

RESOLUTION NUMBER R- 287978

ADOPTED ON OCT 28 1996

WHEREAS, the San Dieguito Partnership, Owner/Permittee, filed an application for a Resource Protection Ordinance Permit (alternative compliance) to develop a commercial project known as the Villages at Stallions Crossing, located south of Via de la Valle and east of San Andreas Drive, in Subarea II of the North City Future Urbanizing Area, described as a portion of the south half of Section 1, T14S, R4W, SBM in the County of San Diego, in the A-1-10 Zone, Floodplain Fringe Overlay Zone, proposed CA-RR zone; and

WHEREAS, the matter having been set for public hearing on October 22, 1996, 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 Council adopts the following findings with respect to the reduced project alternative for Resource Protection Ordinance Permit (alternative compliance) No. 95-0196:

- A. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT THE CITY OF SAN DIEGO'S PROGRESS GUIDE AND GENERAL PLAN.

- B. THE PROPOSED DEVELOPMENT CONFORMS TO THE ADOPTED COMMUNITY PLAN OF THE AREA.

The proposed amendment and accompanying project, as submitted, and as explained at the September 5, 1996 Planning Commission workshop, is inconsistent with the North City Future Urbanizing Area Framework Plan and the Progress Guide and General Plan. The applicant proposes to amend the Framework Plan to reflect the project thus addressing the inconsistency, however, it is the amendment itself that must be reviewed against the overall broad goals and objectives of the Progress Guide and General Plan. The analysis reveals that the proposed land use, area commercial, and the proposed amount of square footage, up to 272,000 square feet, is in conflict with the maintenance of the rural characteristics of the river valley as recommended by the General Plan.

The Open Space element of the Progress Guide and General Plan identifies the San Dieguito River Valley as a non-urban drainage system and recommends that any plan prepared for its development emphasize preservation, retention of agriculture and development of park and recreational uses wherever possible. The General Plan also recommends that because it may not be possible to acquire all of the land which has utility for open space, that some of these lands should be permitted to develop consistent with the appropriate agricultural and floodplain zoning. This limits the types of uses, the density and intensity and minimizes the impacts to the resource associated with development. The Urban Design element further describes how development should occur to preserve the rural characteristics of river valleys (non-urban).

The Framework Plan follows this direction, and designates all of Subarea II, in which the Villages project is located, for very low density residential development, up to 1 dwelling unit per acre, or commercial recreation and accessory hotel accommodations and other compatible activities to be identified during subsequent planning processes. The reduced project alternative reduces the size of the development area to 16 acres to eliminate impacts to sensitive resources and to locate the development generally outside of the floodplain. The reduced project alternative also reduces the amount of square footage from 272,000 to 136,000.

Reduction of the development area implements the General Plan recommendation to preserve as much of the floodplain as possible. Additionally, although the General Plan does not recommend the location of commercial uses in non-urban drainage systems, the Framework Plan does acknowledge that residential development may not be appropriate immediately adjacent to Via de la Valle. It further recommends that commercial recreation uses, or commercial uses determined to be compatible, could be located in this area. The reduced project alternative limits the intensity of use, and it provides the opportunity to develop more of a transitional commercial use between the existing shopping centers, adjacent to Interstate 5, and the existing equestrian and polo field facilities, located further to the east, along Via de la Valle. A carefully designed, less intense commercial center has more of a potential to both contribute to and benefit from the future regional park uses in the San Dieguito River Valley. The amendment as proposed by the applicant is contrary to the goals and objectives of the General

Plan, with respect to the type of development that is most appropriate for the San Dieguito River Valley.

- C. THERE ARE NO OTHER FEASIBLE MEASURES THAT CAN BE TAKEN TO FURTHER MINIMIZE THE POTENTIAL ADVERSE EFFECT ON ENVIRONMENTALLY SENSITIVE LANDS AND STILL AVOID CONFLICT WITH THE SUBSTANTIALLY APPLICABLE PROVISIONS OF CITY COUNCIL POLICY.

The Draft EIR was distributed for public review in July 1996. At that time a number of significant and unmitigated impacts were identified. Subsequent to public review and as a result of comments received on the Draft EIR, the applicant has modified the project and has agreed to implement mitigation measures for significant impacts related to traffic circulation, loss of on-site wetlands and provision of an adequate wetlands buffer. The remaining significant and unmitigated impacts associated with the proposed project include land use (loss of SCR and RPO wetlands and visual compatibility with the goals and objectives of the adjacent San Dieguito River Valley Regional Open Space Park) and visual quality (future commercial uses located within the viewshed of the adjacent San Dieguito River valley). Cumulatively significant traffic circulation, visual quality, air quality, water quality and agricultural resources impacts would result, as well.

Feasible alternatives to the project that would lessen one or more of the identified significant impacts are provided in Chapter Eight of the Final EIR. The Reduced Development Area alternative would lessen the significant land use and visual quality impacts by eliminating development along the southern project boundary that is within the floodplain fringe area or that contains SCR or RPO wetlands thus reducing the development envelope and pulling development further away from the public viewshed. This alternative would result in a development area of approximately 16 acres (a 50 percent reduction) and assuming a maximum floor area ratio of .25, would result in approximately 136,000 square feet of commercial development. The direct and indirect biological impacts to the on site wetland areas identified for the proposed project would be eliminated. Similarly, the direct and cumulative visual quality impacts from the adjacent river valley and traffic circulation impacts on Via de la Valle and El Camino Real would be reduced.

The applicant has provided draft Candidate Findings and Statement of Overriding Considerations in accordance with CEQA and the State CEQA Guidelines and it is the applicant's position that the alternatives described in the Final EIR are infeasible. The Development Services Department has reviewed these findings and has determined that they are not supported by sufficient documentation and have not been adequately shown to be infeasible by the applicant. Approval of the project, as proposed, would therefore require the applicant to provide additional oral information or written documentation to support the Findings and Statement

of Overriding Considerations. As described above, the reduced project alternative is a feasible measure that minimizes potential adverse impacts.

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

BE IT FURTHER RESOLVED, that Resource Protection Ordinance Permit (alternative compliance) No. 95-0196 is hereby granted to the San Dieguito Partnership for the reduced project alternative, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

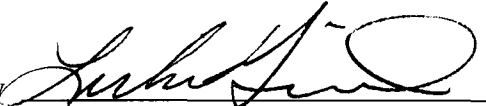
BE IT FURTHER RESOLVED, that the San Dieguito Partnership is hereby required to work with the Development Services Department to prepare the appropriate revisions to Vesting Tentative Map No. 95-0196 to reflect the reduced project alternative approved herein.

BE IT FURTHER RESOLVED, that no building permits may issue for development of the project pursuant to this Resource Protection Ordinance Permit (alternative compliance) unless and until the electorate approves a Phase Shift as required by the General Plan and Proposition A.

BE IT FURTHER RESOLVED, that this Resource Protection Ordinance Permit (alternative compliance) is granted conditionally upon the adoption of findings and, if necessary, a

Statement of Overriding Considerations and a Mitigation and Monitoring Program, pursuant to
the California Environmental Quality Act.

APPROVED: JOHN W. WITT, City Attorney

By 
Leslie J. Girard
Assistant City Attorney

LJG:js:pev
10/14/96
Or.Dept:Dev.Svcs
R-97-425
Form=permit.res

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES

AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DRAFT

RESOURCE PROTECTION PERMIT NO. 95-0196
THE VILLAGES AT STALLIONS CROSSING
CITY COUNCIL

This Resource Protection Permit is granted by the City Council of the City of San Diego to THE SAN DIEGUITO PARTNERSHIP, LIMITED PARTNERSHIP, Owner/Permittee, under the conditions contained in Section 101.0462 of the Municipal Code of the City of San Diego.

1. Permission is granted to Owner/Permittee to construct a 272,250-square-foot commercial development, located on the south side of Via de la Valle and east of San Andreas Drive, in Subarea II of the North City Future Urbanizing Area, described as a portion of the south half of Section 1, T14S, R4W, SBM in the County of San Diego, in the A1-10 zone, Floodplain Fringe Overlay Zone, proposed CA-RR zone.
2. The Resource Protection Permit shall allow the following:
 - a. Development of 272,250 square feet under the CA-RR Zone;
 - b. Slopes shall not exceed 2:1 in grade; and
 - c. No building permits shall be issued until a Planned Commercial Development permit is processed and approved for this property.
3. Prior to the issuance of any grading or building permits, a final subdivision map shall be recorded on the subject property. Rezoning of the subject property shall be approved by the City Council and become effective with the recordation of the subdivision map subject to approval by the State of California Coastal Commission and subject to approval by the electorate of the City of San Diego.

4. No permit for grading shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Permittee signs and returns the permit to Development Services.
- b. The Resource Protection Permit is recorded in the office of the County Recorder.

5. Before issuance of any building permits, a complete Planned Commercial Development Permit application shall be submitted to the City Manager for consideration in accordance with all applicable provisions of the San Diego Municipal Code, in addition to all documents referenced by this Resource Protection Permit and the final map conditions for Tentative Map No. 95-0196.

LANDSCAPE CONDITIONS:

6. Prior to the issuance of any grading, or building permits, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit 'A' dated _____, Landscape Concept Plan, on file in the office of Development Services. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

7. Prior to the issuance of any Certificate of Occupancy for any building, it shall be the responsibility of the Permittee to install all approved landscape and obtain all required landscape inspections.

8. All approved landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this permit has been amended. Modifications such as severely pruning or "topping" of trees is not permitted unless specifically noted in this permit.

9. If any existing or installed landscape (including hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, construction or at any time after issuance of any permit or Certificate of Occupancy, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

10. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies, as well as the Design Guidelines.

11. This permit must be utilized within 36 months of the date of approval, failure to utilize this permit within 36 months will automatically void the permit unless extended under the provisions of section 101.462.P of the Municipal Code. Any such extension must meet all regulations, policies and Municipal Code provisions in effect at the said time extension is considered.

12. This Resource Protection Permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.

13. This Resource Protection Permit is a covenant running with subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out.

14. Noise walls, decorative pavements and other public right-of-way improvements shown on Exhibit "A," dated _____, shall be permitted by an Encroachment Permit obtained from the City Engineer.

15. The permittee/applicant shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.

ENVIRONMENTAL MITIGATION MEASURES:

16. All project lighting, especially on the lower, southern part of the commercial development area, shall be shielded and directed away from the open space lot to the south.

17. The associated Design Guidelines for the project shall require the implementation of Transportation Control Measures applicable to commercial development, including but not limited to car pool spaces for employees, public transit stops with shelters, provisions for bicycle lanes and pedestrian pathways and bicycle racks and locker and shower facilities for cyclists. These measures shall be provided with future Planned Commercial Development permits.

18. Any necessary spraying to control mosquitoes within the project boundaries or off-site within sensitive biological areas as a result of the project shall only occur under the direction of the County Health Department consistent with established County protocol and after early coordination with the U. S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG). A plan describing the spraying and the

need for early coordination with the USFWS and the CDFG shall be prepared to the satisfaction of the County and the resources agencies prior to issuance of the first building permit.

19. Permanent erosion-control measures, such as complete landscaping with drought-tolerant, slope-stabilizing vegetation shall be installed prior to issuance of the first building permit. Maintenance of the detention basin, as shown on the accompanying tentative map, shall be the responsibility of a Business Owner's Association or similar maintenance district.

20. Prior to issuance of the first building permit, a report of findings on the recovery of paleontological resources, even if negative, shall be submitted to the Environmental Analysis Section of the City of San Diego and the San Diego Natural History Museum.

21. If future commercial structures are located in areas where exterior noise levels are anticipated to exceed 65 CNEL, based on future traffic conditions and as shown on Figure 4K-1 in the Final EIR, an acoustical analysis shall be performed prior to issuance of the building permit. The building plans shall include necessary construction techniques to ensure that interior noise levels would be below the City's standard of 50 CNEL to the satisfaction of the Development Services Manager.

22. The detention basin shall be kept free of debris, high concentrations of nutrients which could contribute to algae blooms, and organic floatage. Any emergent vegetation (e.g., cattails and bulrushes) shall be removed only as necessary to control the mosquito problem. Active measures for the control of mosquito populations may include the application of a mosquito fog or insecticide spray. The use of this measure shall be minimized and shall require early coordination with the USFWS and the CDFG. Maintenance of the detention basin shall be the responsibility of a Business Owner's Association or similar maintenance district.

23. The Resource Protection/Rezone Permit shall comply with the conditions of the final map for Tentative Map No. 95-0196.

24. Prior to the issuance of any building permits, the applicant shall:

- a. Ensure that building address numbers are visible and legible from the street (UFC 10.208);
- b. Show the location of all fire hydrants on the plot plan (UFC 10.301);
- c. Provide access in conformance with Fire Department Policy A-89-1 (UFC 10.207);

- d. Provide temporary street signs; and
- e. Comply with the City of San Diego Landscaping Technical Manual regarding brush and landscaping.

25. 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. However, in the event that a challenge pertaining to future growth management requirement is found by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, the City Manager shall have the right, but not the obligation, to review this Permit to confirm that the purpose and intent of the original approval will be maintained.

26. The issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.).

Passed and adopted by the City Council of the City of San Diego on _____.

[MYL] STALLIONS, 2036