

RESOLUTION NUMBER R-287883

ADOPTED ON OCTOBER 1, 1996

WHEREAS, J. Carl Peus, M.D., Owner/Permittee, filed an application for a Coastal Development Permit to construct 45 detached single-family homes on 6.65 acres of fill as part of a Planned Infill Residential Development Permit on a 10.5 acre lot, located on the west side of Hollister Street between Madreselva Way and Sunset Avenue, also 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, in the R-1-5000 Zone, Floodplain Fringe Overlay Zone, FW Zone, of the Otay Mesa-Nestor Community Plan Area; and

WHEREAS, on October 2, 1996, the Council of The City of San Diego considered Coastal Development Permit No. 94-0546, pursuant to Sections 105.0201 through 105.0218 of the San Diego Municipal Code; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that Coastal Development Permit No. 94-0546 is denied because a required finding cannot be made, specifically, issuance of this permit requires a finding to be made that the proposed development will not result in undue risks from flood hazard. This finding cannot be made for the following reasons:

1. Compelling and persuasive evidence was presented at the hearing in the form of photographs and personal testimonials indicating that the subject property and adjacent streets were flooded with three feet or more of water during the rains and ensuing flood of 1993, which was considered to be only a 25-year flood.

2. Compelling and persuasive evidence was presented at the hearing that the 1993 rains and flooding caused substantial damage to private property and endangered the health and safety of residents in areas of similar elevation on streets and lots in the immediate vicinity of the subject property.

3. Historic records indicate that during periodic incidents of heavy rain and flooding upon and around the subject property, the course of the Tijuana River through the Tijuana River Floodway is erratic and unpredictable, in part due to decisions of the Mexican government related to the operations of Rodriguez Dam and has, in fact, changed course from time to time.

3. Evidence was presented by United States Congressman Bob Filner that the United States Congress has very recently deemed it necessary to appropriate funds for the U.S. Army Corps of Engineers to conduct further studies within the Tijuana River Valley to more accurately predict and control the course of the Tijuana River during periodic incidents of heavy rains.

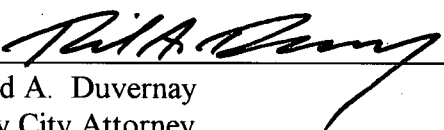
BE IT FURTHER RESOLVED, that it is acknowledged by the Council that the subject property is zoned residential and the property owner is entitled to a reasonable use of the property after obtaining all necessary discretionary entitlements. However, based on the state of the evidence before us today regarding the natural condition of the land and the heavy rains and flooding of 1993, the Council cannot make the necessary finding at this time that residential development at this site, as proposed, will not expose future residents to a level of unacceptable risk to their private property or their health and safety from potential flooding.

BE IT FURTHER RESOLVED, that the City Manager is therefore directed, in conjunction with current planning efforts related to updating the Otay-Mesa Nestor Community Plan, to explore alternative land use designations and recommendations for alternative zoning of

the subject property, in addition to residential, which will allow the property owner an opportunity to pursue reasonable use of the property without putting residents in harm's way.

BE IT FURTHER RESOLVED, that the applicant is encouraged to reapply for a coastal development permit if a study is conducted by the U.S. Army Corps of Engineers which provides additional information and assurances that residential development at this site is safe and will not therefore expose residents to an unacceptable level of risk to property damage and their health and safety.

APPROVED: JOHN W. WITT, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

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