

RESOLUTION NUMBER R-272757

ADOPTED ON JANUARY 24, 1989

WHEREAS, on January 24, 1989, the Council of The City of San Diego ("Council") considered the appeal of MV ASSOCIATES from the determination of the Interim Development Ordinance ("IDO") Administrator dated June 10, 1988, denying MV ASSOCIATES' request for residential building permits ("Permits") necessary to construct multi-family residential dwelling units on its property located in the Mission Valley Community (the "Project"); and

WHEREAS, The City of San Diego (the "City") and MV ASSOCIATES previously entered into that certain Development Agreement dated November 13, 1984, approved by the Council as Ordinance No. O-16324 (New Series) (the "Development Agreement"); and

WHEREAS, MV ASSOCIATES disputes the applicability of the IDO to the Development Agreement with respect to its right to control the phasing and timing of buildout of the Project and in accordance with the terms of the Development Agreement timely filed a Notice of Default and Intention to Sue with the City Clerk following the May 12, 1988 declaration by the IDO Administrator of the applicability of the IDO to the Project; and

WHEREAS, the City and MV ASSOCIATES have made extensive efforts to resolve the dispute surrounding the allocation of Permits to the Project; and

WHEREAS, MV ASSOCIATES desires to assist the City in its efforts to allocate Permits in a equitable and orderly fashion by

RECEIVED  
CITY CLERK'S OFFICE

89 MAR -3 PM 4:08

SAN DIEGO, CALIF.

[Faint, mostly illegible text, likely a letter or official document]

[Faint text at the bottom of the page]

agreeing not to request in excess of 280 Permits in calendar year 1989 and 405 Permits in calendar year 1990, in the event the IDO is extended; and

WHEREAS, in arriving at its decision, the Council considered the staff report, the decision of the IDO Administrator, reviewed the plans and materials submitted prior to and at the public hearing, and heard public testimony presented at the hearing;  
NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that MV ASSOCIATES shall be allocated Permits on the following terms and conditions:

1. The City hereby grants MV ASSOCIATES 288 Permits and the IDO Administrator is hereby directed to promptly issue such Permits pursuant to the terms of the IDO.

2. Furthermore, should the term of the IDO be extended into calendar year 1990, the IDO Administrator is directed to issue MV ASSOCIATES 405 Permits upon its request during that calendar year.

3. In the event of default by MV ASSOCIATES under any deed of trust executed to secure financing for the development of the Project, the IDO Administrator is instructed to issue 693 Permits, upon request, to the holder of said deed of trust. This Resolution shall not affect nor in any way prejudice the legal or equitable rights of any current or future lender or creditor with a security interest in the property to be developed by MV ASSOCIATES (as defined in the Development Agreement) in the event of a default by MV ASSOCIATES under any deed of trust executed to

secure one or more promissory notes required by MV ASSOCIATES to construct private or public infrastructure within the Mission City Specific Plan area pursuant to the Development Agreement. This Resolution shall not restrict the ability of such a lender or creditor to seek all Permits and development entitlements contemplated in the Development Agreement, irrespective of any request for Permits made by MV ASSOCIATES prior to or subsequent to the date of execution hereof.

4. This Resolution shall not prejudice the rights of the City or MV ASSOCIATES or any third party with respect to the Development Agreement.

BE IT FURTHER RESOLVED, that in arriving at its decision, the Council made the following findings:

1. The Project esthetically enhances the community and will provide needed on-site and off-site public infrastructure.

2. The Project is consistent with the adopted Northside Specific Plan, Community Plan, and Progress Guide and General Plan. There are no applicable Community Plan revisions pending.

3. The Project complies with applicable zoning.

4. The Project will not result in material damage or prejudice to other property in the vicinity, nor be detrimental to the public health, safety or general welfare.

5. A construction delay on the Project would significantly impede the ability of MV ASSOCIATES to proceed at some future time and would jeopardize the viability of existing Project financing and the availability of future Project financing necessary to construct private and public infrastructure.


6. MV ASSOCIATES has presented financial evidence of readiness to proceed.

7. The allocation of Permits as provided herein will further the goal of equitable and orderly distribution of Permits.

BE IT FURTHER RESOLVED, that the units granted by the Council pursuant to this Non-Accelerated Variance shall be provided as follows: 190 units shall come from the IDO reserve and the additional 98 units shall come from the Navajo Community Area.

BE IT FURTHER RESOLVED, that the decision of the Council shall be final.

APPROVED: JOHN W. WITT, City Attorney

By   
Janis Sannmartino Gardner  
Deputy City Attorney

JSG:fs:lc  
01/24/89  
02/16/89 REV. 1  
Or.Dept:Clerk  
R-89-1432  
Form=r.idovar

JAN 24 1989

Passed and adopted by the Council of The City of San Diego on.....  
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

(Seal)

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

By *Blonda R. Barnes*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-272757 Adopted JAN 24 1989

SYSTEM

WITNESS

DATE OF ISSUE: 1998-08-10

1998-08-10

1998-08-10

1998-08-10

1998-08-10

1998-08-10

1998-08-10

1998-08-10

1998-08-10

1998-08-10

1998-08-10

1998-08-10