development area within the 137.48 acre property that currently supports the Rancho Bernardo Inn, addressed as 17550 Bernardo Oaks Drive, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated October 13, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. Demolition of 9 existing tennis courts;
- b. Construction of a 9,950 square foot meeting/ballroom building with a 2,560 square foot kitchen, 1,150 square-feet of storage areas, accessory areas, swimming pool, lawn areas, and patio areas totaling 26,000 square feet.

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- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking facilities;
- e. 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, 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.
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

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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 or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. 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.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

10. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project.

11. As conditions of Planned Development Permit No. 263778 and Conditional Use Permit No. 132890, the mitigation measures specified in the MMRP, and outlined in the Mitigated Negative Declaration NO. 44512 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

12. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in the Mitigated Negative Declaration No. 44512 satisfactory to the City Manager and City Engineer. Prior to issuance of the first grading permit, all conditions of the MMRP shall be adhered to the satisfaction of the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for Paleontological Resources.

13. Prior to issuance of any construction permit, the applicant 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.

14. Amplified music shall not be allowed outside of the meeting/ballroom building at any time during operational hours.

ENGINEERING REQUIREMENTS:

15. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices maintenance, satisfactory to the City Engineer.
16. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.
17. Prior to the issuance of any construction permit the Owner/Permittee shall incorporate and show the type and location of all post construction Best Management Practices on the final construction drawings, consistent with the approved Water Quality Technical Report.
18. The drainage system for this project shall be private and will be subject to approval by the City Engineer.
19. 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.
20. 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.
21. 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.

LANDSCAPE REQUIREMENTS:

22. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.
23. Prior to issuance of any engineering permits for grading, construction documents for the revegetation and hydroseeding of all disturbed land shall be submitted in accordance with the Landscape Standards and to the satisfaction of the City Manager. All plans shall be in substantial

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conformance to this permit (including Environmental conditions) and Exhibit "A", on file in the Office of the Development Services Department.

24. In the event that a foundation only permit is requested by the Owner/Permittee, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A", Landscape Development Plan, on file in the Office of the Development Services Department. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area".

25. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A", Landscape Concept Plan, on file in the Office of the Development Services Department. Construction plans shall take into account a 40 sq-ft area around each tree which is unencumbered by hardscape and utilities as set forth under LDC 142.0403(b)5.

26. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections. Prior to the issuance of an occupancy permit, the Owner/Permittee shall install appropriate landscaping to visually screen the maintenance yard and install fencing to reduce the noise generated from the maintenance area and recycling area. Recycling hours will be restricted to 9:00AM to 7:00 PM.

27. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

28. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City manager within 30 days of damage or Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

29. The Permittee shall comply with all conditions as set forth in the original Permit No. 86-0936, as amended.

30. No fewer than 584 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," on file in the Development Services Department. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager. The Owner/Permittee shall implement and maintain primarily valet parking in the main south lot 24 hours per day, 7 days per week. Valet parking will be established and maintained so as to increase onsite parking from the current 584 spaces to accommodate no less than 684 vehicles. There will be no charge for this service to day only guests. A self parking option will be maintained for 308 of the 684 vehicles.

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31. The Owner/Permittee shall restrict direct access from the main parking lot to Bernardo Oaks Drive except for emergency access only. The main ingress/egress for the project site shall be from Greens East Road. Promotional material shall reflect Greens East Road as the main ingress/egress for the project site.
32. The Owner/Permittee shall maintain a Parking Management Plan to coordinate daily activities and special events to accommodate the parking required for these on-site events.
33. There shall be no more than twelve (12) special events planned for the project site per calendar year.
34. 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.
35. The height of the building or structure shall not exceed the maximum permitted building height of the underlying zone.
36. 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.
37. 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.
38. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest

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extent practical and in no case shall initial light levels be measured exceeding eight footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required establishing conformance with the conditions of this Permit during the night inspection. Night inspections may be required and additional fees may be charged as determined by the City Manager.

39. 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.
40. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.
41. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
42. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences, or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment be stored higher than any adjacent wall.
43. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed, architecturally integrated structure whose top and sides may include grillwork, louvers, and latticework.
44. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," on file in the Development Services Department.

WASTEWATER REQUIREMENTS:

45. The Owner/Permittee shall design and construct all proposed public sewer facilities in accordance with established criteria in the most current edition of the City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned to city standards or become private facilities.
46. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.
47. The Owner/Permittee shall design and construct all proposed private sewer facilities to conform with the most current State, Federal and City Regulations, and to the requirements of

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the most current edition of the Metropolitan Wastewater Department Sewer Design Guide or the California Uniform Plumbing Code as adopted by the City of San Diego.

48. According to County of San Diego Department of Environmental Health, swimming pool discharge to a sanitary sewer shall be connected through an air-gap type separation. The Owner/Permittee shall get an Industrial Wastewater User's Permit for the swimming pool or fountain cleaning water to be accepted for discharge to the sanitary sewer through an indirect connection.

WATER REQUIREMENTS:

49. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway, and the disconnection at the water main of all existing unused services adjacent to the site, in a manner satisfactory to the Water Department Director and the City Engineer.

50. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on each water service (domestic, fire, and irrigation), in a manner satisfactory to the Water Department Director, the City Engineer, and the Cross Connection Supervisor in the Customer Support Division of the Water Department.

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

52. 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. Public water facilities shall be modified at final engineering to comply with standards.

53. The Owner/Permittee shall demonstrate to the satisfaction of the City, external walls of a STC 46 rating and in addition, floor to ceiling glass walls and doors on the north, south and west perimeters of the meeting room.

54. To avoid noise impact to adjacent neighbors and ensure compliance with any applicable Noise Ordinance, the Rancho Bernardo Inn shall:

- a. Inform all event sponsors of restrictions relating to noise prior to signing an agreement or contract to use the facility;
- b. Post noise regulations in public areas of the new meeting room;
- c. Cease use of the pool and other outdoor facilities after 10:00 PM; and
- d. Install dual pane glass to ensure sounds generated by the facility conform to the San Diego Municipal Code.

55. Truck deliveries to the facility and pick up of recycled products shall only occur between the hours of 7:00AM and 10:00PM.

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56. The Owner/Permittee shall provide a detailed construction plan indicating phasing, duration, number and location of temporary facilities, truck volumes and other issues impacting nearby residents and notice all property owners within a 300-foot radius of the property, thirty (30) days prior to initiating construction.

57. The Owner/Permittee will provide a mobile speed-monitoring device for checking speed and traffic flow along Bernardo Oaks Drive and Greens East Road to the San Diego Police Department R.S.V.P. Program. The cost of the speed-monitoring device shall not exceed \$5,000.

58. The Owner/Permittee and the Rancho Bernardo Community Planning Board have agreed that additional private conditions on the Applicant shall be implemented through a Letter of Understanding, dated November 10, 2005.

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.

APPROVED by the City Council of the City of San Diego on February 21, 2006, Resolution number

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AUTHENTICATED BY THE COUNCIL PRESIDENT

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.

RBI INVESTORS, LP.
Owner/Permittee

By _____

By _____

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

ALL-PURPOSE CERTIFICATE

Planned Development Permit No. 263778
Conditional Use Permit No.132890
Date of Approval: February 21, 2006

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

Laura C. Black, Development Project Manager

On _____ before me, Stacie L. Maxwell, (Notary Public), personally appeared Laura C. Black, Development Project Manager of the Development Services Department of the City of San Diego, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

Signature _____
Stacie L. Maxwell

ALL-PURPOSE CERTIFICATE

OWNER(S)/PERMITTEE(S) SIGNATURE/NOTARIZATION:

THE UNDERSIGNED OWNER(S)/PERMITTEE(S), BY EXECUTION THEREOF, AGREES TO EACH AND EVERY CONDITION OF THIS PERMIT AND PROMISES TO PERFORM EACH AND EVERY OBLIGATION OF OWNER(S)/PERMITTEE(S) THEREUNDER.

Signed _____
Paul Reed, President of KSC Management Inc.
Managing General Partner of RBI Investors, LP

STATE OF _____
COUNTY OF _____

On _____ before me, _____ (Name of Notary Public) personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____