

February 16, 1988

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
KRUGER/SANDS PLANNED RESIDENTIAL DEVELOPMENT

During consideration of a request for an Interim Development Ordinance allocation for the Kruger/Sands Planned Residential Development ("PRD"), questions were raised concerning the status of the PRD permit for the project.

Whether the permit is valid or has become void depends on an analysis of the factual situation that exists and the San Diego Municipal Code provisions applicable to the permit.

It is our understanding that the permit was issued in 1979 and a final map filed in 1980. The PRD regulations in effect in 1979 required that the permit be utilized within twenty-four (24) months. It has long been the opinion of this office that filing a final map constitutes use of the permit since the filing of the map involves engineering work to place the surveying monuments for the tract and also requires that a subdivision improvement agreement be executed with The City of San Diego to provide for public improvements. Based on the foregoing, it is our opinion that the permit was utilized within twenty-four (24) months of issuance.

Since the permit appears to have been utilized within twenty-four (24) months of issuance, the current status of the permit depends on a factual evaluation of what has occurred since the filing of the final map. The PRD regulations in effect in 1979 provided: "If The City of San Diego should find that there has been no construction substantial in character performed under said permit or that there has been a lapse of work for six (6) months, the permit shall be void." Assuming that no construction was commenced or, if commenced pursuant to a building permit, there has been a lapse in work for six (6) months, the permit is void. If the permit is void, the project may not proceed until a new PRD permit is obtained. Whether construction commenced or if commenced lapsed is to be determined by the Planning Director pursuant to the PRD regulations which provide: "The Planning

Director shall determine whether the conditions and requirements of the permit have been met by the permittee. The determination by the Planning Director shall be final and conclusive on all affected parties."

We have been informed that the final map of the project is a

one (1) lot map. If the permit for the PRD is void, one (1) dwelling can be developed on the property since a single-family zoned lot may contain only one (1) single-family dwelling.

Respectfully submitted,

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City Attorney

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RC-88-8