

RESOLUTION NUMBER R- 265215
ADOPTED ON MAR 10 1986

WHEREAS, THOMAS F. CARTER, an individual, CAL STREET BUILDERS, INC., a California corporation, "Owner/Permittee," filed an application for permission under Planned Residential Development Permit No. 85-0797 to construct a planned residential development in accordance with an interim ordinance for the Golden Hill area ; and

WHEREAS, the Owner/Permittee's rights, if any, to construct 112 dwelling units on the property is the subject of pending litigation in the Fourth District Court of Appeal, Case No. D003536; and

WHEREAS, the litigation is being resolved pursuant to the terms and conditions provided in the settlement agreement ("settlement agreement"), dated March 10, 1986, between Owner/Permittee and The City of San Diego; and

WHEREAS, the settlement agreement provides, among other things, that upon the issuance of building permits for 72 dwelling units and receipt of \$250,000, Owner/Permittee shall convey to the City a negative easement which imposes a requirement to retain as open space an approximately .67-acre portion of the property and shall dismiss the litigation; and

WHEREAS, on January 16, 1986, the Planning Commission of The City of San Diego made its findings of fact, approved said Planned Residential Development Permit No. 85-0797 and filed said decision in the office of the City Clerk; and

WHEREAS, on January 21, 22 and 23, 1986, pursuant to the provisions of Section 101.0900 of the San Diego Municipal Code, Keith Simon, Victoria Newell-Simon, Linda L. Lindborg, John McEvoy and Jimmy V. Kyriss appealed the decision of the Planning Commission; and

WHEREAS, said appeals were set for public hearing on January 28, 1986, and continued to February 11, 24 and March 10, 1986, testimony having been heard, evidence having been submitted, and the City Council having fully considered the same; and

WHEREAS, the City Council in considering said appeal is empowered by the provisions of Municipal Code Section 101.0900 to affirm, reverse or modify, in whole or in part, any determination of the Planning Commission subject to the limitations as are placed upon the Planning Commission by the Municipal Code; NOW, THEREFORE,

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

All of the following facts exist with respect to Planned Residential Development Permit No. 85-0797:

1. The proposed use will fulfill an individual and/or community need. The Golden Hill Community Plan designates the site as open space, which allows limited development through a planned residential development process and/or acquisition through private means. The community plan also outlines specific development proposals for the site. This project is a planned residential development which proposes structures clustered away

from the 34th Street canyon consistent with the plan objectives. Furthermore, the 90 proposed dwelling units represent 72 units allowed by the underlying R-3000 Zone and 18 density bonus units for affordable housing.

2. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety, and general welfare of persons residing or working in the area and will not adversely affect other property in the vicinity. The structures have been clustered away from the 34th Street Canyon, thus preserving a significant open space area. Manufactured slopes adjacent to the canyon would be landscaped with plant species consistent in character with existing native vegetation. Also, access to and from the site would be in accordance with Fire Department regulations.

3. The proposed use complies with the Municipal Code with regards to off-street parking. Guest parking is being provided in accordance with council policy. The proposed use also complies with the planned residential development ordinance with regards to density and total open space. Although the project deviates from 0.23 acres of usable open space, this deviation may be granted because previous discretionary actions such as Final Map No. 10375 and Hillside Review Permit No. 146 have been imposed. Finally, the granting of this deviation will not adversely affect either the Progress Guide and General Plan or the adopted Golden Hill Community Plan. This project, being a planned residential development, is consistent with the method required for the development of open space areas in accordance with the Golden Hill Community Plan.

4. Pursuant to the California Public Resources Code and the Administrative regulations promulgated thereunder, there has been adequate prior environmental review of the development of the Golden Hills Villas' property under Environment Impact Report No. EIR-79-03-50.

5. Whether or not there has been adequate prior environmental review, changes or alterations have been required in, or incorporated into such project which will adequately mitigate effects identified in Environmental Impact Report No. EIR-79-03-50, in that (1) development will be consistent with Hillside Review Permit No. 146 which requires clustering of development away from the 34th Street canyon, and (2) review of the project has been in accordance with the Planned Development Permit Guidelines which have included incorporation of the site design and landscaping features so as to mitigate to a level of insignificance or avoid any potential adverse impact on the neighboring uses.

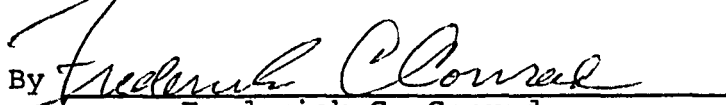
6. In any event, specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report in that (1) the City Council, in connection with the adoption of the Affordable Housing Density Bonus ordinance, has intended to materially assist the housing industry to provide adequate affordable shelter for all economic segments of the community and to provide a bbalance of housing opportunities for low and moderate-income persons throughtout the City and to implement thereby the provisions of Chapter 4.3 of Division 1 of Title 7 of

the California Government Code, (2) a requirement of 18 affordable housing units has been imposed on the project, and (3) the City and the applicant by the approval of the planned residential development permit application are intending to settle and resolve pending litigation.

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

BE IT FURTHER RESOLVED, that this Council hereby denies the appeals, sustains the decision of the Planning Commission, and does hereby grant to "Owner/Permittee," Planned Residential Development Permit No. 85-0797, in the form and with the terms and conditions as set forth in the permit attached hereto and made a part hereof.

APPROVED: John W. Witt, City Attorney

By 
Frederick C. Conrad
Chief Deputy City Attorney

FCC:cc:632
05/13/86
Or.Dept:Clerk
R-86-1793

**PLANNED RESIDENTIAL DEVELOPMENT PERMIT NO. 85-0797
CITY COUNCIL**

This Planned Residential Development Permit is granted by the City Council of The City of San Diego to THOMAS F. CARTER, an individual, "Owner/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 Municipal Code of The City of San Diego.

1. Permission is hereby granted to "Owner/Permittee" to construct a Planned Residential Development on premises located at the terminus of Beech Street, between Whaley Avenue and Ash Street, described as Lot 1, Golden Hill Villas Map No. 10375.

2. The Planned Residential Development shall include the total of the following facilities:

a. Ninety multi-family units (72 units permitted by zone and 18 units permitted by Housing Commission bonus density);

b. Off-street parking;

c. Incidental accessory uses as may be determined and approved by the Planning Director; and

d. Swimming pool and jacuzzi.

3. Prior to the issuance of any building permits, a final subdivision map shall be recorded on the subject property.

4. A "Nonbuilding Area" designation shall be granted and shown on said map on all areas not shown for building sites. Such areas shall be coupled with the severalty interests of the owners of the dwelling units and shall be maintained as open space.

5. Prior to the issuance of grading permits, a landscaping and irrigation plan shall be submitted to the Planning Director for approval. Prior to the issuance of building permits, complete building plans, including landscaping and signs, shall be submitted to the Planning Director for approval. All plans shall be in substantial conformity to Exhibit A dated January 16, 1986, on file in the Planning Department and the revised site plan described in paragraph 3 of the Settlement Agreement. All landscaping shall be installed prior to the issuance of an occupancy permit. Subsequent to the completion of this project, no changes shall be made until an appropriate application for an amendment to this permit shall have been granted.

6. The construction and continued use of this permit shall be subject to the regulations of this or other governmental agencies.

7. Two hundred sixteen (216) total parking spaces shall be provided at a ratio of 2.4 spaces per dwelling unit. Of those spaces, 72 shall be provided for guests at a ratio of 0.8 spaces per unit under the terms of the Settlement Agreement, if Owner/Permittee so desires, up to 43 parking spaces may be deleted at locations to be determined by Owner/Permittee in its sole discretion. No curb spaces may be included in the calculation. Each of the parking spaces shall be permanently maintained and not converted for any other use at any time. Each subsequent owner shall be informed of this requirement through CC&Rs. Except as to the 43 spaces described above, each space shall be maintained on the subject property in the approximate

location as shown on Exhibit "A" dated January 16, 1986. 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.

8. Exterior radio or television antennas shall be prohibited except for one master antenna 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.

9. No building additions, including patio covers, shall be permitted unless approved by the homeowners' association and the Planning Director. Patio covers shall be permitted only if they are consistent with the architecture of the dwelling unit.

10. No manufactured slope shall be steeper than a ratio of 1-1/2:1 as approved in Hillside Review Permit No. 146.

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

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-3000 Zone.

13. Sidewalks shall be provided from each unit to 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 private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

15. The effective date of this permit shall be the day following the expiration of the appeal period or the effective date of a concurrent rezoning case. If an appeal is filed, the effective date shall be the seventh day following Planning Commission action or, if appealed, the day following City Council action. The permit must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted by the Planning Director, as set out in Section 101.0900 of the Municipal Code.

16. No development shall commence, nor shall any permit for construction be issued, until:

a. The Permittee signs and returns the permit to the Planning Department; and

b. The Planned Residential Development Permit is recorded in the office of the County Recorder.

If the signed permit is not received by the Planning Department within 90 days of the decision of the Planning Director, Planning Commission or City Council, the permit shall be void.

17. The property included within this Planned Residential Development shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the Planning Director or the permit has been revoked by The City of San Diego.

18. This Planned Residential Development Permit may be cancelled or revoked if there is any material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City or Permittee.

19. This Planned Residential Development Permit shall constitute a covenant running with the land; all conditions and provisions shall be binding upon the Permittee and any successor(s), and the interests of any successor(s) shall be subject to every condition herein.

20. Private streets shall be named and begin with appropriate terms such as "Caminito," "Ruelle," "Row," or "Square." Public refuse collection shall not be permitted unless approved by the Director of General Services. All private streets shall be improved to the requirements set forth by the Engineer and Development Director. No parking shall be permitted on any private streets except in approved locations.

21. This Planned Residential Development shall be constructed prior to sale of completed units to individual owners to ensure that all development is consistent with conditions and exhibits submitted to and approved by the Planning Commission.

22. The use of textured or enhanced paving shall be permitted only with the approval of the City Engineer and Planning Director, and shall meet standards of these departments as to location, noise and friction values, and any other applicable criteria.

23. No access control gates shall be constructed within this Planned Residential Development.

24. Vehicular access to the dwelling units within this Planned Residential Development shall be by means of a system of unnamed nondedicated, privately maintained, private driveways constructed in a manner satisfactory to the Fire Department.

25. Any slopes on City-owned property resulting from the grading for this project shall be revegetated in a manner satisfactory to the Planning Department.

ADOPTED BY THE COUNCIL OF THE CITY OF SAN DIEGO ON MARCH 10,
1986.

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Passed and adopted by the Council of The City of San Diego on MAR 10 1986,
by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VACANT

AUTHENTICATED BY:

ED STRUIKSMA

Deputy Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By *Raymond J. Forrester*, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Resolution R-265215 Adopted MAR 10 1986

Number Adopted