

RESOLUTION NO. \_\_\_\_\_

**223753**

(R.80-1757)

PLANNED RESIDENTIAL DEVELOPMENT PERMIT NO. 135

**JUN 19 1979**

WHEREAS, FARGO INDUSTRIES, INC., Owner, hereafter referred to as "Permittee", filed an application to construct 103 dwelling units with tennis courts, park area, parking and landscaping on a 41-acre site in the R-1-15 (portion in HR Overlay) Zone. The property is located on the north side of Carmel Valley Road between 1-5 and Portofino Drive and is more particularly described as a portion of the Northeast 1/4 of Section 25, Township 14 South, Range 4 West, S.B.B.M.; and

WHEREAS, on February 8, 1979, the Planning Commission of The City of San Diego made its findings of facts, granted said Planned Residential Development Permit No. 135, and filed said decision in the office of the City Clerk on March 13, 1979; and

WHEREAS, on February 16, 1979, pursuant to the provisions of Section 101.0900 of the San Diego Municipal Code, TORREY PINES COMMUNITY PLANNING BOARD and TORREY PINES PROTECTIVE ASSOCIATION, by Deanna Rich, appealed the decision of the Planning Commission; and

WHEREAS, said appeal was set for public hearing on March 27, 1979, continued to May 22, 1979, June 12, 1979, and June 19, 1979; and

WHEREAS, the Council of The City of San Diego received for its consideration documentary, written and oral testimony and heard from all interested parties present at the public hearings; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

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All of the following facts exist with respect to Planned Residential Development Permit No. 135:

1. The proposed use at this particular location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or community. The Council believes that this finding can be met, inasmuch as it provides housing in an area which has adequate public facilities.

2. Such use, under the circumstances of the particular case, will not be detrimental to the health or general welfare of persons residing or working in the vicinity or injurious to properties or improvements in the vicinity. Portions of the property are zoned in the HR Overlay Zone. Inasmuch as the vast majority of the HR Zone property is shown to be left undisturbed, the Council believes that the development will not disturb the steep topography, nor will the development result in serious damage to the existing land and thereby will serve to preserve and enhance the natural terrain and qualities of the site. The applicant proposes to grade 10% of the slopes in excess of 35%.

3. All design criteria and minimum standards for planned residential developments would be met. The Council believes that all design criteria and standards have been met with the exception of usable open space. The applicant is proposing approximately 40% less usable open space than required by the PRD standards. The Council would recommend a deviation from the requirement of usable open space because the three findings

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for such a deviation can be made. The first finding suggests that, if a piece of property will be deprived of privileges enjoyed by other property because of special circumstances, in this case steep topography, a deviation may be granted. The second finding requires that such a deviation will not constitute granting of special privileges. The Council believes the finding can be met because the applicant is proposing total open space in excess of that which is required. The third finding can be met: that the granting of the deviation will not adversely affect the Progress Guide and General Plan for The City of San Diego or the adopted plan of any governmental agency.

4. The granting of this permit would not adversely affect the Progress Guide and General Plan for The City of San Diego or of any adopted community plan or any adopted plan of any governmental agency. The adopted Torrey Pines Community Plan shows the western portion of this property for very low residential density (0-4 dwelling units per net acre) and open space. The eastern portion is shown for specialized commercial. The project proposes 2.9 dwelling units per net acre which is within the residential density range of the Community Plan. The property to the east of this project is being proposed for a planned commercial development.

The Council suggests two conditions be added to the Permit. One would provide the opportunity for a representative of the American Indian tribes to observe the archaeological diggings and report any violation of the Indian Heritage to the Planning Director. The second condition relates to insuring that adequate

time will be allotted to the archaeological testing and the following mitigating measures.

Prior to recordation of the subdivision map: 1) an affirmative marketing plan should be prepared and approved by the City Manager, 2) there should be evidence of an agreement with the San Dieguito School District.

The Del Mar Unified School District has indicated that the applicant has entered into a Statement of Agreement regarding the school availability.

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

BE IT FURTHER RESOLVED, that the appeal of TORREY PINES COMMUNITY PLANNING BOARD and TORREY PINES PROTECTIVE ASSOCIATION, by Deanna Rich, is denied, the decision of the Planning Commission is upheld, and this Council does hereby grant to FARGO INDUSTRIES, INC. Planned Residential Development Permit No. 135, with the condition that an open space maintenance district be created, but excluding the area south and east of Portifino Drive, and the permit attached hereto and made a part hereof is granted in the form and with the terms and conditions as set forth therein.

APPROVED: JOHN W. WITT, City Attorney

By 

Frederick C. Conrad  
Chief Deputy City Attorney

FCC:ps  
3/3/80  
Or.Dept. Clerk

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PLANNED RESIDENTIAL DEVELOPMENT PERMIT NO. 135  
CITY COUNCIL

This planned residential development permit is granted by the City Council of The City of San Diego to FARGO INDUSTRIES, INC., Owner, hereafter referred to as "Permittee", for the purposes and under the terms and on the conditions as set out herein, pursuant to the authority contained in Section 101.0900 of the San Diego Municipal Code.

1. Permission is hereby granted to Permittee to construct and operate a Planned Residential Development located north of Carmel Valley Road between Portofino Drive and Interstate 5, more particularly described as Portion NE 1/4, Section 25, T14S, R4W, SBBM in the R-1-15 Zone.

2. The Planned Residential Development shall include and the term "Project" as used in the Planned Residential Development shall mean the total of the following facilities:

- a. 103 units
- b. Off-street parking
- c. Incidental accessory uses as may be determined and approved by the Planning Director
- d. 3 tennis courts, 3 play areas, and pathways through open-space areas.

3. Prior to the issuance of any building permits a final subdivision map or maps shall be recorded on the subject property. Permits may be issued for model units prior to the final map recordation subject to the requirements of the City Attorney, Engineering and Development Director and Planning Director.

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4. An open-space easement shall be granted and shown on said map on all areas not shown for building sites.

5. Not less than 412 parking spaces (or at a ratio of 2:1) shall be provided. Each of the parking spaces shall be a minimum of 8-1/2 feet by 20 feet in dimension and shall be permanently maintained and not converted for any other use at any time. Each subsequent owner shall be informed of this requirement through the C.C. & R's. Each space shall be maintained on the subject property in the approximate location as shown on Exhibit "A" dated November 30, 1978. Areas and driveways shall be surfaced with not less than 2" A.C. or its equivalent and each parking space shall be marked. Parking spaces and aisles shall conform to Planning Department standards. No charge shall be made at any time for use of these off-street parking spaces.

6. Exterior radio or television antennas shall be prohibited; however, one master antenna may be permitted for the project. The installation of any underground CATV cable in any public rights-of-way within or adjacent to the project shall require either a license or franchise with the City prior to such installation.

7. No building additions shall be permitted unless approved by the Planning Commission. Patio covers shall be permitted only if they are consistent with the architecture of the dwelling unit and have been approved by the Home Owners Association.

8. No manufactured slope shall be steeper than a ratio of 2:1.

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9. The applicant shall post a copy of the approved Permit in the sales office for consideration by each prospective buyer.

10. Prior to issuance of Land Development Permits, evidence shall be submitted to the Planning Director that the mitigation plan prepared by Dr. Moriarty on file in the Office of Environmental Quality has been satisfactorily executed.

11. A representative of the Native American Indian Tribes shall be allowed to observe the archaeological testing and reporting of the project. Any violation of state or federal laws regarding Indian heritage protection may be brought to the attention of the Planning Director.

12. Any sales office or temporary sales signs advertising the subdivision shall be approved by the Planning Director and shall be consistent with the criteria established by the R-1-15 Zone.

13. Sidewalks shall be provided from each unit to a sidewalk within the dedicated right-of-way, and if the sidewalks are contiguous to the curb of private streets, a five-foot general utility easement must be provided behind this walk.

14. All of the private streets shall be named and begin with the term "Caminito".

15. Public refuse collection shall not be permitted unless approved by the Director of General Services.

6. All private streets shall be improved to the requirements set forth by the Engineering and Development Director.

17. No parking shall be permitted on any private streets except in approved locations.

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18. An open space maintenance district shall be created, but excluding the area south and east of Portifino Drive.

19. The Permittee shall comply with the General Conditions for Planned Residential Developments attached hereto and made a part hereof.

Passed and adopted by the Council of The City of San Diego on June 19, 1979.

FCC:ps  
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Or.Detp. Clerk

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GENERAL CONDITIONS FOR PLANNED RESIDENTIAL DEVELOPMENT PERMITS

1. Prior to the issuance of any building permits, complete building plans (including signs) shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity with Exhibit A dated February 8, 1979, on file in the office of the Planning Department. The property shall be developed in accordance with the approved building plans except where regulations of this or other governmental agencies require deviation therefrom. Prior to and subsequent to the completion of the Project, no changes, modifications or alterations shall be made unless and until appropriate applications for amendment of this permit shall have been approved and granted.

2. Prior to the issuance of any building permits, a complete landscaping plan, including a permanent watering system, shall be submitted to the Planning Director for approval. Said plans shall be in substantial conformity with Exhibit A, dated February 8, 1979, on file in the office of the Planning Department. Approved planting shall be installed prior to the issuance of an occupancy permit on any building. Such planting shall not be modified or altered unless and until this permit shall have been amended to permit such modification or alteration.

3. All outdoor lighting shall be so shaded and adjusted that the light therefrom is directed to fall only on the same premises where such light sources are located.

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4. This planned residential development permit must be utilized within 18 months after the effective date thereof. Failure to utilize subject permit within 18 months will automatically void the same, unless an extension of time has been granted by The City of San Diego as set forth in Section 101.0900 of the Municipal Code.

5. Construction and operation of the approved use shall comply at all times with the regulations of this or other governmental agencies.

6. The effectiveness of this planned residential development permit is expressly conditioned upon, and the same shall not become effective for any purpose unless and until the following events shall have occurred:

a. Permittee shall have agreed to each and every condition hereof by having this planned residential development permit signed within 90 days of the Council's decision. In no event shall this condition be construed to extend the time limitation set forth in 4 above; i.e., the time commences to run on the date that the City Council granted this planned residential development permit.

b. This planned residential development permit executed as indicated shall have been recorded in the office of the County Recorder.

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7. After the establishment of the Project as provided herein, the subject property shall not be used for any other purposes unless specifically authorized by the Planning Commission, or City Council, or both unless the proposed use meets every requirement of the zone existing for the subject property at the time of conversion.

8. The property included within this planned residential development permit shall be used only for the purposes and under the terms and conditions as set forth in this permit unless the permit shall have been revoked by The City of San Diego.

9. In addition to any other remedy provided by law, any breach in any of the terms or conditions of this permit or any default on the part of Permittee or its successors in interest, shall be deemed a material breach hereof and this planned residential development permit may be cancelled or revoked. Cancellation or revocation of this planned residential development permit may be instituted by City or Permittee. The Planning Director shall set this matter for public hearing before the Planning Commission giving the same notice as provided in Section 101.0900. An appeal from the decision of the Planning Commission may be taken to the City Council within ten days after the decision is filed with the City Clerk. The Clerk shall set the matter for public hearing before the City Council giving the same notice as provided in Section 101.0900.

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10. This planned residential development permit shall inure to the benefit of and shall constitute a covenant running with the lands, and the terms, conditions and provisions hereof shall be binding upon Permittee, and any successor or successors thereto, and the interests of any successor shall be subject to each and every condition herein set out.

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Passed and adopted by the Council of The City of San Diego on JUN 19 1979,  
 by the following vote:

| Councilmen          | Yeas                                | Nays                                | Not Present              | Ineligible               |
|---------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|
| Bill Mitchell       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Maureen F. O'Connor | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Bill Lowery         | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Leon L. Williams    | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Fred Schnaubelt     | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Tom Gade            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Larry Stirling      | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Lucy Killea         | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Pete Wilson   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

PETE WILSON  
 Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
 City Clerk of The City of San Diego, California.

(Seal)

By Ellen Bovard, Deputy.

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| Office of the City Clerk, San Diego, California |  |
| Resolution Number                               | <u>223753</u> Adopted <u>JUN 19 1979</u> |