

(Hard copy) Sent via fax 2/9/2010

 <p>City of San Diego Development Services 1222 First Ave. 3rd Floor San Diego, CA 92101 (619) 446-5210</p>	Development Permit/ Environmental Determination Appeal Application	FORM
		DS-3031 MARCH 2007

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission Environmental Determination - Appeal to City Council
 Process Three Decision - Appeal to Planning Commission Appeal of a Hearing Officer Decision to revoke a permit
 Process Four Decision - Appeal to City Council

2. Appellant Please check one Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)

Name
Ocean Beach Community Planning Board (Brittany Taylor, Chairman)

Address	City	State	Zip Code	Telephone
P.O. Box 7090	San Diego	CA	92167	858-692-6700

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Johnson Duplex

4. Project Information

Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination:	City Project Manager:
Project # 181555	January 27, 2010	Morris E. Dye

Decision (describe the permit/approval decision):

A Coastal Development Permit, Neighborhood Development Permit, and Map Maiver to demolish an existing residence and construct

two, detached, condominium units and waive the requirements to underground overhead utilities on a 0.16 - acre site within the

Ocean Beach Community Plan area. The mid block merger was awarded with the stipulation that mid-block lighting be installed.

5. Grounds for Appeal (Please check all that apply)

- Factual Error (Process Three and Four decisions only) New Information (Process Three and Four decisions only)
 Conflict with other matters (Process Three and Four decisions only) City-wide Significance (Process Four decisions only)
 Findings Not Supported (Process Three and Four decisions only)

Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2, Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.)

On September 2, 2009 the Ocean Beach Planning Board voted 7-5-0 to deny the Johnson Duplex project # 181555. The Planning

Board denied the project because of concerns with the bulk and scale of the project. The addition would increase the FAR to the

maximum of .75 and reduce the amount of parking spaces available. The addition would also create a retaining wall at 7 ft 3 inches

that is over a foot higher then what is allowed in the RM1-1 zone. This wall would create a more secluded contained closed off

structure. This project is already on a steep grade and the addition would create a building height that would limit views and sunlight.

The project is much heigher than the surrounding properties. Please see the attached photos. The city report disregarded

these findings, however, at the planning board meeting board members were concerned that the addition would block sunlight and

create more of a barrier. The other concern from the board was the incompatibility with the existing community character. Please see

Ocean Beach Precise Plan. This project does not integrate well with the existing structures. Thank you for your time and

consideration of the Ocean Beach Planning Board Recommendations.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature:  Date: 2/8/2010

Note: Faxed appeals are not accepted. Appeal fees are non-refundable.

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Upon request, this information is available in alternative formats for persons with disabilities.

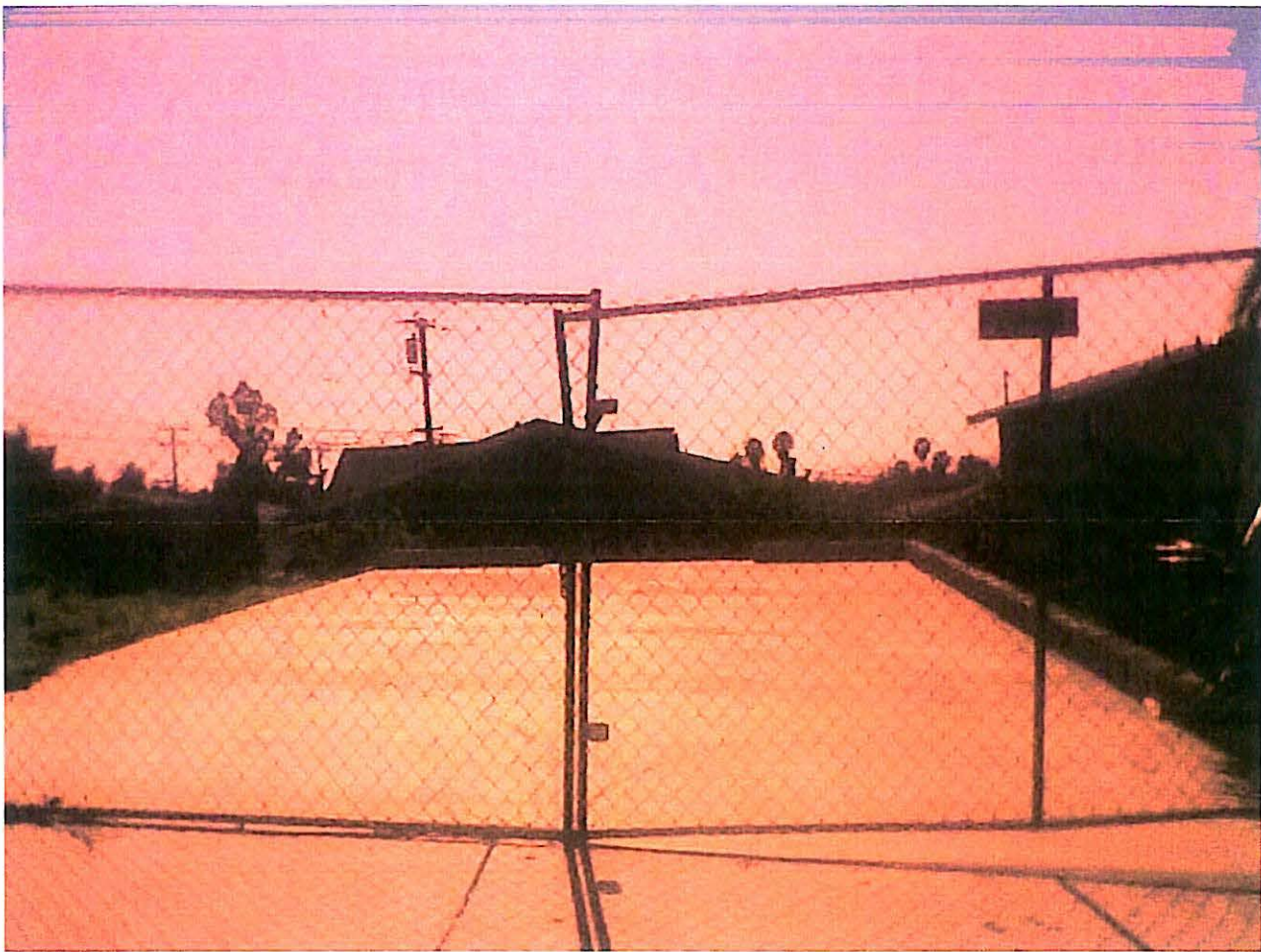
CITY PLANNING
COMMISSION

DS-3031 (03-07)

FEB 17 2010

RECEIVED





OCEAN BEACH PLANNING BOARD

ATTACHMENT 9

GENERAL MEETING MINUTES

Wednesday, September 2nd, 2009 - 6:00 p.m.

Ocean Beach Recreation Center - 4726 Santa Monica Ave., Ocean Beach

6:05pm - Meeting called to order by Chairperson Brittany Taylor. Board members Landry Watson, Jane Gawronski, Tom Gawronski, Nancy Taylor, Heather Kwiatkowski, Amanda Lopez, Seth Connolly, Ronson Shamoun and George Murphy also present.

Agenda Modifications - Chairperson Brittany Taylor informs that the following scheduled Agenda Item is tabled until future meeting:

Item #001 – Action Item Burkhardt Residence

Ocean Beach JO#43-2051 (Process 2) Coastal Development Permit to demolish an existing residential unit and construct a new residential unit on a 0.08 acres site at 4719 Newport Avenue in the RM 1-1 Zone within the Ocean Beach Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Airport Approach, Airport Influence Area, FAA Part 77, Council District 2.

Motion to approve modified agenda by Chairperson Brittany Taylor, seconded by Jane Gawronski. Motion passes by consensus.

Motion to approve August General Meeting minutes by Seth Connolly, seconded by Amanda Lopez. Motion passes 9-0-1. Chairperson Brittany Taylor, Landry Watson, Jane Gawronski, Tom Gawronski, Nancy Taylor, Amanda Lopez, Seth Connolly, Ronson Shamoun and George Murphy all in favor. Heather Kwiatkowski abstains.

Motion to approve August Project Review Committee minutes by Seth Connolly, seconded by Chairperson Brittany Taylor. Motion passes 6-0-4. Jane Gawronski, Tom Gawronski, Nancy Taylor, Amanda Lopez, Ronson Shamoun and George Murphy all in favor. Chairperson Brittany Taylor, Landry Watson, Heather Kwiatkowski and Seth Connolly abstain.

Non-agenda Public Comments

Joyce Summer of the Centre City Development Corporation updates on activities.

Kevin Oliver from the City of San Diego Engineering and Capital Projects Department informs about Dog Beach public bathroom, which has been closed due to structural issues. City would like to rebuild similar structure in same footprint and are soliciting input from the community.

6:20pm Board member Craig Klein enters.

Item #002 – Action Item Ostosh Residence

Ocean Beach JO#43-2309. (Process 3) Coastal Development Permit and Map Waiver application to waive the requirement of a Tentative Map to demolish existing structure and construct 2 residential condominium units on a 0.16 acre site at 4719 Orchard Avenue in the RM 1-1 zone, OB Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, FAA Part 77 Council District 2.

Project architect presenting. Informs that building originally constructed in 1918 and describes sustainable design features of project. Board members Tom Gawronski and Landry Watson question whether proposed project's FAR calculations include parking space. Architect informs that City has determined that project is in compliance with existing code. Landry Watson reviews Zoning Ordinance and confirms. Tom Gawronski mentions that no historical preservation issues exist with current structure, as it has been highly modified since original construction.

6:30pm - Vice-Chairperson Giovanni Ingolia enters.

Public Comments - Local resident Dan Morales raises concerns over whether proposed project meets Precise Plan goals of affordable housing, pedestrian-orientation and bulk and scale.

Board Comments - Tom Gawronski opposed to project based on its lack of pedestrian-orientation and overall bulk and scale. Jane Gawronski offers that while proposed project meets existing code, the intent of code is not to promote parking in rear setbacks.

Motion to approve as presented by Ronson Shamoun, seconded by Craig Klein. Motion passed 6-4-2. Ronson Shamoun, Craig Klein, Nancy Taylor, Heather Kwiatkowski, Amanda Lopez and George Murphy all in favor, with Landry Watson, Seth Connolly, Jane Gawronski and Tom Gawronski opposed. Chairperson Brittany Taylor and Vice-Chairperson Giovanni Ingolia abstain.

Item #003 – Action Item Johnson Duplex

Ocean Beach JO#43-2451 (Process 3) Coastal Development Permit, Variance and Map Waiver application to waive the requirement of a tentative Map to demolish existing residence and construct 2 residential condos with reduced parking and increased floor area on a 0.16 acre site at 4721 Coronado Avenue in the RM 1-1 Zone within the Ocean Beach Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit Airport Approach, Airport Influence Area, FAA Part 77, Council District 2.

Project Engineer Mark Brencick presenting. Offers that project will not impact any existing views on existing steep grade of street and that neighboring properties have similar bulk and scale. Board members question FAR and bulk and scale.

Public Comments - Dan Morales states that project has an intensification of use and a lack of integration with surrounding area.

Board Comments - Landry Watson states that project has a lack of compatible design elements with existing character of area. Amanda Lopez and Seth Connolly question project's bulk and scale and whether project will reduce incoming sunlight to neighbors.

Motion to deny project by Landry Watson, based on project bulk and scale and the lack of compatibility with existing community character, seconded by Jane Gawronski. Motion passes 7-5-0. Vice-Chairperson Giovanni Ingolia, Landry Watson, Seth Connolly, Nancy Taylor, Jane Gawronski and Tom Gawronski all in favor, with Chairperson Brittany Taylor, Amanda Lopez, Heather Kwiatkowski, Ronson Shamoun and Craig Klein opposed.

Chair Announcements

Matt Awbrey of City Councilor Kevin Faulconer's Office at City of San Diego informs that Ocean Beach now has 7 of the 8 approved medical marijuana dispensaries in the city.

Board addresses issue of board members receiving possible scholarships from board funds to attend historical resources training seminar put on by City of San Diego at \$40 per person. Motion to approve 3 scholarships by Chairperson Brittany Taylor, seconded by Landry Watson. Motion approved by consensus.

Motion to adjourn by Seth Connolly, seconded by Heather Kwiatkowski. Approved by consensus.



City of San Diego
Development Services
 1222 First Ave., MS-302
 San Diego, CA 92101
 (619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment • Other _____

Project Title _____ **Project No. For City Use Only** _____
 4721 Coronado Ave.

Project Address:
 4721 Coronado Avenue, San Diego, CA 92107

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print):
 Jeffrey M. Johnson
 Owner Tenant/Lessee Redevelopment Agency
 Street Address:
 3364 Helix Street
 City/State/Zip:
 Spring Valley
 Phone No: _____ Fax No: _____
 (619) 316-9514
 Signature: *Jeffrey M. Johnson* Date: 5/13/09

Name of Individual (type or print):

 Owner Tenant/Lessee Redevelopment Agency
 Street Address:

 City/State/Zip:

 Phone No: _____ Fax No: _____
 Signature : _____ Date: _____

Name of Individual (type or print):

 Owner Tenant/Lessee Redevelopment Agency
 Street Address:

 City/State/Zip:

 Phone No: _____ Fax No: _____
 Signature : _____ Date: _____

Name of Individual (type or print):

 Owner Tenant/Lessee Redevelopment Agency
 Street Address:

 City/State/Zip:

 Phone No: _____ Fax No: _____
 Signature : _____ Date: _____

Johnson Duplex
PROJECT CHRONOLOGY
PTS #181555 IO# 23432451

Date	Action	Description	City Review	Applicant Response
May 29, 2009	Project Deemed Complete	Applicant Submits Project		
July 14, 2009	City Issues Assessment Letter		1.5 months	
July 21, 2009		Applicant resubmits		0.25 month
August 14, 2009	City Issues Assessment Letter		1.0 month	
August 28, 2009		Applicant resubmits		0.25 months
October 15, 2009	City Issues Assessment Letter		1.5 months	
October 15, 2009		Applicant resubmits		0.0 months
December 10, 2009	City Issues Assessment Letter		1.0 month	
January 27, 2010	Hearing Officer		1.5 months	
February 8, 2010	Planning Board Files Appeal		0.5 month	
March 18, 2010	Appeal Hearing		1.5 months	

<i>Total Staff Time (Average at 30 days per month):</i>	8.5 months
<i>Total Applicant Time (Average at 30 days per month):</i>	0.5 month
<i>Total Project Running Time (Years/Months/Days):</i>	9.0 months



THE CITY OF SAN DIEGO

JN41-11
3/2/09

MAILED
NOV 20 2008

NEIGHBORHOOD CODE COMPLIANCE

November 20, 2008

CIVIL PENALTY NOTICE AND ORDER

Location: 4721 Coronado Avenue

APN NO.: 448-371-19-00

Responsible Person: Jeffrey M. Johnson
Address: PO Box 521
Spring Valley CA 91976-0521

Jeffrey M. Johnson
4425 Casitas Street
San Diego CA 92107

Zone: RM-1-1

You are hereby notified that the property at 4721 Coronado Avenue is in violation of the San Diego Municipal Code (SDMC) and you are subject to civil penalties pursuant to San Diego Municipal Code Section 12.0801 through 12.0810.

Civil Penalties for violations of the Municipal Code may be assessed at a daily rate not to exceed \$2,500 per day per violation; not to exceed a total maximum of \$250,000 per parcel or structure for any related series of violation(s).

Penalties may be assessed for each individual code section violated. These penalties may accrue daily for as long as the violations exist.

You are violating the law by:

1. You have removed all of the permitted doors, windows, wiring, plumbing, drywall, and insulation from the residence without having obtained the inspection approvals required by permit #253724. The permit is now expired.
2. You have altered the roof structure by cutting through the permitted ceiling joists and placing a new ridge beam.
3. You have installed a new header and king studs at the northeast corner of the building.
4. You have damaged the City of San Diego property by cutting and removing the curb and walkway in front of the property on Coronado Street and installing a driveway. All work



Development Services Department
Neighborhood Code Compliance Division
1200 Third Avenue, 8th Floor, MS 51H • San Diego, CA 92101-4106
Tel (619) 236-5500 Fax (619) 533-6142

was done without first obtaining a Public Right-of-Way permit and obtaining the required inspection/s and approvals.

5. Retaining walls on the west side of the property are leaning towards the neighboring property and creating a hazard.

On October 30, 2008, the property was observed to be in violation of the following section(s) of the SDMC.

<u>SDMC Sec.</u>	<u>Violation Description & Location</u>
121.0302(a)	It is unlawful for any person to maintain or use any premises in violation of any of the provisions of the Land Development Code, without a required permit, contrary to permit conditions, or without a required variance.
129.0111	General Rules for Construction Permit Inspections All work for which a <i>construction permit</i> is issued shall be subject to inspection by the Building Official. Required inspections shall be performed in accordance with the inspection procedures established by the City Manager, except as may be exempted by the Land Development Code. Inspections that may be required are listed in the Land Development Manual. (b) No work shall be done beyond the point indicated in each successive inspection without first obtaining the approval of the Building Official.
129.0314	Required Inspections for an Electrical Permit All construction work and equipment authorized by an Electrical Permit shall be inspected by the Building Official in accordance with Section 129.0111 and the inspection requirements of the Land Development Manual. (<i>Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.</i>)
129.0702	When a Public Right-of-Way Permit Is Required (a) A Public Right-of-Way Permit is required for the following unless otherwise exempt under Section 129.0703: (2) The construction of privately owned <i>structures</i> or facilities in the <i>public right-of-way</i> ;
121.0404	Criteria for Determining That a Structure Is Dangerous (c) Any portion of the <i>structure</i> is likely to partially or completely collapse because of dilapidation, deterioration, or decay; faulty construction; the removal, movement, or instability of any portion of the ground necessary to support the building; the deterioration, decay, or inadequacy of its foundation; or any other cause;

129.0405

General Rules for Plumbing/Mechanical Permits

(e) The Building Official shall inspect, and re-inspect as the Official determines to be necessary, all plumbing, heating, ventilating, air conditioning or refrigeration system installations and shall keep complete records of all permits, inspections, and reinspections.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

142.0380(a)

Property owners shall maintain fences and retaining walls free from dilapidation or dangerous conditions.

You are hereby ordered to correct the violations by completing the following actions set forth below:

1. Submit a completed application and plans to Neighborhood Code Compliance Division by **January 2, 2009**, for approval **prior to obtaining permits**. The application and plans submitted shall reference this Notice of Violation on the application and within the scope of work on the plans. The plans shall include the following: a site plan, elevations, and identify all demolition details.
2. By **January 9, 2009** you shall submit an application and plans to Development Services Department to restore these premises to their original permitted condition and have the application deemed complete.
3. Plans and specifications shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and to show in detail that it will comply with the provisions of the Building Regulations and all applicable laws, ordinances, rules, and regulations
4. The submission of incomplete applications and/or plans will not satisfy the compliance time frame requirements stated above. There is to be no delay on your part in making the revisions, if any, required in submitted plans. Your actions to obtain the required permits are to be sustained and timely.
5. All existing non-permitted construction **shall be labeled and identified on plans as existing non-permitted.**
6. The required permits shall be obtained by **February 16, 2009**. All required inspections and approvals shall be obtained **within 180 days** of permit issuance, including final inspection approval.

These conditions require you to obtain a building permit and obtain all required inspections and approvals through final inspection.

Failure to Comply with Notice and Order

Failure to comply with this Notice and Order will result in the ongoing assessment of Civil Penalties:

1. Civil Penalties Hearing

This Notice and Order may cause a date, time, and place to be set for a hearing regarding the existing violations and confirmation of assessed civil penalties.

Written notice of the time and place of the hearing will be served on you at least ten days prior to the date of the hearing.

At the hearing, you, your agent or any other interested person may present testimony or evidence concerning the existence of the violations and the means and time frames for correcting the violations. Testimony or evidence may also be presented relating to the duration, frequency of recurrences, nature and seriousness, and history of the violations; whether the offense impacted environmentally sensitive lands or historical resources the willfulness of the responsible person's misconduct, after issuance of the Notice and Order; the good faith effort by the responsible person to comply; the economic impact of the penalty on the responsible person; the impact of the violation upon community; and/or any other factor which justice may require.

Failure to attend the hearing shall constitute a waiver of your rights to an administrative hearing and administrative adjudication of the Notice and Order.

2. Assessment of Penalties

Any person violating any provision of the Municipal Code or applicable State Codes is subject to assessment of Civil Penalties.

Civil penalty amounts are established by the Deputy Director of the Neighborhood Code Compliance. The following factors were used in determining the amount: Case history, lack of good faith effort towards compliance, economic impact, seriousness of the violation, visual impact upon the community.

The penalty rate for the above listed violation(s) has/have been established at **\$500.00** per day and shall be an ongoing assessment of penalties at the daily rate until the violations are corrected in accordance with Municipal Code Sections 12.0801 et seq.

Pursuant to SDMC, Section 12.0805(a), in determining the date on which civil penalties shall begin to accrue and the duration, the Deputy Director may consider a date when Neighborhood Code Compliance first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence.

Civil Penalty Notice and Order
4721 Coronado Avenue
November 20, 2008
Page 5

Administrative Costs

The Deputy Director or Hearing Officer is authorized to assess administrative costs. Administrative cost may include scheduling and processing of the hearing and all subsequent actions.

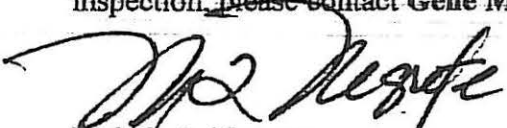
Waiver

Failure to attend the hearing shall constitute a waiver of your rights to an administrative hearing and adjudication of the Notice and Order or any portion thereof.

If you fail, neglect or refuse to obey an order to correct the violations, civil penalties will continue to accrue on a daily basis until the violation is corrected, except that such amount shall not exceed \$250,000.

If you fail, neglect or refuse to obey an order to pay civil penalties, the unpaid amount shall constitute a personal obligation and/or a lien upon the real property. Failure to pay a personal obligation will cause the Deputy Director to refer the obligation to the City Attorney to file a court action to recover these costs. Failure to pay a lien will cause the Deputy Director to refer the lien to the County Auditor for collection in the same manner that ordinary municipal taxes are collected.

If you have any questions concerning this Notice and Order, or to schedule a compliance inspection, ~~please contact~~ Gene Mavis, Combination Inspector II at (619) 236-5577.



Melody L. Negrete
Code Enforcement Coordinator

MLN/GM/lm

cc: File

NC# 128986

This information will be made available in alternative formats upon request.

RESOLUTION NUMBER R - _____

ADOPTED ON _____

WHEREAS, on May 29, 2009, Jeffrey M. Johnson submitted an application to the Development Services Department for a Coastal Development Permit; and

WHEREAS, the project was considered by the Planning Commission of the City of San Diego; and

WHEREAS, the issue was decided by the Planning Commission of the City of San Diego on March 25, 2010; and

WHEREAS, the Planning Commission of the City of San Diego considered the issues discussed in Negative Declaration No. 181555; NOW THEREFORE,

BE IT RESOLVED, by of the City of San Diego, that it is hereby certified that Negative Declaration No. 181555 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State guidelines thereto (California Administrative Code Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the Planning Commission of the City of San Diego.

BE IT FURTHER RESOLVED that the Planning Commission of the City of San Diego finds, based upon the Initial Study and any comments received, that there is no substantial evidence that the project will have a significant effect on the environment and therefore, that said Negative Declaration is hereby approved.

By: _____
Morris Dye, Development Project Manager

RESOLUTION NO. _____
DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE PLANNING COMMISSION
ADOPTING THE FINDINGS AND APPROVING MAP
WAIVER NO. 655107 FOR **JOHNSON DUPLEX –**
PROJECT NO. 181555

WHEREAS, Jeffrey M. Johnson, Applicant/Subdivider, and Mark Brencick, Surveyor, submitted an application with the City of San Diego for a Tentative Map Waiver, No. 655107, to waive the requirements of a Tentative Map to create two residential condominium units and waive the requirement to underground existing offsite overhead utility facilities a 0.16-acre site. The project site is located at 4721 Coronado Avenue, in the Coastal Overlay Zone (non-appealable), Coastal Height Limit, Airport Approach, Airport Influence Area, and Federal Aviation Administration Part 77 area overlay zones and in the RM-1-1 Zone of the Ocean Beach Planned District within the Ocean Beach Community Planning Area. The project site is legally described as Lots 29 and 30 in Block 38 of Ocean Beach, in the City of San Diego, County of San Diego, State of California, according to Map thereof, No. 279, filed in the Office of the County Recorder of San Diego County, May 28, 1887; and

WHEREAS, the Map proposes the subdivision of a 0.16-acre site into one (1) lot for a 2-unit residential condominium development; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to Subdivision Map Act sections 66490 and 66491 (b)-(f) and San Diego Municipal Code section 144.0220; and

WHEREAS, the subdivision is a condominium project as defined in California Civil Code section 1351(f) and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is two; and

WHEREAS, the request to waive the requirement to underground existing offsite overhead utility facilities qualifies under the guidelines of Council Policy No. 600-25, *Underground Conversion of Utility Lines at Developers Expense* in that the conversion involves a short span of overhead facility (less than 600 feet in length).

WHEREAS, on March 25, 2010, the Planning Commission of the City of San Diego considered Tentative Map Waiver No. 655107, including the waiver of the requirement to underground existing overhead utilities, and pursuant to Sections 125.0122 (map waiver), and 144.0240 (underground) of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, and the Planning Commission having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego, that it adopts the following findings with respect to Tentative Map Waiver No. 655107:

- 1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code Section 125.0440.a and State Map Action Sections 66473.5, 66474(a), and 66474(b)).**

The proposed subdivision would provide for a balanced community and equitable development within the community through the provision of housing that provides varying levels of architectural styles, size and affordability through residential development. The proposed subdivision is consistent with the recommended residential land use and density prescribed in the Ocean Beach Community Plan. Therefore, the proposed subdivision and its design or improvement would be consistent with the policies, goals, and objectives of the applicable land use plan

- 2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440.b).**

The proposed subdivision would comply with the development regulations of the underlying RM-1-1 zone and all of the applicable development regulations of the Land Development Code. The project is requesting a Neighborhood Development Permit to allow for a 20 percent increase in retaining wall height, not to exceed 7.3 feet, where 6 feet is the maximum.

- 3. The site is physically suitable for the type and density of development (Land Development Code Section 125.0440.c and State Map Act Sections 66474(c) and 66474(d)).**

The proposed subdivision would be consistent with the recommended residential land use and density range of the Ocean Beach Community Plan and would comply with the applicable development of the underlying RM-1-1 zone. Therefore, the bulk, scale and siting of the proposed development would be compatible with the existing and future surrounding land uses and the site is physically suitable for the type and density of the proposed development.

- 4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat (Land Development Code Section 125.0440.d and State Map Act Section 66474(e)).**

An initial Environmental Initial Study (EIS) was conducted for the proposed subdivision in accordance with the California Environmental Quality Act (CEQA)

a Negative Declaration was prepared for the project. The Negative Declaration examined potential for impacts to Historical Resources (Archaeology), Water Quality and Geology. It was determined that no adverse environmental impacts would result from this development and, therefore, no mitigation would be required. The site does not include any environmentally sensitive resources and is not adjacent to environmentally sensitive lands or waterways. Therefore, the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat.

- 5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (Land Development Code Section 125.0440.e and State Map Act Section 66474(f)).**

The proposed subdivision and improvements have been designed to comply with all applicable Federal, State and local land use policies including the California State Map Act and the City of San Diego Land Development Code. Further, the proposed subdivision and improvements would be permitted, constructed and inspected in accordance with the California Building Code. Therefore, the design of the subdivision or the proposed improvements would not be detrimental to the public health, safety, and welfare.

- 6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (Land Development Code Section 125.0440.f and State Map Act Section 66474(g)).**

The proposed subdivision would maintain and, as required, improve the existing public rights-of-ways. Therefore, the design of the subdivision and the associated improvements would not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

- 7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (Land Development Code Section 125.0440.g and State Map Act Section 66473.1).**

The design of the proposed subdivision through building materials, site orientation, architectural treatments and the placement and selection of plant materials provide to the extent feasible, for future passive or natural heating and cooling opportunities.

- 8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental**

resources (**Land Development Code Section 125.0440.h and State Map Act Section 66412.3**).

The decision maker has reviewed the administrative record including the project plans, technical studies, environmental documentation and public testimony to determine the effects of the proposed subdivision on the housing needs of the region and; that those needs are balanced against the needs for public services and the available fiscal and environmental resources and found that the of two residential units would assist the housing needs of the Ocean Beach community.

- 9. The proposed subdivision of land complies with requirements of the Subdivision Map Act and the Land Development Code as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of the Subdivision Map Act or the Land Development Code enacted pursuant thereto (Land Development Code Section 125.0122 and State Map Act Section 66428(b)).**

The proposed subdivision would comply with all of the applicable requirements of the Subdivision Map Act and the Land Development Code. The development complies with the requirements that regulate the size and location of the structure including setbacks, coverage, height, and floor area. The proposed subdivision is within a developed urban neighborhood and located on an existing improved and dedicated right-of-way. The development would not be subject to floodwater inundation. Drainage would be directed off the site into the City's storm water collection system. The property is within the jurisdiction of the City of San Diego and, therefore, all normal residential waste generated from the subdivision would be collected at curbside and disposed of in the city landfill.

- 10. The requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600-25 *Underground Conversion of Utility Lines at Developers Expense* in that:**

The conversion involves a short span of overhead facility (less than 600 feet in length).

That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED that, based on the Findings hereinbefore adopted by the Planning Commission, Tentative Map Waiver No. 655107, including the waiver of the requirement to underground existing overhead utilities, is hereby granted to Jeffrey M. Johnson, Applicant/Subdivider, subject to the following conditions:

1. A Parcel Map shall to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder, prior to the Map Waiver expiration date.
2. The Parcel Map shall comply with the provisions of Coastal Development Permit No. 655005.
3. Compliance with all conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
4. Prior to the recordation of the Parcel Map, taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition.
5. The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SAN DIEGO, CALIFORNIA, ON March 25, 2010.

By

Morris E. Dye
Development Project Manager
Development Services Department

ATTACHMENT: Map Waiver Conditions

Internal Order No. 23432451

Attachment to Resolution for Map Waiver

**PLANNING COMMISSION
CONDITIONS FOR MAP WAIVER NO. 655107
JOHNSON DUPLEX MAP WAIVER- PROJECT NO. 181555
ADOPTED BY RESOLUTION NO. (DRAFT) ON March 25, 2010**

GENERAL

1. This Tentative Map Waiver will expire March 25, 2013.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
3. The Parcel Map shall conform to the provisions of Coastal Development Permit No. 655005.
4. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.
5. The Owner/Permittee shall sound attenuate the project to the 45dB CNEL interior noise level.
6. The Owner/Permittee shall grant an avigation easement to the San Diego County Regional Airport Authority as required by the Airport Land Use Compatibility Plan for San Diego International Airport. The Owner/Permittee shall obtain the required avigation easement language from the San Diego County Regional Airport Authority.

ENGINEERING

7. Compliance with all conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted. A Parcel Map to consolidate the lots into one lot shall be recorded in the Office of the County Recorder, prior to the Map Waiver expiration date.
8. The Map Waiver shall comply with the conditions of Coastal Development Permit No. 655005.
9. The Subdivider shall ensure that all onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
10. Prior to the recordation of the Parcel Map, taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition.

INFORMATION:

- The approval of this Map Waiver by the Planning Commission of the City of San Diego does not authorize the subdivider 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 USC Section 1531 et seq.).
- If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- Subsequent applications related to this Tentative Map Waiver will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map Waiver, may protest the imposition within 90 days of the approval of this Tentative Map by filing a

written protest with the City Clerk pursuant to California Government Code Section 66020.

- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer. Municipal Code Section 142.0607.

Internal Order Number: 23432451