

(R-98-786)

RESOLUTION NUMBER R-289544

ADOPTED ON DECEMBER 9, 1997

WHEREAS, Enrique Mereles, Owner/Permittee, filed an application for a Coastal Development Permit (CDP) and Variance to construct a single-family residence on property located at 450 Tavera Place, as more particularly described as a portion of the southerly half of Pueblo Lot 142, according to Map of Pueblo Lands of San Diego made by James Pasco in 1870, in the Peninsula Community Planning Area, in the R1-10,000 zone; and

WHEREAS, on October 9, 1997, by Resolution No. 2553-1-PC, the Planning Commission of The City of San Diego considered CDP Permit and Variance No. 96-0712 pursuant to San Diego Municipal Code sections 111.1201 and 101.0502 and unanimously recommended that the City Council approve the permit and related actions; and

WHEREAS, the matter was set for public hearing on December 9, 1997, 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 Coastal Development Permit and Variance No. 96-0712:

COASTAL DEVELOPMENT PERMIT FINDINGS:

A. The proposed development will not encroach upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in an adopted LCP Land Use Plan; nor will it obstruct views to and along the ocean and other scenic coastal areas from public vantage points.

There are no existing or proposed public accessways on or adjacent to the project site, nor are there scenic views to and along the ocean and other scenic coastal areas from public vantage points adjacent to the site.

B. The proposed development will not adversely affect marine resources, environmentally sensitive areas, or archaeological or paleontological resources.

Due to the moderate paleontological resource sensitivity of the geologic formations underlying the project site, monitoring of the site by a qualified paleontologist during the grading of the project is a condition of this permit in order to reduce potential impacts to paleontological resources to below a level of significance. No marine resources or other environmentally sensitive resources have been identified.

C. The proposed development will comply with the requirements related to biologically sensitive lands and significant prehistoric and historic resources as set forth in the Resource Protection Ordinance (San Diego Municipal Code section 101.0462) unless by the terms of the Resource Protection Ordinance, it is exempted therefrom.

The proposed development is conditioned to comply with paleontological requirements as set forth in the Resource Protection Ordinance. No other biological or historic resources were identified on the site according to the Mitigated Negative Declaration No. 96-0712.

D. The proposed development will not adversely affect recreational or visitor-serving facilities or coastal scenic resources.

The proposed development is not located near any recreational or visitor-serving facilities as identified in the Peninsula Community Plan and the Local Coastal Program, therefore it will not create any adverse affects to these facilities.

E. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources.

The project site is not located on or adjacent to park and recreation areas. Thus, the proposed development will not affect environmentally sensitive habitats or scenic resources identified as such in the Peninsula Community Plan and the Local Coastal Program.

F. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards.

The proposed development will require on-site grading; however, the project is designed to conform to the natural landform of the site in order to minimize the amount of alterations. No hazardous geologic and erosional forces and/or flood hazards have been identified.

G. 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 project is a two-story single-family development in an area containing one- and two-story single-family residences. The area consists of a mixture of older and newer designs and styles. Most of the houses are custom-style and the proposed project will be consistent with the neighborhood character. The proposed project is complementary and compatible with the character of the surrounding area.

H. The proposed development will conform with the General Plan, the Local Coastal Program, and any other applicable adopted plans and programs.

The proposed development will conform with the City of San Diego Municipal Code, the Peninsula Community Plan and the Local Coastal Program. The requested variances are consistent with the character of the existing neighborhood.

VARIANCE FINDINGS:

A. There are special circumstances or conditions applying to the land or buildings for which the adjustment is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to the land or buildings in the neighborhood. Such conditions shall not have resulted from any act of the applicant subsequent to the adoption of the applicable zoning ordinance.

The existing terminus of Tavera Place, which fronts this site, does not contain a City standard turn-around. The proposed project would not be able to create a standard turn around without City acquisition of additional right-of-way into steeply sloped land and/or significant disruption to existing developments. Therefore, a street vacation is being proposed.

The street vacation would reduce street frontage for the subject site to 15 feet where 65 feet is required; however, it would also allow the development to reduce impacts to on-site slopes and allow an existing forty-year-old, stone wall to remain. The development would be five feet closer to the vacated street area than it would be if the street were not vacated.

Direct access to the street through the lot's 15-foot frontage is partially blocked by the existing stone wall that continues down the west side on Tavera Place. The wall would be modified to allow street access to required off-street parking via a 16-foot-wide

shared-access-easement, eight feet of which would be located on the already-developed neighbor's property to the east. The easement would have direct access to the terminus of Tavera Place. These variances would allow sensitive and reasonable development on a difficult site with topographic constraints.

B. The aforesaid circumstances or conditions are such that the strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the land or buildings and that the variance granted by the City is the minimum variance that will accomplish this purpose.

Strict application of required street frontage and access regulations would require the removal of an existing stone wall, which helps to define this neighborhood's character, and which is a continuation of a wall that other property owners in this area enjoy. The reduction of street frontage would be the minimum possible for this site.

C. The granting of the variance will be in harmony with the general purpose and intent of the zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

It is the intent of the ordinance to assure access to each developed lot and to provide for lot design standards that will allow for reasonable development of each lot. In this case, the easement would provide access to the lot and general utility easement and use of the easement would be assured through a document recorded with the County Recorder. The street vacation would reduce street frontage; however, it would be considered reasonable due to the topographical constraints of the land. These variances have been considered under the provisions of the City's Zoning Ordinance and are viewed as fulfilling the purpose and intent of the zoning regulations, and with conditions imposed, are not seen as injurious to the neighborhood.

D. The granting of the variance will not adversely affect the Progress Guide and General Plan for The City of San Diego or the adopted community plan for the area.

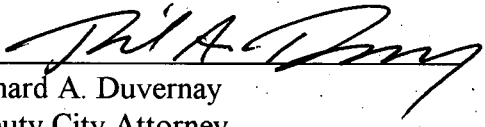
The granting of this variance will not adversely affect the Progress Guide and General Plan for the City of San Diego or the Peninsula Community Plan. Due to use and intended siting of the proposed building on the lot, the property will be utilized in a manner identical to that envisioned by the ordinance. This will result in a project that conforms with the intent and goals of all plans in effect.

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 recommendation of the Planning Commission is sustained, and Coastal Development Permit and Variance No. 96-0712 is granted to Enrique Mereles, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By


Richard A. Duvernay
Deputy City Attorney

RAD:lc
01/21/98
Or.Dept:Clerk
R-98-786
Form=permitr.frm

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

COASTAL DEVELOPMENT PERMIT AND VARIANCE NO. 96-0712
MERELES RESIDENCE

CITY COUNCIL

This Coastal Development Permit (CDP) and Variance is granted by the Council of The City of San Diego to ENRIQUE MERELES, Owner/Permittee, pursuant to Sections 111.1201 and 101.0502 of the Municipal Code of the City of San Diego on a 13,187-square-foot site. The project site is located at 450 Tavera Place in the R1-10000 Zone of the Peninsula Community Plan Area. The project site is legally described as a portion of the southerly half of Pueblo Lot 142, according to Map of Pueblo Lands of San Diego made by James Pasco in 1870, in the R1-10000 Zone of the Peninsula Community Plan.

1. Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a single-family residence, landscape, walls and to vacate a portion of Tavera Place (public right-of-way), described herein as identified by size, dimension, quantity, type and location on the Exhibits "A," dated December 9, 1997, on file in the Office of Development Services. The facility shall include:

- a. A 4,094-square-foot single-family residence; and
- b. A variance to allow less than standard street frontage and an access variance to provide vehicular access to the property where direct access from a public street or alley is required, as shown on Exhibit "A," dated December 9, 1997; and
- c. Landscaping (planting, irrigation and landscape related improvements); and
- d. Off-street parking; and
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s),

conditions of this Permit, and any other applicable regulations of the Municipal Code in effect for this site.

2. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the Permit within 36 months will automatically void the Permit unless an extension of time has been granted. 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 appropriate decisionmaker.

3. No permit for the construction, occupancy or operation of any facility or improvement described herein 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; and
- b. The Permit is recorded in the office of the San Diego County Recorder.

4. Unless appealed, this Coastal Development Permit shall become effective on the eleventh day following the decision of the City Council.

5. Unless this Permit has been revoked by The City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.

6. This Permit is a covenant running with the 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 in this Permit and all referenced documents.

7. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agencies.

8. 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.)

9. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical

and plumbing codes and State law requiring access for disabled people may be required.

10. Before issuance of any building permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated December 9, 1997, 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.

11. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

12. All projects submitted for plan check for the purpose of obtaining building permits shall concurrently submit building plans which meet the submittal requirements of the "Applicant's Guide to Project/Permit Applications," items 11 through 29, as applicable; together with appropriate plan check fees.

13. All projects shall be in compliance with Section 101.0101.25 (Gross Floor Area) of the Municipal Code and all appropriate related definitions.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

14. The following mitigation measures contained in Mitigated Negative Declaration No. 96-0712, are required to reduce potentially significant impacts to paleontological resources to below a level of significance:

- a. Prior to the issuance of any grading permit, the Owner/Permittee shall provide verification that a qualified paleontologist has been retained to monitor the grading of the site, as required in the Mitigation, Monitoring and Reporting Program (MMRP). Verification shall be in the form of a letter from the paleontologist to the City Development Services Manager; and
- b. Prior to the final inspection conducted by Development Services, and within three months of completion of the paleontological monitoring program, a monitoring

results report shall be submitted to the Development Services Manager; and

- c. Prior to the issuance of any grading permit, a deposit of \$450.00 shall be collected to ensure the successful implementation of the MMRP.

15. All projects shall be in compliance with Sections 101.0214 (Maximum Height of a Building or Structure) and 101.0215 (Procedural Requirements for Determination of Structure Height) of the Municipal Code.

16. All projects shall be in compliance with Section 101.0216 (Topographical Survey Requirements) of the Municipal Code and all building plans shall be predicted upon said concurrently submitted topographical survey. Said topographical survey (and accompanying grading plan) shall accurately depict both pre-existing grade and finished grade as set forth in Section 101.0101.24 (Grade) of the Municipal Code.

ENGINEERING REQUIREMENTS:

17. The Owner/Permittee shall not install a fence, gate or any physical barrier across the southern boundary area of the proposed mutual access easement at the end of Tavera Place. A minimum 16-foot-wide paved access-way shall be maintained free and clear at all times.

18. Not fewer than two off-street parking spaces shall be maintained on the property in the location shown on Exhibit "A," dated December 9, 1997, on file in the Office of Development Services. Parking spaces shall comply with San Diego Municipal Code Chapter X, Article 1, Division 8, and shall be permanently maintained and not converted for any other use. Parking space dimensions shall conform to Zoning Ordinance standards. Parking areas shall be clearly marked at all times. Landscaping located in any parking area shall be permanently maintained and not converted for any other use.

19. Prior to the issuance of a building permit, a Street Vacation shall be approved for a portion of Tavera Place public right-of-way north of La Crecentia Drive, fronting the project site and the property immediately to the east as shown on Exhibit "A," dated December 9, 1997, on file in the Office of Development Services.

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

21. The property owner shall enter into an agreement with the City waiving the right to oppose special assessment proceedings initiated for sidewalks on Tavera Place.

22. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the installation of a 16-foot standard driveway, satisfactory to the City Engineer.

23. Prior to the issuance of any building permits, the applicant shall obtain an engineering permit from the City Engineer for the grading proposed with this project. All grading shall conform to requirements in accordance with Sections 62.0401 through 62.0423 of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

24. The drainage system for this site's development shall be subject to approval by the City Engineer.

25. Water and Sewer Requirements:

- a. Development of the property shall not impinge on the ability of the Metropolitan Wastewater Department to gain access to its facilities located adjacent to the southerly property line. For any proposed development on the property, the plans must be approved by the Metropolitan Wastewater Department Manager or designee.
- b. No structures shall be built in or over the existing sewer easement prior to the applicant obtaining an encroachment removal agreement (ERA). An ERA shall be obtained for any existing structures located within the easement, satisfactory to the Metropolitan Wastewater Department Manager. No trees shall be installed within the easement.
- c. The applicant agrees to defend, indemnify, protect and hold the City, its agents, officers and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to the applicant's employees, agents or officers which arise out of or are in any manner directly or indirectly connected with the work to be performed and authorized under this Permit, and all expenses of investigating and defending against the same; provided, however, that applicant's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence or sole willful misconduct of the City, its agents, officers or employees.
- d. The applicant shall provide structural calculations for any proposed construction which may impact the existing sewer main, satisfactory to the Metropolitan Wastewater Department Manager. Any damages to the sewer main proximately caused by construction or post construction effects shall be the applicant's sole responsibility to repair.

26. Any new retaining walls to support development of this site shall have a geological report prepared and the approval of these walls shall be obtained from the City Geologist and the City Engineer prior to the issuance of any building permits.

27. Prior to the issuance of any building permits, the applicant shall obtain an encroachment removal agreement, from the City Engineer, for a wall in the sewer, water, drainage, and public utility easement. Prior to the issuance of any building permits, the applicant shall obtain an encroachment removal agreement, from the City Engineer, for steps in a general utilities easement (this easement will be reserved as part of the proposed vacation of Tavera Place).

28. Prior to the issuance of any building permits, the applicant shall provide proof of a "shared access" agreement with the adjacent property owner, for use of the proposed driveway.

29. Prior to the issuance of any building permits, the applicant shall ensure that building address numbers are visible and legible from the street (UFC 10.208) and show the location of all fire hydrants on the plot plan (UFC 10.301).

30. The drain pipe and ribbon gutter, in the area to be vacated, shall be privately maintained.

31. This development may be subject to a building permit park fee in accordance with San Diego Municipal Code Section 96.0401 et seq.

32. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the installation of a standard driveway (not exceeding 30 feet in width), satisfactory to the City Engineer.

33. Prior to the issuance of building permit, the Owner/Permittee shall show on the building plans, to the satisfaction of the City Manager a residential fire sprinkler system in lieu of providing fully complying fire equipment access; such fire sprinkler system shall be installed prior to obtaining a Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

34. There shall be compliance with the regulations of the underlying zone(s) unless a deviation to a specific regulation(s) is approved as a provision of this Permit. Where there is a conflict between a provision of this Permit (including exhibits) and a regulation of the underlying zone, the regulation shall prevail unless the provision was specifically approved as part of this Permit.

35. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying

zone(s) which are in effect on the date of the submittal of the requested amendment.

36. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

37. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

38. The subject property shall be maintained in a neat and orderly fashion at all times.

39. All uses, except storage and loading, shall be conducted entirely within an enclosed building. Outdoor storage of merchandise, material and equipment is permitted in any required interior side or rear yard, provided the storage area is completely enclosed by walls, fences or a combination thereof. Walls or fences shall be solid and not less than six feet in height and, provided further, that no merchandise, material or equipment stored not higher than any adjacent wall.

40. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

41. No merchandise, material or equipment shall be stored on the roof of any building.

42. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

LANDSCAPE REQUIREMENTS:

43. Prior to 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," Landscape Concept Plan, dated December 9, 1997, on file in the Office of Development Services. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

44. All required 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 severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The

Permittee, or subsequent Owner shall be responsible to maintain all street trees and landscape improvements consistent with the standards of the *Landscape Technical Manual*.

45. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction 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.

46. 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 such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the Permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed Permit and the condition(s) contained therein.

APPROVED by the Council of The City of San Diego on December 9, 1997, by Resolution No. R-289544.

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AUTHENTICATED BY THE CITY MANAGER

By _____

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.

ENRIQUE MERELES
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

1/21/98

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