

RESOLUTION NUMBER R-298522

ADOPTED ON OCTOBER 21, 2003

WHEREAS, Otto Roppel, Owner and Permittee, filed an application with the City of San Diego for a Planned Development Permit No. 11491/Site Development Permit No. 5773 to construct a forty-eight unit condominium complex on portions of a 2.6-acre site, known as the River Estates Project, located in the Otay Mesa-Nestor Community Plan at 1194 Hollister Way, between Flower Avenue and Sunburst Lane, and described as a portion of Lot 9 of Nestor, lying east of the west line of Lot 7, produced southerly to the south line of said Lot 9 according to Map L.S. 90 and a portion of Parcel Map 1 of Parcel Map No. 9753 in the existing RS-1-7 (proposed RM-2-4) zone; and

WHEREAS, on July 31, 2003, the Planning Commission of the City of San Diego considered Planned Development Permit No. 11491 and Site Development Permit No. 5773, and pursuant to Resolution No. 3405-PC, voted to approve the permit; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 11491 and Site Development Permit No. 5773, dated October 21, 2003:

**A. PLANNED DEVELOPMENT PERMIT**

**1. The proposed development will not adversely affect the applicable land use plan.** The approximately 2.58-acre site is located in the Nestor community of the Otay Mesa-Nestor Community Plan Area and is designated Park/Greenway. The proposed project is for the construction of forty-eight multi-family residential units and pedestrian amenities along the Nestor Creek Greenway. No affordable units are proposed, however, the project will be required to contribute to inclusionary housing through the provision of affordable units or the payment of in-lieu fees. The proposed project will provide passive park amenities and housing for the Otay Mesa-Nestor community.

One of the strategies of the Nestor Town Center, Topic 2b of the Otay Mesa-Nestor Community Plan, is to develop Nestor Creek Greenway as a public open space corridor. The community plan intends that both public and private developments contribute to establishing the Greenway, recommending implementation of design guidelines through public and private project design review. Community plan amendments to allow private development which include development of the Nestor Creek Greenway as a passive linear park are anticipated within the strategies and guidelines for Nestor Town Center. The River Estates project preserves Nestor Creek in an open space easement and provides for a trail along the creek as it traverses the site. The River Estates project enhances the deteriorating creek bed by designating a 15-foot buffer on both sides of the channel with a fence which will prevent human and pet access into the channel, while allowing increased growth of native plant cover and facilitating wildlife movement through the creek bed area. The site design results in both enhancement and protection of this open space resource. The proposed project provides creek enhancements, trails with public access, a pedestrian bridge, development design that consciously incorporates the Nestor Creek, and does not adversely affect the goals and strategies of the Otay Mesa-Nestor Community Plan.

The strategies for Housing, Topic 3 of the Otay Mesa-Nestor Community Plan, state that planned residential land use intensities be maintained to ensure conservation of neighborhood character. The plan amendment proposes a redesignation to Medium Density Residential that would allow for a range of thirty-nine to seventy-seven multi-family dwelling units on the site, with the River Estates project proposing to develop forty-eight units. The redesignation would be comparable with the land use designation of the adjacent property to the north, which includes multiple dwelling units in the Low-Medium Density Range, and would provide a higher density designation than the property to the south, which consists of single dwelling units in the Low Density Range. Because the single dwelling units turn their backs to the creek, the redesignation provides the opportunity for development to embrace the greenway/linear park, thus creating a focal point for further development of the Nestor Creek Greenway. Anticipated development of both dwelling units and creek improvements enhance the neighborhood character, not adversely affecting the goals and strategies of the Otay Mesa-Nestor Community Plan.

Development of this site with a designation other than Park use does not adversely affect the goals of the Otay Mesa-Nestor Community Plan. The provision of dwelling units to help meet housing needs in the area and the anticipated development and enhancement of the Nestor Creek Greenway would help implement the Housing and the Neighborhood Center goals and strategies of the community plan.

The River Estates proposed project helps implement many of the goals and policies of the Progress Guide and General Plan, the Strategic Framework Element, the Transit-Oriented Development Design Guidelines, and the Housing Element. The Open Space, Recreation, and Urban Design Elements of the General Plan recommend the preservation of natural resources, the provision of passive recreational opportunities, and the sensitive design that addresses distinctive neighborhood character while increasing safety, comfort, and pride. Within the Strategic Framework Element, the Neighborhood Quality, Urban Form, and Housing Affordability categories promote pedestrian connections, passive recreation opportunities, incorporation of the natural environment through sensitive design, and a diversity of housing types and costs. The Transit Oriented Development Design guidelines recommend efficient development patterns that minimize urban sprawl, enhance the social aspect of neighborhoods, and conserve sensitive environmental features through design. The Housing Element calls for the provision of an adequate supply for all income levels and the River Estates project's provision of market-rate units will further increase the area's housing supply. In addition, the project will be required to contribute to inclusionary housing through the provision of affordable units or the payment of in-lieu fees. The River Estates project incorporates Nestor Creek as a focal feature for site development and provides a natural corridor that enhances the neighborhood character of Nestor Town Center, with a pedestrian/bicycle trail allowing public access to a natural resource area and providing non-motorized transportation to activity centers. Development of the River Estates site with multi-family dwelling units, publicly accessible trails, riparian landscaping and creek improvements will enhance the neighborhood character and not adversely affect the goals of the Progress Guide and General Plan, including the Strategic Framework Element, Transit-Oriented Development Design Guidelines and the Housing Element.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed project is the construction of a forty-eight unit condominium development on a lot currently improved with one single-family residence. Nestor Creek, identified as a sensitive biological resource, traverses the site. The draft permit prepared for this development includes a variety of requirements and referenced exhibits of approval relevant to achieving compliance with the applicable regulations of the Land Development Code in effect for this site to assure that the health safety and general welfare of persons residing or working in the area will be adequately maintained. These conditions include minimum standards for height, landscaping, parking, setbacks, coverage and floor area ratio limitations. Project implementation requires a dedication of Hollister Street adjacent to the subject property. The dedication will bring the public-right-of-way in compliance with current street standards, as well as create a standard sidewalk, curb and gutter adjacent to the site and aligned with adjacent public-right-of-way improvements, where none currently exists. A 90" culvert located beneath Hollister Street and within the subject property, would be extended in order to facilitate storm water runoff from upstream locations to Nestor Creek. The pipe extension would involve the construction of a head wall and, a guardrail at the sidewalk, where currently, this area

is exposed and potentially hazardous to pedestrians and vehicles. The developer has agreed to work with the City to abandon and re-locate an existing 42" sewer main which is currently located within Nestor Creek. This relocation will prevent future maintenance activities from occurring within this sensitive biological resource.

A Mitigated Negative Declaration was prepared for the project which requires mitigation measures for potential impacts to paleontological and historical resources. The document concluded that the project would not significantly impact environmentally sensitive lands which include fresh water marsh and the Nestor Creek Special Flood Hazard Area. The project requires the creation of a 15'-0" wide biological buffer adjacent to Nestor Creek as well as a fence parallel to the creek, to prohibit entry into the resource, thereby protecting the biological resources and habitat located along Nestor Creek. Currently, the creek bed is unfenced and contains debris. The proposed development would create a safer and more environmentally sensitive development with respect to the creek bed where minimal protection exists now. As such, the development would not be detrimental to the health, safety and welfare of persons residing and working in the area.

**3. The proposed development will comply with the regulations of the Land Development Code.**

The proposed project is the construction of a forty-eight unit condominium development located within six, three-story buildings on a site that is developed with a residence and the Nestor Creek Special Flood Hazard Area. Nestor Creek encompasses approximately 1/3 of the site and bisects it in a west-easterly direction. The project as designed complies with all RM-2-4 zone requirements with respect to height, coverage, floor area ratio, front and rear setbacks, as well as parking, open space and landscape requirements. A minor deviation to the interior side setback has been incorporated into the project design for three of the six buildings, to observe a 5'-0" side setback where 21'-0" is required. The lot is irregular in shape and is encumbered by Nestor Creek, classified as a sensitive biological resource and containing fresh water marsh. A substantial portion of the developable building area is removed as a result of these resources and additional required buffers adjacent to the creek, further reduce the usable area of the property. The minor deviation is the minimum necessary to provide reasonable use of the site.

The project is consistent with all of the applicable environmentally sensitive lands regulations which include buffer requirements adjacent to sensitive biological resources, requirements for a no rise in the base flood elevation, and restrictions regarding channelization. The project proposes a 15'-0" wide buffer running parallel to Nestor Creek with a fence proposed at the edge of the buffer to further impede access from humans and domestic pets. Nestor Creek is currently channelized and the project will not create further channelization, nor would it result in any rise in the base flood elevation. No structures are proposed within the Special Flood Hazard Area, including the required buffer zones. Therefore, the proposed development complies with all of the applicable regulations to the maximum extent feasible.

**4. The proposed development, when considered as a whole, will be beneficial to the community.** The property is currently zoned RS-1-7 and located within the western portion of the Otay Mesa-Nestor Community Plan. The site is within the Nestor Town Center neighborhood of the Community Plan which outlines goals and objectives for the

area. The plan states that the vision for this area is a “vibrant town center that will be revitalized through private infill development including provision of civic facilities, housing, neighborhood shopping and commercial recreation opportunities.” The Plan further states that the .. .”Nestor Creek Greenway [?] Will provide pedestrian and bicycle linkages...”. The proposed project would rezone the site to a multifamily residential zone and construct 48 units on the site, bringing additional housing stock to the Otay Mesa-Nestor community. The proposed design of the three-story structures would include building offsets, concrete tile roofs and numerous transparencies within the building facade to create a pedestrian oriented development. The site design includes a pedestrian and bicycle trail adjacent to Nestor Creek, and a pedestrian bridge across the creek to connect the developments.

The project will redevelop the site that is currently includes one residential unit. This reach of Nestor Creek located on site is currently unprotected and contains debris. The proposed infill development will include landscaped streetscape features including a new sidewalk and street trees that will serve to visually enhance the environment for pedestrians and travelers along Hollister Street.

The Water Quality Technical Report prepared for the project concluded that the site drainage will change through on-site grading so that storm water would be collected in the on-site storm drain system and not travel across the site into the banks of the creek. Best Management Practices [BMPs] required for the project will provide measures which minimize or eliminate the introduction of pollutants into the storm water system.

Nestor Creek, a sensitive biological resource to the community, would be preserved and maintained in its natural state, with additional protection measures incorporated into the project approval such as biological buffers adjacent to the creek, and functional buffers including fencing, lighting and signage requirements. This segment of Nestor Creek and biological buffer areas will be preserved within a conservation easement as conditioned by the permit, providing enhanced protection to the resource than currently exists. As such, the proposed development will be beneficial to the community.

5. **Any proposed deviations pursuant to Section 126.0602(B)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.** The forty-eight unit development project was carefully designed and cited to comply with all applicable development regulations including those for the RM-2-4 Zone and all of the Environmentally Sensitive Lands Regulations including the supplemental regulations for Special Flood Hazard Area. Deviations to the side setback (5'-0" proposed where 21'-0" is required) and to the requirement that 50 percent of the ground floor be reserved for habitable areas for street facing buildings, has been incorporated into the project design. The site is constrained by Nestor Creek as well as the proposed buffer areas which significantly reduce the allowable buildable area. The required 21'-0" setback would have placed the proposed structures closer to Nestor Creek, further reducing the required buffer adjacent to the creek and potentially, reducing the number of units which would be allocated to the site with the requested rezone and Community Plan Amendment redesignation. The project density as proposed, would be within the required density range of the Otay Mesa-Nestor Community Planning area for Medium Density Residential. These minor deviations are appropriate for this site and encourages

reasonable use of the property and increased housing for the Otay Mesa-Nestor Community.

## SITE DEVELOPMENT PERMIT

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water runoff from upstream locations to Nestor Creek. The pipe extension would involve the construction of a head wall and, a guardrail at the sidewalk, where currently, this area is exposed and potentially hazardous to pedestrians and vehicles. The developer has agreed to work with the City to abandon and re-locate an existing 42" sewer main which is currently located within Nestor Creek. This relocation will prevent future maintenance activities from occurring within this sensitive biological resource.

A Mitigated Negative Declaration was prepared for the project which requires mitigation measures for potential impacts to paleontological and historical resources. The document concluded that the project would not significantly impact environmentally sensitive lands which include fresh water marsh and the Nestor Creek Special Flood Hazard Area. The project requires the creation of a 15'-0" wide biological buffer adjacent to Nestor Creek as well as a fence parallel to the creek, to prohibit entry into the resource, thereby protecting the biological resources and habitat located along Nestor Creek. Currently, the creek bed is unfenced and contains debris. The proposed development would create a safer and more environmentally sensitive development with respect to the creek bed where minimal protection exists now. As such, the development would not be detrimental to the health, safety and welfare of persons residing and working in the area.

3. **The proposed development will comply with the applicable regulations of the Land Development Code.** The proposed project is the construction of a forty-eight unit condominium development located within six , three-story buildings on a site that is developed with a residence and the Nestor Creek Special Flood Hazard Area. Nestor Creek encompasses approximately one-third of the site and bisects it in a west-easterly direction. The project as designed complies with all RM-2-4 zone requirements with respect to height, coverage, floor area ratio, front and rear setbacks, as well as parking, open space and landscape requirements. Deviations to the interior side setback has and to the requirement that 50 percent of street facing facades be reserved for habitable areas, has been incorporated into the project design for three of the six buildings, to observe a 5'-0" side setback where 21'-0" is required. The lot is irregular in shape and is encumbered by Nestor Creek, classified as a sensitive biological resource and containing fresh water marsh. A substantial portion of the developable building area is removed as a result of these resources and additional required buffers adjacent to the creek, further reducing the usable area of the property. These minor deviations are the minimum necessary to provide reasonable use of the site.

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## **SITE DEVELOPMENT PERMIT - SUPPLEMENTAL ENVIRONMENTALLY SENSITIVE LANDS**

- 1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.** The project includes the development of forty-eight condominium units, seventy-six parking spaces, and associated landscaping. No steep slopes, sensitive coastal bluffs, or coastal beaches are located on or adjacent to the project site. A segment of Nestor Creek, a 100-year floodplain containing fresh water marsh traverses the site in a west-easterly direction.

The site is currently disturbed and developed with a residence and accessory structures that would be demolished for the proposed development. Grading would involve 4,444 cubic yards of cut, 5,555 cubic yards of fill and 1,111 cubic yards of import soil. No grading would occur within Nestor Creek.

The Mitigated Negative Declaration [MND] prepared for the project required that a Water Quality Technical Report, a No Rise Certification, and a Biological Survey be submitted and analyzed as part of the proposal to determine potential impacts to environmentally sensitive lands. Mitigation measures are required due to site excavation for potential impacts to paleontological and historical resources. The MND analyzed the potential for impacts to sensitive biological resources, specifically, Nestor Creek, and the existing fresh water marsh located within the creek bed. No grading or construction activities would occur within the creek bed with the exception of a 20'-0" on-site extension of a culvert pipe. The development of the project site would impact 0.0023-acre (100 square feet) of freshwater marsh. The impact is less than 0.01 acre and does not meet the City's significance criteria therefore, no mitigation is required.

The proposed buildings have been sited along both sides of Nestor Creek. A 15'-0" wide buffer is required along both sides of the channel adjacent to the proposed buildings which will protect the sensitive resource. The purpose of the buffer is to protect the functions and values of the biological resource by reducing physical disturbance from noise, activity and domestic pets. The buffer also serves as a transition zone from one habitat to another. The buffer is also intended to allow increased growth of native plant cover and to facilitate wildlife through the project area. Nestor Creek would be completely preserved within the project area and further protection provided through the following measures:

- a 15'-0" wetland buffer adjacent to the creek
- a maximum 5'-0" high fence to be located at the outer limit of the 15'-0" wide buffer
- signage and lighting to clearly identify the Nestor Creek as a sensitive biological resource
- the requirement for a conservation easement as a mechanism to further preserve the area

- A 50-foot long, six-foot wide concrete pedestrian bridge across the channel to connect the separate developments while prohibiting access to the channel

As a result of these measures, the site is suitable for the design and siting of the proposed development and will result in minimum disturbance to environmentally sensitive lands.

2. **The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.** The project required the submittal of a Geotechnical Investigation, a No Rise Certification and a Water Quality Technical Report in order to evaluate potential project impacts to natural land forms, geological and erosional forces, flood hazards and fire hazards. The proposed development would not result in undue risk regarding fire hazards. However, the Geotechnical Investigation prepared for the project identified that the project area is underlain by the Bay Point Formation, which has a high paleontological resource potential. Because of the proposed 4,444 cubic-yards of excavation required to construct the project, the potential exists for significant adverse impacts to paleontological resources. Therefore, implementation of the Mitigation, Monitoring and Reporting Program, contained in Section V of the Mitigated Negative Declaration, would mitigate potentially significant paleontological resource impacts to below a level of significance.

A Water Quality Technical Report was prepared for the project requires implementation of permanent and construction Best Management Practices [BMIPs] to avoid undue erosion. The subject property is not located in an area susceptible to potential hazards such as tsunamis, seiches, deep-seated landsliding, or surface rupture due to faulting. The project is located within a seismically active Southern California region and, is subjected to moderate to sever ground shaking during a seismic event. However, no active faults Earthquake Fault Zones are located on the project site. Construction would be in accordance with standards of the Uniform Building Code which requires sufficient calculated factors of safety to resist seismically induced failure and minimize potential damage from seismic activity.

In consultation with the Wildlife agencies (as required by the Land Development Code and associated Biology Guidelines), several additional measures are required for project implementation. These include a conservation easement within the Nestor Creek, buffers adjacent to the creek, fencing, lighting and signage to make the public aware of the existing resource and restrictions for access.

The Mitigated Negative Declaration prepared for the project concluded that project implementation would not alter natural landforms nor result in undue risks. The No Rise Certification analyzed both the site grading required for the development, as well as the work within Nestor Creek to extend the culvert pipe. The MND concluded that the development would not result in a rise in the base flood elevation of Nestor Creek. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

3. **The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.** The project includes development of six, three-story buildings, seventy-six parking spaces, and associated landscaping. No steep

hillsides, sensitive coastal bluffs, or coastal beaches are located on or adjacent to the project site. City staff has determined through review of the City's Historical Resource Sensitivity Maps that the project site is located in an area of San Diego which has a high potential for archeological resources. As a result, a Mitigation Monitoring and Reporting Program will be required during initial grading and excavation activities on the project site. Implementation of the Mitigation Monitoring and Reporting Program included in Section V of the Mitigated Negative Declaration, would reduce potential impacts to subsurface historical resources to below a level of significance.

Nestor Creek bisects the property in a west-easterly direction; however, no structures will be located in that area. The project has also been designed to install a 15-foot biological and habitat buffer, which will encourage native, non-invasive plant growth. The project directly impacts 1.16 acres of disturbed habitat, 0.73 acre of urban/developed land, and 0.0023 acre of freshwater marsh. The widening of Hollister Street would involve the 20-foot extension of an existing culvert downstream onto the project site into the narrowest portion of the channel. The magnitude of this impact would result in the loss of approximately 100 square-feet (0.0023 acre) of fresh water marsh. Because this impact is less than 0.01 acre, it does not meet the City of San Diego's significance and therefore, no mitigation is required.

Additionally, the project site is located within the 100-year floodplain. Because the development will alter the floodway and floodplain boundaries of the Special Flood Hazard Area, no certificates of occupancy will be granted or bonds released for development associated with this project until a Letter of Map Revision [LOMR] is obtained from the

Federal Emergency Management Agency [FEMA] as conditioned by the draft permit. The LOMR is issued based upon as-built site conditions. The draft permit prepared for the project includes various conditions of approval relevant to achieving compliance with the regulations of the City's Environmentally Sensitive Lands ordinance. The proposed project will result in minimal disturbance to Environmentally Sensitive Lands.

4. **The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program [MSCP] Subarea Plan.** The project site is not located within the City of San Diego's Multiple Habitat Planning Area.
5. **The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.** The project site is not located within the Coastal Overlay Zone, nor is it adjacent to a public beach or local shoreline. The project will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.
6. **The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate negative impacts created by the proposed development.** As described in Site Development Permit - Supplemental Findings for Environmentally Sensitive Lands, Finding No. 2, which details the mitigation measures, the Mitigated Negative Declaration prepared for the proposed project includes mitigation measures in the areas of paleontological resources, historic (archaeology) and water quality. These mitigation measures have been deemed

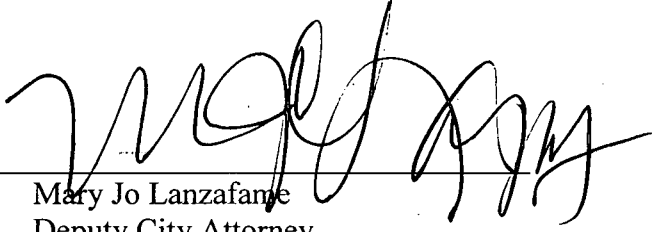
appropriate to mitigate to below a level of significance, environmental impacts that may be created by the proposed development.

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 Planned Development Permit No. 11491 and Site Development Permit No. 5773 is granted to Otto Roppel, Owner/Permittee, under the terms and conditions as set forth in permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By



Mary Jo Lanzafame  
Deputy City Attorney

MJL:cdk  
11/19/03  
Or.Dept:DSD  
R-2004-485  
Reviewed by Sandra Teasley

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT  
PERMIT INTAKE, MAIL STATION 501

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED DEVELOPMENT PERMIT NO. 11491  
SITE DEVELOPMENT PERMIT NO. 5773  
**RIVER ESTATES - PROJECT NO. 3339**  
CITY COUNCIL

This Planned Development Permit and Site Development Permit is granted by the of the City of San Diego to Otto Roppel, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] sections 143.0402 AND 143.0110. The 2.6-acre site is located at 1194 Hollister Street, south of Coronado Avenue in the RS-1-7 zone (proposed RM-2-4 zone) of the Otay Mesa-Nstror Community Plan. The project site is legally described as a portion of Lot 9 of Nestor, lying east of the west line of lot 7, produced southerly to the south line of said lot 9, according to map L. S. 90 and, a portion of Parcel Map No. 9753.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/ Permittee to, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated July 30, 2003, on file in the Development Services Department. The exhibits are identified as follows:

Tentative Map

Sheet 1 of 35: Conceptual Site Plan  
Sheet 2 of 35: Conceptual Site Plan  
Sheet 11 of 35: Conceptual Planting Plan  
Sheet 12 of 35: Conceptual Planting Plan  
Sheet 18 of 35: Elevation Plan  
Sheet 19 of 35: Elevation Plan  
Sheet 20 of 35: Floor Plan  
Sheet 21 of 35: Floor Plan  
Sheet 22 of 35: Elevations  
Sheet 23 of 35: Elevations  
Sheet 24 of 35: Floor Plans  
Sheet 25 of 35: Floor Plans  
Sheet 26 of 35: Elevations  
Sheet 27 of 35: Floor Plans

Sheet 28 of 35: Elevations  
 Sheet 29 of 35: Elevations  
 Sheet 30 of 35: Schematic Elevations  
 Sheet 31 of 35: Floor Plans  
 Sheet 32 of 35: Floor Plans  
 Sheet 33 of 35: Schematic Elevations  
 Sheet 34 of 35: Elevations  
 Sheet 35 of 35: Elevations  
 Sheet 35 A of 35: Cross Sections  
 Sheet 35 B of 35: Building B2 Elevation  
 Sheet 35 C of 35: Cross Sections

The project or facility shall include the following:

a. A 48-unit residential condominium units as indicated in the table below:

BUILDING	TYPE OF UNIT	AREA (s.f.)	No. Of Units Per Building	TOTAL UNITS	TOTAL AREAS
Building A	3 bedroom	2,672	1	2	3,699
	2 bedroom	1,027	1		
Building B1	2 bedroom	929	3	6	4,296
	1 bedroom	713	3		
Building B2	2 bedroom	963	12	12	11,556
Building B3	2 bedroom	929	3	12	9,024
	1 bedroom	713	9		
Building D	Studio 1	681	1	12	11,168
	Studio 2	550	1		
	Studio 3	543	1		
	Studio 4	310	1		
	1 Bedroom	771	2		
	3 Bedroom	1,435	4		
Building C	1 Bedroom	560	1	6	6,704
	2 Bedroom	852	1		

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	3 Bedroom (2)	2,646	4		
<b>Totals</b>	(Final Total includes stairwells/corridors additional 4,726 s.f.)			<b>50</b>	<b>51,983</b>

- b. A deviation to allow a 5'-0" north and south interior side yard for buildings A, D and B2 where the RM-4 Zone requires a 21'-0" side yard setback;
- c. Two tot lots: one 1,300-square-foot adjacent to building B1 and one 780-square-foot tot lot adjacent to Building A;
- d. Landscaping (planting, irrigation and landscape related improvements);
- e. Off-street parking facilities;
- f. 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 SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. 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 the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. 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.

4. 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.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to the exhibits. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. 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 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 the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

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 proposed 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.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

10. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.



11. As conditions of Planned Development Permit No. 11491, Site Development Permit No. 5773 and Tentative Map No. 5774 , the mitigation measures specified in the MMRP, and outlined in the MITIGATED NEGATIVE DECLARATION), LDR NO. 3339 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

12. A Job Order number open to the Land Development Review Division of the Development Services Department shall be required to cover the Land Development Review Division's cost associated with the implementation of the MMRP.

**ENGINEERING REQUIREMENTS:**

13. The Planned Development Permit and Site Development Permit shall conform to the provisions of Tentative Map No. 5773

**LANDSCAPE REQUIREMENTS:**

14. In the event that the Landscape Plan and the Site Plan conflict, the Landscape Plan shall prevail.

15. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City.

16. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with the exhibit, Landscape Development Plan, on file in the Office of Development Services. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as landscaping area.

17. Prior to issuance of any construction permits for structures, complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with the exhibit, Landscape Development Plan, on file in the Office of Development Services.

18. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape construction documents for right-of-way and median (if applicable) improvements shall be submitted to the City Manager for approval. Improvement plans shall take into account a 40 square feet area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.

19. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape and obtain all required landscape inspections. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

20. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

21. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy.

22. The Permittee or subsequent Owner(s) shall be responsible for the installation and maintenance of all landscape improvements consistent with the Landscape Regulation and Landscape Standards. Invasive species are prohibited from being planted adjacent to any canyon, water course, wet land or native habitats within the city limits of San Diego. Invasive plants are those which rapidly self propagate by air born seeds or trailing as noted in section 1.3 of the Landscape Standards.

23. The existing trees shown within Nestor Creek and within the street yard area of the site are used to meet the street yard area plant point requirement. If any of the existing trees shown on the Landscape Development Plan within this area are removed for any reason, and by so doing the street yard plant points are reduced to below the minimum number required, additional trees will be added to the street yard area at a minimum size of 24-inch-box to provide the minimum plant points required.

**PLANNING/DESIGN REQUIREMENTS:**

24. No fewer than eighty off-street parking spaces, five motorcycle parking spaces, and twenty-four bicycle parking spaces, shall be maintained on the property at all times in the approximate locations shown on the approved exhibits. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

25. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a

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deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

26. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

27. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

28. 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.

29. All fencing shall be consistent with the criteria set forth within the Otay Mesa-Nestor Community Plan.

30. All signs associated with this development shall be consistent with sign criteria established by either of the citywide sign regulations.

31. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding eight footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an

illuminance meter to measure light levels as required to establish conformance with the conditions of this Permit during the night inspection. Night inspections may be required additional fees as determined by the City Manager.

32. No mechanical equipment, tank, duct, elevator enclosure, cooling tower, 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.

33. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials (SDMC) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the exhibit, conceptual site plan.

**WASTEWATER REQUIREMENTS:**

34. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the design and construction of all public sewer facilities necessary to serve this development.

35. The developer shall design and construct all proposed public sewer facilities in accordance with established criteria in the most current edition of the City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned.

36. The developer shall provide, satisfactory to the Metropolitan Wastewater Department Director, CC&Rs for the operation and maintenance of on-site private sewer facilities that serve more than one ownership.

37. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

**WATER REQUIREMENTS:**

38. Prior to the issuance of any building permits, the Owner/Permittee shall provide evidence to the Development Project Manager indicating that application for water service has been made to the California-American Water Company [CAWC].

39. Due to the City of San Diego's present right to acquire CAWC's assets by eminent domain at a future date certain, prior to the issuance of any building permits, the Owner/Permittee shall

deposit with the City an amount the City deems equal to the value of meters, hydrants, pipes, and other public water utilities that benefit the Owner/Permittee's property and which are paid for or installed by CAWC.

40. The City shall set such deposit aside in a separate account to be used only for the future City acquisition of the CAWC assets. If the Owner/Permittee enters into any reimbursement agreement with any utility relative to facilities installed by the Owner/Permittee, then the Owner/Permittee shall assign any such agreement to the City of San Diego.

**TRANSPORTATION DEVELOPMENT REQUIREMENTS:**

41. Prior to the issuance of the first building permit, applicant shall assure by permit and bond, replacement of all abandoned driveways along the project frontage on Hollister Avenue with full height curb, gutter and sidewalk, satisfactory to the City Engineer.

42. Prior to the issuance of the first building permit, applicant shall dedicate 13 feet of right-of-way along project frontage on Hollister Street and shall assure by permit and bond, construction of half-width improvements including, 36 feet of pavement, curb, gutter, and 5-foot sidewalk within 10-foot curb to property line distance with proper transition to the north and south of the project site to connect to the existing curb and sidewalk, satisfactory to the City Engineer.

**INFORMATION ONLY:**

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego by Resolution No. R-298522 on October 21, 2003.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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**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.

**Otto Roppel**  
Owner/Permittee

By \_\_\_\_\_

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

Reviewed by Sandra Teasley