

(R-92-1149)

RESOLUTION NUMBER R-279261

ADOPTED ON JANUARY 7, 1992

WHEREAS, Robert J. Krause, S.P.E. Corporation, by Richard A. Rubin of Sholders & Sanford, Inc., appealed the decision of the Planning Commission in denying Resource Protection Overlay ("RPO") Permit No. 87-1098 for the River Trails project submitted by S.P.E. Corporation, Owner/Permittee, for the development of approximately 10.5 acres of residential and open space uses within the coastal zone and 100-year floodplain of the Tia Juana River. The project proposes 45 detached single-family dwelling units on 6.65 acres of fill material, located on the west side of Hollister Street between Sunset and Tocayo Avenues, and is further described as Lot 75 of Sunrise Addition Unit 3, Map No. 10832, in the Otay Mesa-Nestor Community Plan area, in the R1-5000 (FPF) Zone; and

WHEREAS, the matter was set for public hearing on January 7, 1992, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this City Council adopts the following findings with respect to Resource Protection Overlay Permit No. 87-1098:

1. The proposed use will fulfill an individual and/or community need and will not adversely affect the General Plan or the community plan or the existing neighborhood. The project

proposes a low-density, low-cost single-family residential development in the Otay Mesa/Nestor community as designated in the community plan. The property is subject to a deed restriction imposed by the California Coastal Commission requiring that it be used for low-cost housing. A specific goal of the community plan is to provide for lower cost housing opportunities. The development is compatible in character and intensity with surrounding and future development. The development is consistent with the community plan and General Plan at a density of 4.3 dwelling units per acre where a range of 1-9 dwelling units per acre is allowed.

2. The proposed use 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. Due to the orderly, sequential development of the property and the inclusion of project amenities such as public and private open space, the project will not be detrimental to the health, safety and general welfare of persons residing or working in the area. The requirements of the Flood Plain Fringe ("FPF") Overlay Zone regarding fill in the floodplain fringe have been met, as have all requirements of the City Engineer. The project will enhance the neighborhood by replacing a vacant, visually degraded parcel, with quality single-family development.

3. The proposed use will comply with the relevant regulations in the Municipal Code. The project does not require any variances or special considerations from the regulations of the Municipal Code.

4. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and resources located in adjacent parks and recreation areas and will provide adequate buffer areas to protect such resources. The proposed dwelling units are to be sited outside of the floodway. The proposed development provides an open space lot to preserve the 100-year floodplain in the Tijuana River Valley. (No grading is proposed in the floodway.) In addition, erosion control measures will be implemented during construction and the existing drainage pattern in the area will be maintained, thereby avoiding any potential adverse affects downstream.

5. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards. The proposed project includes a 25-foot buffer between the project and the floodway in order to avoid impacts to the 100-year floodplain of the Tijuana River Valley. Erosion control measures will be implemented during construction to avoid run-off into the river valley and potential downstream affects.

6. The proposed development will be visually compatible with the character of surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas. The proposed building pads for the residential units will be elevated above the 100-year flood line to avoid undue flood hazards. In additional, erosion control measures will be implemented during construction to avoid undue risks associated

with erosional forces. The proposed project will not expose people to undue geologic or fire hazards.

7. The proposed development will conform with The City of San Diego's Progress Guide and General Plan, the community plan, the Local Coastal Program, or any other applicable adopted plans and programs. The surrounding development consists of single-family dwellings. The proposed project will provide a similar development and will enhance the visual quality of the area by developing a vacant, visually degraded parcel.

8. The proposed development will conform with The City of San Diego's Progress Guide and General Plan, the community plan, the Local Coastal Program, and any other applicable adopted plans and programs. The project is consistent with the low-density land use designation in the Otay Mesa/Nestor Community Plan, General Plan and Local Coastal Program. In addition, the project requires no variances from the regulations of the R1-5000 zone.

9. Due to the orderly, sequential development of the property and the inclusion of project amenities such as public and private open space, the proposed use will not be detrimental to the health, safety and general welfare of persons residing or working in the area. The project will enhance the neighborhood by replacing a vacant, visually degraded parcel with quality single-family development. The grading plans indicate that all residences will be raised above the 100-year floodplain level, therefore, precluding the possibility of flood damage. The requirements of the FPF Overlay Zone regarding fill in the

floodplain fringe have been met as have all requirements of the City Engineer.

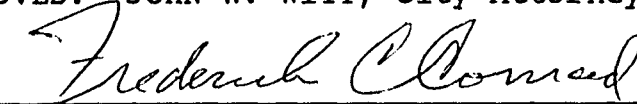
10. The proposal is consistent with the development design guidelines of the Resource Protection Overlay Zone as well as the guidelines established by the Planned Infill Residential Development regulations. The development meets the standards of the R1-5000 zone and does not require any variances or special considerations. The project is consistent with the low-density land use designation in the Otay Mesa/Nestor Community Plan, General Plan and Local Coastal Program. In addition, the project requires no variances from the regulations of the R1-5000 zone.

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 Robert J. Krause, S.P.E. Corporation, Inc., by Richard A. Rubin of Sholders & Sanford, Inc., is granted; the decision of the Planning Commission is overruled; and Resource Protection Overly Permit No. 87-1098 is hereby granted to S.P.E. Corporation, a California corporation, under the terms and conditions 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:lc  
02/04/92  
Or.Dept:Clerk  
R-92-1149  
Form=r.permit

PLANNED INFILL RESIDENTIAL DEVELOPMENT/RESOURCE  
PROTECTION OVERLAY ZONE PERMIT NO. 87-1098  
RIVER TRAILS PROJECT

CITY COUNCIL

This planned infill residential development/resource protection overlay zone permit is granted by the Council of The City of San Diego to S.P.E. CORPORATION, a California corporation, Owner/Permittee, under the conditions contained in Sections 101.0462 and 101.0930 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to construct a planned infill residential development described as Lot 75 of Sunrise Addition Unit No. 3, Map No. 10832, in the City of San Diego, County of San Diego, State of California, located on the west side of Hollister Avenue and Tocayo Avenue, in the Otay Mesa-Nestor Community in the R1-5000 (FPF) zone.
2. The planned infill residential development/resource protection overlay zone permit shall include the total of the following facilities:
  - a. Forty-five (45) single-family detached dwelling units;
  - b. Off-street parking;
  - c. A play structure located at the southwest corner of the site; and
  - d. Incidental accessory uses as may be determined and approved by the Planning Director.
3. Prior to the issuance of any building permits, a final subdivision map 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.
4. An undisturbed open space designation shall be dedicated 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 7, 1992, on file in the Planning Department. All landscaping shall be installed prior to 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. A minimum of one hundred twenty-six (126) parking spaces shall be provided (at a ratio of 2.8 spaces per dwelling unit). Of those spaces, thirty-six (36) shall be provided for guests (at a ratio of .8 spaces per unit). Forty-eight (48) 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 the CC&R's. Each space shall be maintained on the subject property in the approximate location as shown on Exhibit "A," dated January 7, 1992. 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 may be permitted only if they are consistent with the architecture of the dwelling unit. A letter of recommendation from the homeowners association shall accompany requests for Planning Director approval.
10. No manufactured slope shall be steeper than a ratio of 2:1.
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 R1-5000 zone.

13. Sidewalks shall be provided from each unit to the sidewalk within the dedicated right-of-way, and if the sidewalks are contiguous to the curb of private streets, a five (5) 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 date of final action by the City Council. 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 forth in Section 101.0930 of the Municipal Code. Any such extension of time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the Planning Director.
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;
  - b. The planned infill residential development permit is recorded in the Office of the County Recorder.
17. The property included within this planned infill 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 infill 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 infill residential development 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. All accessory structures less than one hundred (100) square feet require the approval of the Planning Director and must meet zoning criteria and planned infill residential development permit guidelines and standards regardless of Building Inspection Department requirements for building permits.



21. 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 Engineering and Development Director. No parking shall be permitted on any private streets except in approved locations.
22. This permit allows the sale of individual lots for the purpose of construction of residential units consistent with conditions and exhibits of the permit.
23. This development shall be constructed prior to sale to individual owners to ensure that all development is consistent with conditions and exhibits submitted to and approved by the Planning Director.
25. 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.
26. The timely landscaping of the slopes identified herein is considered to be in the public interest and the developer shall initiate such landscaping within ninety (90) days from the date that the grading of the designated slopes is deemed to be complete. Such landscaping and the supporting irrigation systems and appurtenances, shall be installed in accordance with the plans approved by the Planning Director and City Engineer and the landscaping shall be properly maintained to insure the survival and propagation of the plant material during the period prior to the acceptance of the public improvements or establishment of a homeowners association which will assure responsibility for the landscape maintenance.
27. The slopes designated for timely landscaping as described above include those abutting the floodplain. All other slopes are to be landscaped as shown.
28. The permittee/applicant shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.
29. Vehicular access to the dwelling units within the PIRD shall be by means of a system of unnamed, non-dedicated, privately maintained private driveways constructed in a manner satisfactory to the City Engineer. Maintenance is to be assured by a homeowners association or other suitable means.

30. The subdivider shall provide an emergency access as shown on the approved PIRD exhibit. This emergency access shall be maintained by the homeowners association and shall be gated in a manner satisfactory to the Fire Department.
31. The subdivider shall maintain the negative open space easement and the twenty-five (25) foot buffer, in a manner satisfactory to the Park and Recreation Department.
32. Prior to the issuance of building permits, the applicant/permittee must provide to the Planning Director documented evidence of a San Diego Housing Commission Affordable Housing Density Bonus Agreement. Failure to obtain the required agreement from the Housing Commission will result in a reduction of four dwelling units to bring the project into conformance with the density requirements of the planned infill residential development regulations.
33. 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.
34. Prior to the approval of the final map associated with this permit by the City Council, the Permittee shall submit to the City an agreement that provides that the Permittee shall hold harmless the City of San Diego, its representatives and employees from any and all claims for damages and costs, including attorney fees, arising from flood damages caused by waters of the Tia Juana River.

Approve by the Council of The City of San Diego on January 7, 1992, by Resolution Nos. R-279260 and R-279261.

AUTHENTICATED BY:

MAUREEN O'CONNOR, Mayor  
The City of San Diego

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

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO )

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, a notary public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared CHARLES G. ABDELNOUR, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the person whose name is subscribed to the within instrument, as a witness thereto, who being by me duly sworn, deposes and says that he was present and saw MAUREEN O'CONNOR, known to him to be the Mayor of The City of San Diego, and known to him to be the person who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same, and that said affiant subscribed his name to the within instrument as a witness.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Diego, State of California, the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public in and for the County  
of San Diego, State of California

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.

S.P.E. CORPORATION  
a California corporation  
Owner/Permittee

By\_\_\_\_\_

By\_\_\_\_\_

NOTE: Notary acknowledgments  
must be attached per Civil  
Code Section 1180, et seq.  
Form=p.ack

R-279261

Passed and adopted by the Council of The City of San Diego on.....**JAN 07 1992**.....  
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<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"/>
Bob Filner	<input type="checkbox"/>	<input checked="" 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.

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

(Seal)

By *Mary Cepeda* Deputy.

Office of the City Clerk, San Diego, California

Resolution Number..... **f- 279261** ..... Adopted..... **JAN 07 1992** .....