



THE CITY OF SAN DIEGO
REPORT TO THE PLANNING COMMISSION

DATE ISSUED: February 9, 2012 **REPORT NO. PC-12-011**

ATTENTION: **Planning Commission, Agenda of February 16, 2012**

SUBJECT: HENNESSEY'S SIDEWALK CAFE - PROJECT NO. 243179.
PROCESS 2

**OWNER/
APPLICANT:** Mr. Paul E. Hennessey, President of Hennessey's Tavern Inc.
Mr. Claude Anthony Marengo, Marengo Morton Architects

SUMMARY

Issue: Should the Planning Commission uphold Development Services Department's decision to approve a sidewalk café within the public right-of-way for an existing restaurant and bar located in the La Jolla Community Plan area?

Staff Recommendation: DENY the appeal and uphold Development Services Department's decision to APPROVE Neighborhood Use Permit No. 873331.

Community Planning Group Recommendation: On November 3, 2011 the La Jolla Community Planning Association voted 11-2-2 to recommend denial of this project, stating that the required findings could not be made and that the project did not conform to the La Jolla Planned District Ordinance (ATTACHMENT 11).

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15303, "New Construction of Small Structures". This project is not pending an appeal of the environmental determination. The exemption determination for this project was made on August 26, 2011, and the opportunity to appeal that determination ended on September 12, 2011 (ATTACHMENT 7).

Fiscal Impact Statement: None. The processing of this application is paid for through a deposit account established by the applicant.

Code Enforcement Impact: None.

Housing Impact Statement: None.

BACKGROUND

The project site is currently developed with an existing restaurant and bar located on a 7,140 square foot property. The existing building was built in 1921 and has been used for a restaurant use for more than twenty years. This particular use, Hennessey's Restaurant and bar, has been operating at this location for nearly a year and a half. The project site is located at 7811 Herschel Avenue, within Zone 1 of the La Jolla Planned District Ordinance, Coastal Overlay (non-appealable), Coastal Height Limitation Overlay Zone and Transit Area Overlay Zone, within the La Jolla Community Plan area. A Neighborhood Use Permit is required, by the Land Development Code Section 126.0203, for the proposed sidewalk café within the public right-of-way.

DISCUSSION

Project Description:

The project proposes to construct 180 square foot Sidewalk Cafe located within the public walkway of the existing restaurant. The Sidewalk Café is proposed to encroach into the public walkway by 6 feet in width with a proposed maximum 3 foot high wrought iron railing, and run the length along the front of the existing restaurant approximately 48 feet. The design illustrates an existing clear sidewalk path to remain at a minimum of 8 feet. During the project's review, modifications were made to bring the proposal into conformance with all of the development regulations for a Sidewalk Café, pursuant to Land Development Code Section 141.0621, and the applicable sections of the La Jolla Planned District Ordinance.

Community Plan Analysis:

The proposed project is located within the La Jolla Community Plan area and the subject property is designated for Commercial/Mixed Use. More specifically Figure 17 on page 99 of the La Jolla Community Plan classifies it as Office Commercial. The proposed sidewalk café addition to the existing restaurant conforms to the LJCP designated land use. Development of sidewalk cafes achieves one of the stated goals of the Commercial Land Use Element which promotes pedestrian-oriented features and over all pedestrian orientation in this office-commercial area.

Appeal Issues:

On December 5, 2011, staff issued a Notice of Decision approving the project. On December 16, 2011, the La Jolla Community Planning Association appealed that decision.

The appeal states a number of concerns or issues (ATTACHMENT 12). The following is a listing of each appeal issue followed by City Staff's response.

1. Proposal does not meet general purpose and intent of La Jolla Planned District Ordinance. See Section 159.0101 (b) (6) (ATTACHMENT 14) and will not function as proposed in protecting public health, safety and welfare per section 159.0101 (6).

STAFF RESPONSE:

Section 159.0101(b) (6) states “The beautification of the streetscape through appropriate landscaping, street furniture, and sidewalk surface treatment;” It is staff’s understanding that the Community Group is concerned that the existing enhanced paving or brick treatment within the existing public right-of-way directly on the north side of the proposed Sidewalk Café is a potential public hazard. However, when City Staff did a recent field check of this area, the enhanced brick walkway area appeared even, well maintained and in good condition. In its current state the enhanced brick walkway did not appear to be a potential public hazard. Furthermore, within the La Jolla Community Plan’s Commercial Land Use Element, enhanced paving or decorative sidewalk treatment within the public right-of-way is advocated.

2. Proposed project does not comply with Chapter 14, Article 2, Division 4 (ATTACHMENT 15) and Division 6 of the City Municipal Code (ATTACHMENT 16).

STAFF RESPONSE:

Chapters 14, Article 2, Division 4 are the City’s Landscape regulations and Division 6 is the Public Facilities Regulations. The appeal makes a general statement that the project does not comply with either Division, however no specifics are given. It is staff’s understanding that the Community Group is concerned that the existing enhanced paving or brick treatment within the existing public right-of-way directly on the north side of the proposed Sidewalk Café is a potential public hazard and it is their view that this existing brick treatment area does not comply with these sections. As stated earlier, Staff does not view the existing enhanced brick walkway as a potential public hazard.

3. San Diego Municipal Code 159.0405 (e) (2) (ATTACHMENT 17) re: impeding handicap access.

STAFF RESPONSE:

This Code Section is for “Streetscape Development Regulations / Encroachment Permits – Sidewalk Development – Clear Path”. Staff determined that the proposed Sidewalk Café meets the development regulations by providing a minimum 8 foot wide clear path and will not impede handicap access.

4. Page 142 of the La Jolla Community Plan; Streetscape; General Guidelines for Village Area (ATTACHMENT 18).

STAFF RESPONSE:

The appeal makes a general statement that the project does not comply with this portion of the Community Plan, however no specifics are given. It is staff's understanding that the Community Group is concerned that the existing enhanced paving or brick treatment within the existing public right-of-way directly on the north side of the proposed Sidewalk Café is a potential public hazard and it is their view that this existing brick treatment area does not comply with these guidelines. As stated earlier, Staff does not view the existing enhanced brick walkway as a potential public hazard.

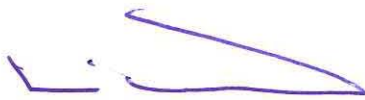
Conclusion:

Staff has reviewed the request for the Neighborhood Use Permit for the proposed sidewalk cafe and found the project to be in conformance with all the applicable sections of the San Diego Municipal Code regulating sidewalk cafés. The project also conforms with the La Jolla Community Plan and Local Coastal Program Land Use Plan, and the La Jolla Planned District Ordinance. Staff has determined that the required findings can be made as the project meets the applicable San Diego Municipal Code regulations and requirements. Staff recommends denial of the appeal and approval of the project as proposed.

ALTERNATIVE

1. **Deny the appeal and Approve Neighborhood Use Permit No. 873331, with modifications.**
2. **Approved the appeal and Deny Neighborhood Use Permit No. 873331, if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



Glenn R. Gargas
Development Services Department

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet

6. Draft Permit with Conditions
7. Environmental Exemption
8. Project Site Plan
9. Project Elevation & Schematic Perspectives
10. Copy of Appeal
11. Community Planning Group Recommendation
12. E-mail elaborating on the Community Group's Recommendation
13. Ownership Disclosure Statement
14. Project Chronology
15. Copy of La Jolla Planned District Ordinance – Purpose and Intent.
16. Landscape Regulations
17. Public Facility Regulations
18. Streetscape Development Regulations
19. La Jolla Community Plan, Page 142 – “Streetscape Guidelines For The Village Commercial Area”

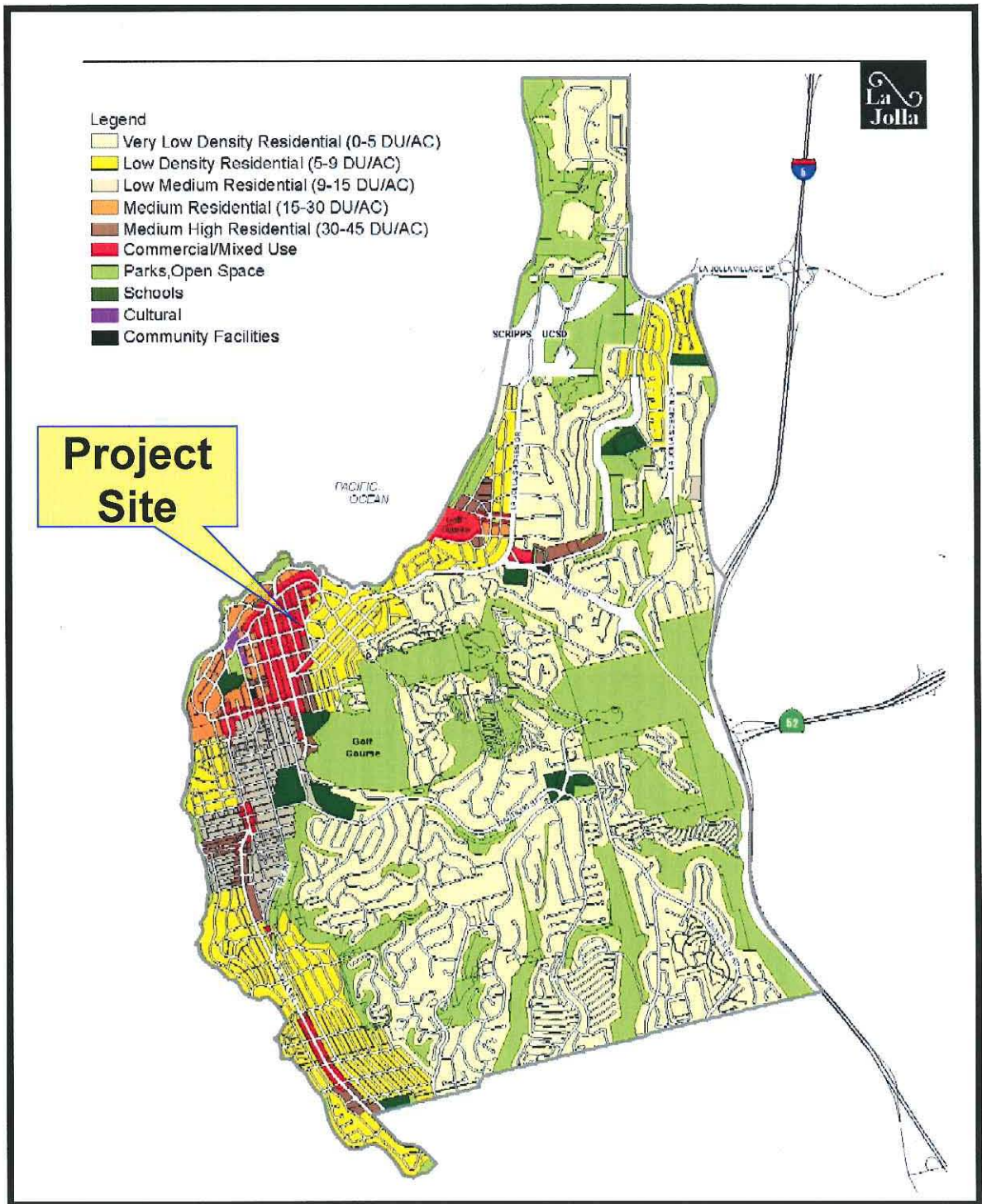
Rev 01-06/11 hmd



Aerial Photo

7811 HERSCHEL AVENUE – HENNESSEY'S SIDEWALK CAFE
PROJECT NUMBER 243179



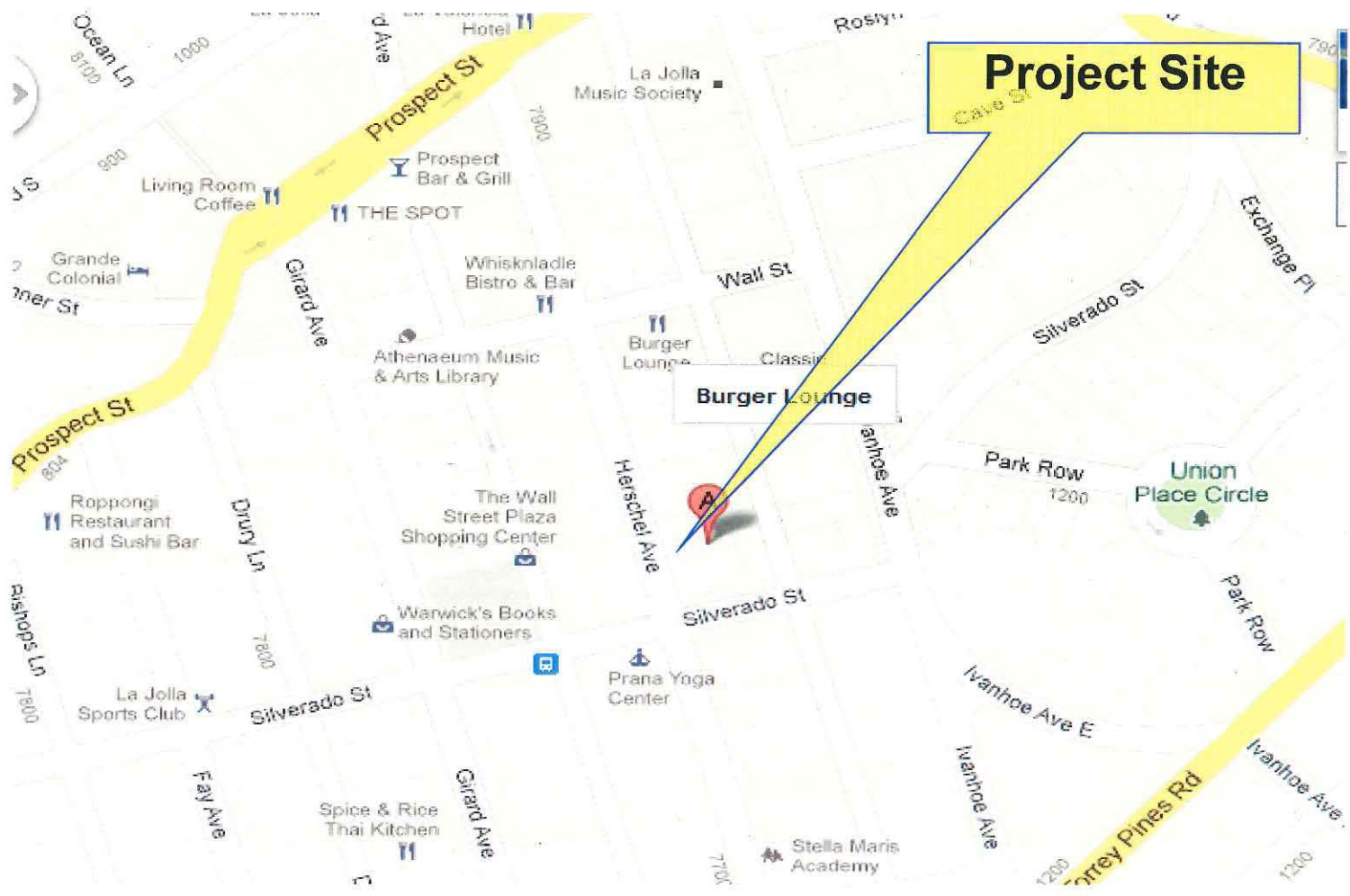


Land Use Map

**7811 HERSCHEL AVENUE – HENNESSEY'S
SIDEWALK CAFE**

PROJECT NUMBER 243179





Project Location Map

7811 HERSCHEL AVENUE – HENNESSEY’S SIDEWALK CAFE

PROJECT NUMBER 243179



PROJECT DATA SHEET

| | | |
|---|--|--------------------------|
| PROJECT NAME: | Hennessey's Sidewalk Cafe – Project No. 243179 | |
| PROJECT DESCRIPTION: | Neighborhood Use Permit for an approximate 180 square foot Sidewalk Café addition to an existing restaurant and bar located on a 7,140 square-foot property. | |
| COMMUNITY PLAN AREA: | La Jolla | |
| DISCRETIONARY ACTIONS: | Neighborhood Use Permit. | |
| COMMUNITY PLAN LAND USE DESIGNATION: | Commercial – Mixed Use | |
| <u>ZONING INFORMATION:</u> ZONE: Zone 1 of the La Jolla Planned District HEIGHT LIMIT: 30-Foot maximum height limit. LOT SIZE: 2,500 square-foot min. lot size – 7,140 sq. ft. existing lot. FLOOR AREA RATIO: NA (PDO – none) FRONT SETBACK: No requirement SIDE SETBACK: None required. STREETSIDE SETBACK: No requirement. REAR SETBACK: None required. PARKING: (existing to remain) no required with this proposal. | | |
| <u>ADJACENT PROPERTIES:</u> | LAND USE DESIGNATION & ZONE | EXISTING LAND USE |
| NORTH: | Commercial Mixed Use; Zone 1 of La Jolla PDO. | Commercial |
| SOUTH: | Commercial Mixed Use; Zone 1 of La Jolla PDO. | Commercial |
| EAST: | Commercial Mixed Use; Zone 1 of La Jolla PDO. | Commercial Office |
| WEST: | Commercial Mixed Use; Zone 1 of La Jolla PDO. | Commercial |
| DEVIATIONS OR VARIANCES REQUESTED: | None. | |

ATTACHMENT 4

| | |
|--|--|
| <p>COMMUNITY PLANNING GROUP RECOMMENDATION:</p> | <p>On November 3, 2011, the La Jolla Community Planning Association voted (11-2-2) to recommend denial of this project. The recommendation did not include any conditions.</p> |
|--|--|

PLANNING COMMISSION RESOLUTION NO. PC-____
NEIGHBORHOOD USE PERMIT NO. 873331
HENNESSEY'S SIDEWALK CAFE - PROJECT NO. 243179

WHEREAS, P. and J. Hennessey Irrevocable Trust, Owner and Hennessey's Tavern, Inc., Permittee, filed an application with the City of San Diego for a permit for a sidewalk cafe (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Neighborhood Development Permit No. 873331);

WHEREAS, the project site is located at 7811 Herschel Avenue, in Zone One of the La Jolla Planned District, Coastal Overlay Zone, Coastal Height Limitation Overlay Zone and Transit Area Overlay Zone and within the La Jolla Community Plan Area;

WHEREAS, the project site is legally described as the westerly 90 feet of Lots 17 and 18, Block 40, La Jolla Park, Map No. 352;

WHEREAS, on December 5, 2011, the Development Services Department of the City of San Diego considered Neighborhood Use Permit No. 873331 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on February 16, 2012, the Planning Commission of the City of San Diego considered an appeal of Neighborhood Use Permit No. 873331 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on August 26, 2011, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated December 5, 2011.

FINDINGS:

Neighborhood Use Permit - Section 126.0205

- 1. The proposed development will not adversely affect the applicable land use Plan.**

The project would provide an approximate 180 square-foot sidewalk café for an existing restaurant and bar located at 7811 Herschel Avenue, in Zone One of the La Jolla Planned District and within the La Jolla Community Plan Area. The subject property is designated for Commercial/Mixed Use by the La Jolla Community Plan and more specifically Figure 17 on page 99 of the La Jolla Community Plan classifies it as Office Commercial. The proposed sidewalk café addition to the existing restaurant conforms to the LJCP designated land use. Development of sidewalk cafes achieves one of the stated

goals of the Commercial Land Use Element which promotes pedestrian-oriented features and over all pedestrian orientation in this office-commercial area. Therefore, the proposed development will not adversely affect the applicable community plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The project would provide an approximate 180 square-foot sidewalk café for an existing restaurant and bar located at 7811 Herschel Avenue, in Zone One of the La Jolla Planned District and within the La Jolla Community Plan Area. The proposed Neighborhood Use Permit was reviewed for compliance with the development standards for a Sidewalk Café pursuant to Municipal Code Section 141.0621 and the applicable sections of the La Jolla Planned District, and found that the proposed design complied with all the development standards. Specifically, the minimum eight feet of sidewalk clearance for pedestrians was analyzed. The railing design includes a tapered angled end design to achieve the required clearance at the south end of the proposed sidewalk café. There was a stated concern that the existing enhanced paving or brick treatment within the existing public right-of-way directly on the north side of the proposed Sidewalk Café is a potential public hazard. However, when City Staff did a field check of this area, the enhanced brick walkway area appeared even, well maintained and in good condition. In its current state the enhanced brick walkway did not appear to be a potential public hazard. Furthermore, within the La Jolla Community Plan's Commercial Land Use Element, enhanced paving or decorative sidewalk treatment within the public right-of-way is advocated. In addition, the sidewalk café must be litter free at all times and operate under the same hours as the operating hours of the eating and drinking establishment. This proposed design and permit conditions limit potential negative effects for pedestrians and the adjacent neighbors. Therefore, the project would not be detrimental to the public health, safety and welfare.

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

The project would provide an approximate 180 square-foot sidewalk café for an existing restaurant and bar located at 7811 Herschel Avenue, in Zone One of the La Jolla Planned District and within the La Jolla Community Plan Area. The proposed development has been reviewed for compliance with Land Development Code Section 141.0621, Sidewalk Cafes, applicable sections of the La Jolla Planned District and has been found to be consistent with those regulations. The width of the sidewalk, the design and relationship of the sidewalk café was found to be consistent with all the development standards and consistent in design with other sidewalk café in the vicinity. Therefore, the proposed development would comply with applicable regulations of the Land Development Code.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Neighborhood Use Permit No. 873331 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Neighborhood Use Permit No. 873331, a copy of which is attached hereto and made a part hereof.

Glenn R. Gargas, AICP
Development Project Manager

Development Services

Adopted on: February 16, 2012

Internal Order No. 24001928

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24001928

NEIGHBORHOOD USE PERMIT NO. 873331
HENNESSEY'S SIDEWALK CAFÉ - PROJECT NO. 243179
PLANNING COMMISSION

This Neighborhood Use Permit No. 873331 is granted by the Development Services Department of the City of San Diego to P. and J. Hennessey Irrevocable Trust, Owner, and Hennessey's Tavern, Inc., Permittee, pursuant to San Diego Municipal Code [SDMC] Sections 126.0203, 159.0201 and 141.0621. The approximate 0.163-acre site is located at 7811 Herschel Avenue, in Zone One of the La Jolla Planned District Ordinance, Coastal Overlay Zone, Coastal Height Limitation Overlay Zone and Transit Area Overlay Zone within the La Jolla Community Plan area. The project site is legally described as: the westerly 90 feet of Lots 17 and 18, Block 40, La Jolla Park, Map No. 352.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a sidewalk café within the public right-of-way at an existing bar/restaurant described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated February 16, 2012, on file in the Development Services Department.

The project shall include:

- a. Construct an approximate 200 square foot sidewalk café (approximately 6 feet wide by 38 feet in length) with maximum 3 foot high wrought iron railing within the public right-of-way directly in front of an existing restaurant/bar located on a 7,140 square foot property;
- b. Existing landscaping (planting, irrigation and landscape related improvements);
- c. Existing off-street parking;

- d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by February 16, 2015.
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 Owner/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. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The 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 Owner/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 Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited 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 were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If 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.

10. The Owner/Permittee 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, relating to the issuance of this permit including, but not limited 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 Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee 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, Owner/Permittee 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 Owner/Permittee 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 Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

ENGINEERING REQUIREMENTS:

11. Prior to building permit issuance, the Owner/Permittee shall record an Encroachment Maintenance and Removal Agreement for the proposed encroachment within the public right-of-way to the satisfaction of the Development Services Department.

PLANNING/DESIGN REQUIREMENTS:

12. 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 Owner/Permittee.
13. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or City-wide sign regulations.
14. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this 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.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on February 16, 2012, by Resolution No. _____.

NOTICE OF EXEMPTION

(Check one or both)

TO: X RECORDER/COUNTY CLERK
P.O. BOX 1750, MS A-33
1600 PACIFIC HWY, ROOM 260
SAN DIEGO, CA 92101-2422

FROM: CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
1222 FIRST AVENUE, MS 501
SAN DIEGO, CA 92101

 OFFICE OF PLANNING AND RESEARCH
1400 TENTH STREET, ROOM 121
SACRAMENTO, CA 95814

PROJECT No.: **PTS# 243179** PROJECT TITLE: **HENNESSEY'S SIDEWALK CAFE**

PROJECT LOCATION-SPECIFIC: 7811 Herschel Avenue, La Jolla, CA 92037.

PROJECT LOCATION-CITY/COUNTY: San Diego/San Diego

PROJECT DESCRIPTION: (PROCESS 2) Neighborhood Use Permit for a 180 sq ft sidewalk cafe for an existing restaurant at 7811 Herschel Avenue in Zone 1 of La Jolla Planned District, Coastal Overlay Zone (non-appealable), the Coastal Height Limitation Overlay Zone, Transit Area Overlay Zone within the La Jolla Community Plan area.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON CARRYING OUT PROJECT: Hennessey's Tavern, Inc. 1845 So. Elena Ave. #300, Redondo Beach, CA 90277;
Damian Gulak Construction (619) 840-7385

EXEMPT STATUS: (CHECK ONE)

- MINISTERIAL (SEC. 21080(b)(1); 15268);
- DECLARED EMERGENCY (SEC. 21080(b)(3); 15269(a));
- EMERGENCY PROJECT (SEC. 21080(b)(4); 15269 (b)(c))
- CATEGORICAL EXEMPTION: 15303; NEW CONSTRUCTION OF SMALL STRUCTURES
- STATUTORY EXEMPTIONS:

REASONS WHY PROJECT IS EXEMPT: The City of San Diego conducted an initial study which determined that the proposed sidewalk cafe is located in an urbanized, non-sensitive area. Furthermore, the project meets the criteria set forth in CEQA Section 15303 because the construction amount is limited and modification to the exterior is minor – the café expansion of 180 sq. ft. is less than the 10,000 sq. ft. total allowable in an urbanized area cited in CEQA. None of the exceptions listed in CEQA Section 15300.2 apply.

LEAD AGENCY CONTACT PERSON: JEAN CAMERON

TELEPHONE: (619) 446-5379

IF FILED BY APPLICANT:

- 1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.
- 2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?
 YES NO

IT IS HEREBY CERTIFIED THAT THE CITY OF SAN DIEGO HAS DETERMINED THE ABOVE ACTIVITY TO BE EXEMPT FROM CEQA



JEAN CAMERON/SENIOR PLANNER

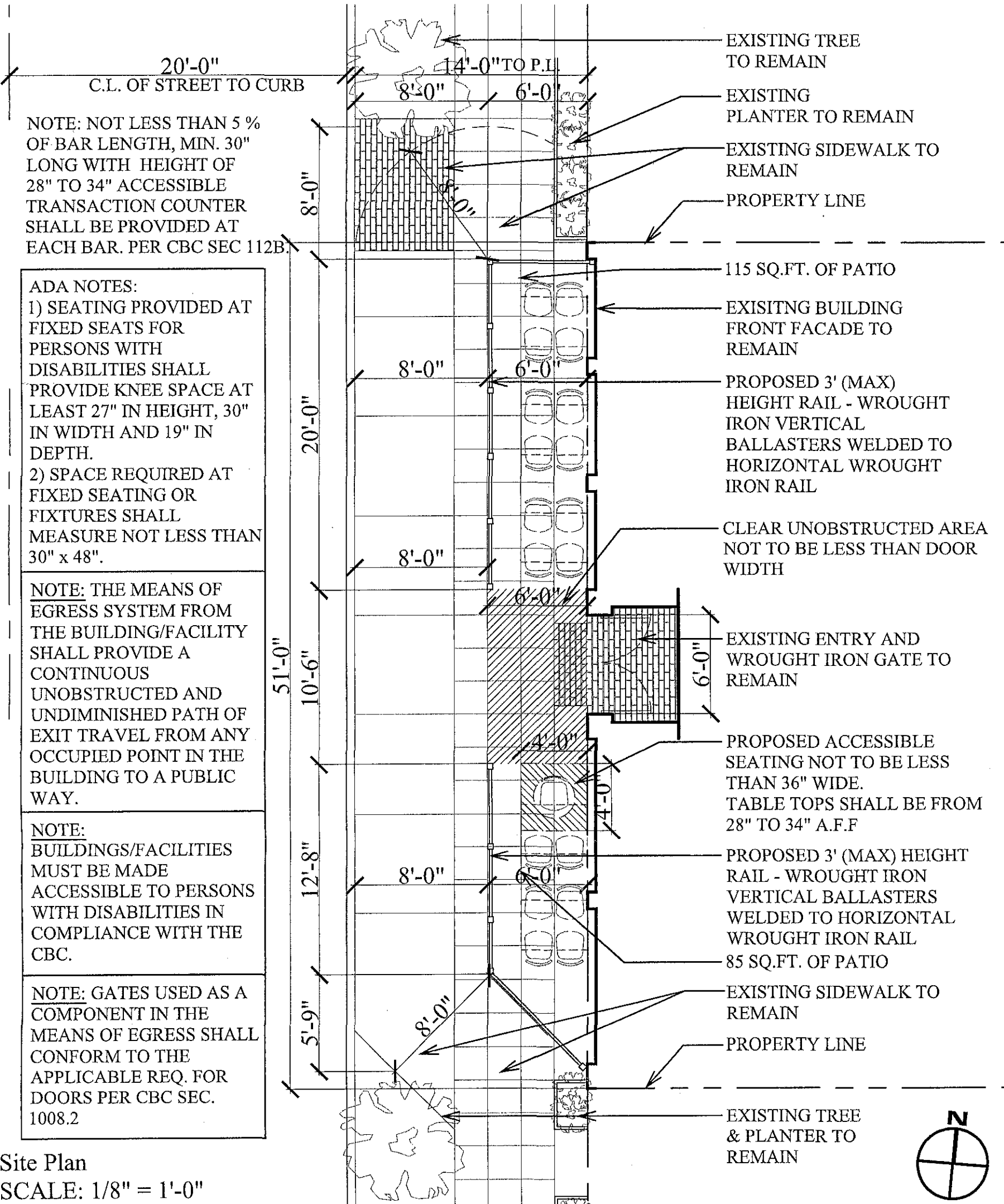
Aug 26, 2011
DATE

CHECK ONE:

- SIGNED BY LEAD AGENCY
- SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:

HERSCHEL AVENUE



NOTE: NOT LESS THAN 5 % OF BAR LENGTH, MIN. 30" LONG WITH HEIGHT OF 28" TO 34" ACCESSIBLE TRANSACTION COUNTER SHALL BE PROVIDED AT EACH BAR. PER CBC SEC 112B.

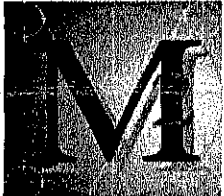
ADA NOTES:
 1) SEATING PROVIDED AT FIXED SEATS FOR PERSONS WITH DISABILITIES SHALL PROVIDE KNEE SPACE AT LEAST 27" IN HEIGHT, 30" IN WIDTH AND 19" IN DEPTH.
 2) SPACE REQUIRED AT FIXED SEATING OR FIXTURES SHALL MEASURE NOT LESS THAN 30" x 48".

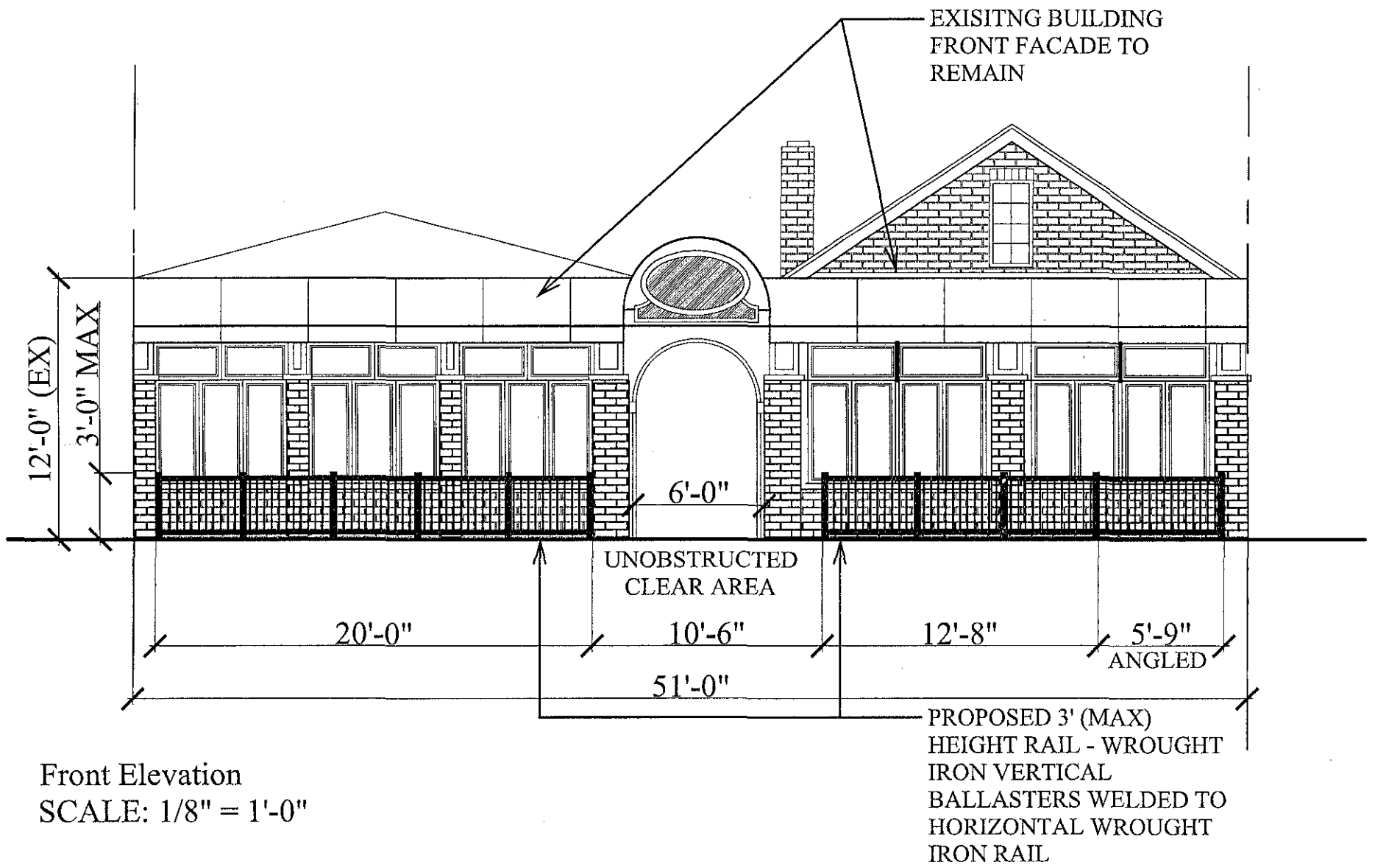
NOTE: THE MEANS OF EGRESS SYSTEM FROM THE BUILDING/FACILITY SHALL PROVIDE A CONTINUOUS UNOBSTRUCTED AND UNDIMINISHED PATH OF EXIT TRAVEL FROM ANY OCCUPIED POINT IN THE BUILDING TO A PUBLIC WAY.

NOTE: BUILDINGS/FACILITIES MUST BE MADE ACCESSIBLE TO PERSONS WITH DISABILITIES IN COMPLIANCE WITH THE CBC.

NOTE: GATES USED AS A COMPONENT IN THE MEANS OF EGRESS SHALL CONFORM TO THE APPLICABLE REQ. FOR DOORS PER CBC SEC. 1008.2

Site Plan
 SCALE: 1/8" = 1'-0"

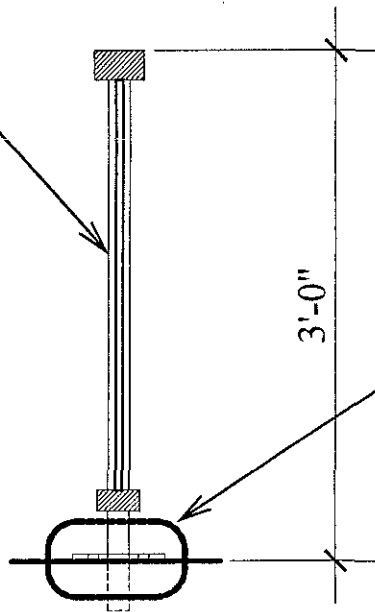
| | | |
|---|---|--------------------------------|
|  <p>Marengo Morton Architects, Inc. 7724 Girard Avenue, Second Floor La Jolla, California 92037 Tel 858-459-3769 • Fax 858-459-3768 camarengo@marengomortonarchitects.com</p> | <p>Project: Hennessey's Tavern</p> | <p>PTS # 243179</p> |
| | <p>Address: 7811 Herschel Ave. La Jolla, CA 92037 APN# 350-182-11-00 Lot 17 & 18 Block 40</p> | <p>Date: 12/05/2011</p> |



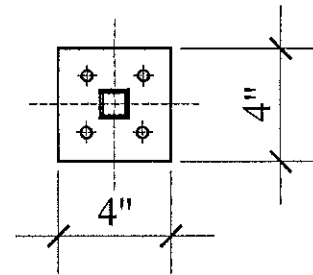
WROUGHT IRON VERTICAL RAIL WELDED TO HORIZONTAL WROUGHT IRON RAIL

** 3' OVERALL HEIGHT

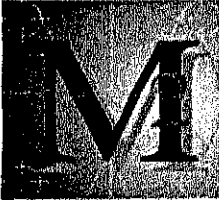
NOTE: GATES USED AS A COMPONENT IN THE MEANS OF EGRESS SHALL CONFORM TO THE APPLICABLE REQ. FOR DOORS PER CBC SEC. 1008.2



STRAIGHT VERTICAL WROUGHT IRON RAILS @ 4'-0" O.C. TO BE BOLTED TO CONCRETE USING 1/4" x 4" SQUARE BASE PLATE WITH 4 1/2" x 3" LENGTH GALVANIZED BOLTS. EXPOXIED INTO CONCRETE WITH EXPANSION BOLTS.



RAILING ATTACHEMENT
SCALE: NTS

| | | |
|---|--|--------------------------------|
|  <p>Marengo Morton Architects, Inc. 7724 Girard Avenue, Second Floor La Jolla, California 92037 Tel 858-459-3769 • Fax 858-459-3768 camarengo@marengomortonarchitects.com</p> | <p>Project: Hennessey's Tavern</p> | <p>PTS # 243179</p> |
| | <p>Address: 7811 Herschel Ave. La Jolla, CA 92037 APN# 350-182-11-00 Lot 17 & 18 Block 40</p> | <p>Date: 12/05/2011</p> |



8' SIDEWALK CLEARANCE

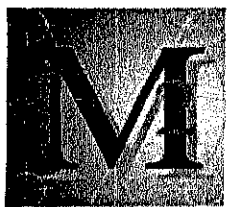
Schematic
Perspective

Schematic
Perspective



8' SIDEWALK CLEARANCE

NOTE: GATES USED AS A COMPONENT IN THE MEANS OF EGRESS SHALL CONFORM TO THE APPLICABLE REQ. FOR DOORS PER CBC SEC. 1008.2



Marengo Morton Architects, Inc.
 7724 Girard Avenue, Second Floor
 La Jolla, California 92037
 Tel 858-459-3769 • Fax 858-459-3768
 camarengo@marengomortonarchitects.com

Project: Hennessey's Tavern

PTS# 243179

Address: 7811 Herschel Ave.
 La Jolla, CA 92037
 APN# 350-182-11-00
 Lot 17 & 18 Block 40

Date: 12/05/2011



City of San Diego
Development Services
1222 First Ave. 3rd Floor
San Diego, CA 92101
(619) 446-5210

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

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

Name
La Jolla Community Planning Group

Address P.O. Box 889 City La Jolla State CA Zip Code 92038 Telephone 858-459-9291 direct

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

PAUL HENNESSEY

4. Project Information

| | | |
|--|---|---------------------------------------|
| Permit/Environmental Determination & Permit/Document No.: Hennessey's Sidewalk Cafe PN:243179 | Date of Decision/Determination: Dec. 6, 2011 | City Project Manager: Glenn Gargas |
|--|---|---------------------------------------|

Decision (describe the permit/approval decision):
APPROVED an application for a Neighborhood Use Permit to construct an approximate 180 ft. Sidewalk Cafe located within the public walkway for an existing restaurant.

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

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

The existing sidewalk, planting & proposal does not conform to the La Jolla PDO under the following sections:

1. Proposal does not meet general purpose & intent of La Jolla PDO. See Section 159.0101(b) (6) & will not function as proposed in protecting public health, safety & welfare per section 159.0101 (6).
2. Does not comply with Chapter 14, Article 2, Division 4 & Division 6 of the City Municipal Code.
3. San Diego Municipal Code 159.0405 (e) (2) re: impeding handicap access.
4. P. 142 of the La Jolla Community Plan; Streetscape; General Guidelines for Village Area.
5. Other concerns that may be presented at hearing.

RECEIVED

DEC 16 2011

Development Services

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

Signature:  Date: Dec. 12, 2011

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

Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services.
Upon request, this information is available in alternative formats for persons with disabilities.

DS-3031 (03-07)

CPA PRESIDENT
TONY CRAISCI



P.O. BOX 889
LA JOLLA
CALIFORNIA 92038

LA JOLLA COMMUNITY PLANNING ASSOCIATION

P.O. Box 889 La Jolla CA 92038 Ph 858.456.7900

<http://www.LaJollaCPA.org> Email: Info@LaJollaCPA.org

Regular Meeting – 03 November 2011

Attention: Glenn Gargas, PM
City of San Diego

Project: Hennessy's Sidewalk Cafe
7811 Herschel Ave.
PN: 243179

Motion: Findings cannot be made that the sidewalk café conforms with the PDO. **Vote: 11-2-2**

A handwritten signature in blue ink, appearing to read "Tony Crisafi".

03 November 2011

Submitted by: Tony Crisafi, President
La Jolla CPA

Date

Gargas, Glenn

From: Laura DuCharme Conboy [laura@ducharmearch.com]
Sent: Wednesday, November 23, 2011 3:39 PM
To: Tony Crisafi
Cc: Gargas, Glenn; Michelle Meagher
Subject: Re: Hennessy's Sidewalk Cafe - Project No. 243179

Hi Glenn,

We felt the design created a potentially unsafe condition for pedestrians at the north end where the proposed railing abuts the property line/adjacent property.

The design calls for a 45 degree angle for the railing at the southern seating area so pedestrians could maneuver between the new railing/seating area and the adjacent planting area. The northern seating area uses a 90 degree angled arrangement. The pedestrian walks past and must walk across a bricked paving area on the neighboring property. Brick paving is attractive but can be difficult to walk on for someone with a cane, or for ladies with heels, or for anyone expecting smooth sidewalk not paying attention to a change in texture.

There are several brick areas in the vicinity and the grout washes away/erodes over time, making the brick very difficult to walk on (even in flat shoes).

I didn't keep the plan drawings provided by the applicant so I made a conceptual sketch of the condition. I did have a photo simulation provided by the Applicant which I have marked up to help explain what I am trying to convey.

I hope this helps explain the committee's concerns.

Call if I can provide any more clarification.

Thanks,

Laura

-

Laura DuCharme Conboy, AIA, LEED AP
DuCharme Architecture
office 858-454-5205

fax 858-454-8502
laura@ducharmearch.com

ATTACHMENT 12



8' SIDEWALK CLEARANCE

We asked the Applic. the rail at a 45° angle and did on the south end the problem.

Brick - potential hazard.

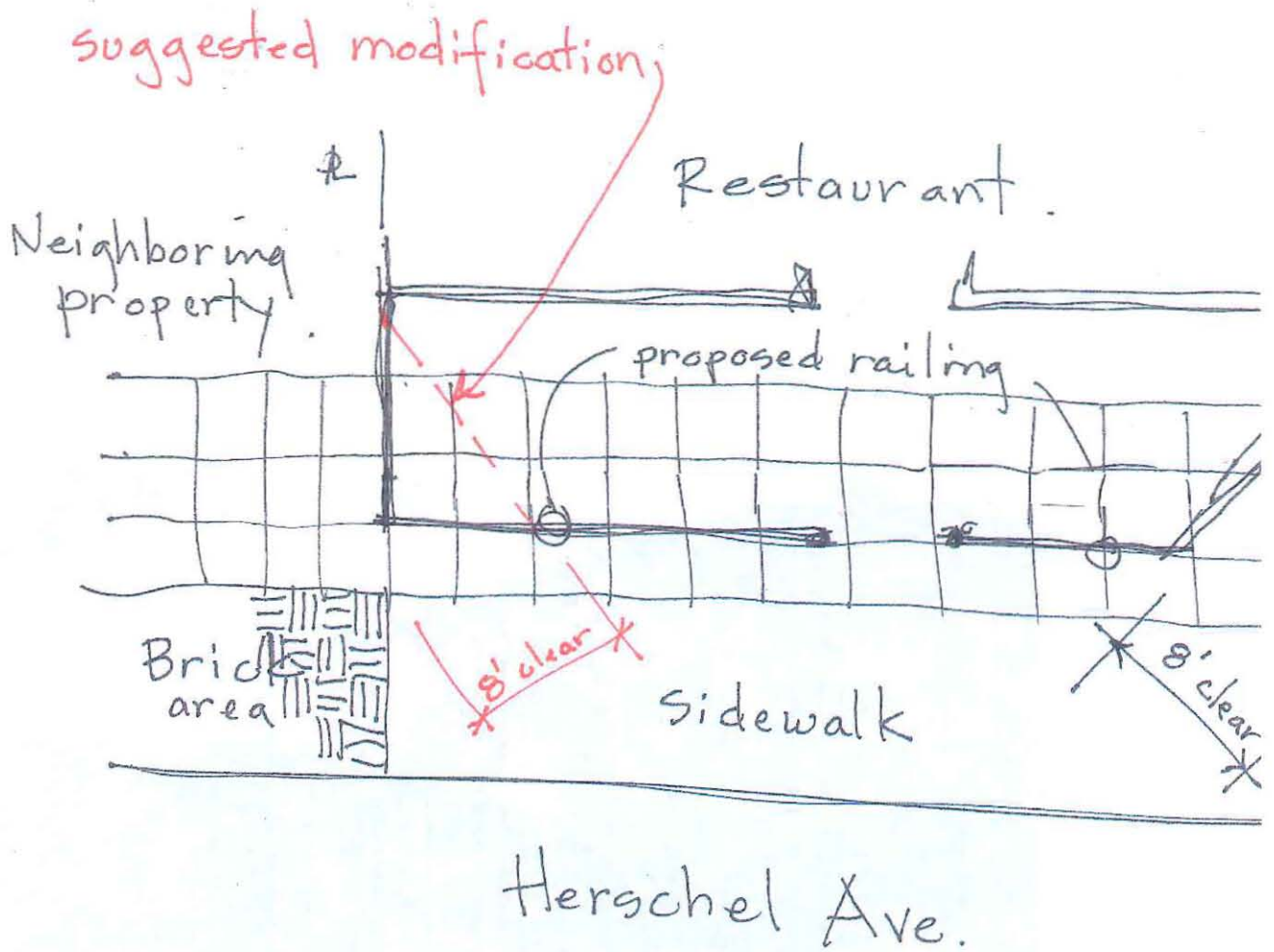
Schematic Perspective



8' SIDEWALK CLEARANCE

Need to cross over the brick on the neighboring property.

Sc
Pe



On Nov 23, 2011, at 1:04 PM, Tony Crisafi wrote:

Hi Glenn, I think Laura could shed light on this and I am confident that she can explain the details of the problems that are evident in the application.

Tony Crisafi, AIA
LEED-AP

<image001.gif>

tcrisafi@islandarch.com | www.islandarch.com



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: Hennessey's Tavern Sidewalk Cafe Project No. For City Use Only: 243179
 Project Address: 7809-11 Herschel Avenue, La Jolla, CA 92037

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): _____
 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: _____

Name of Individual (type or print): _____
 Owner Tenant/Lessee Redevelopment Agency
 Street Address: _____
 City/State/Zip: _____
 Phone No: _____ Fax No: _____
 Signature : _____ Date: _____

Project Title: Hennessey's Tavern Sidewalk Cafe Project No. (For City Use Only) 243179

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

Corporation Limited Liability -or- General) What State? CA Corporate Identification No. 0863940000
 Partnership

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 names, titles 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 corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. **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

Corporate/Partnership Name (type or print):
Hennessey's Tavern, Inc
 Owner Tenant/Lessee
 Street Address:
1845 S. Elena Avenue #300
 City/State/Zip:
Redondo Beach, CA 90271
 Phone No: 310-540-2274 Fax No: 310-316-2534
 Name of Corporate Officer/Partner (type or print):
Paul E. Hennessey
 Title (type or print):
President
 Signature: [Signature] Date: 5-23-11

Corporate/Partnership Name (type or print):
P & J Hennessey Irrevocable Trust
 Owner Tenant/Lessee
 Street Address:
1845 S. Elena Avenue #300
 City/State/Zip:
Redondo Beach, CA 90271
 Phone No: 310-540-2274 Fax No: 310-316-2534
 Name of Corporate Officer/Partner (type or print):
Paul E. Hennessey
 Title (type or print):
Trustee
 Signature: [Signature] Date: 5-23-11

Corporate/Partnership Name (type or print):
 Owner Tenant/Lessee
 Street Address:
 City/State/Zip:
 Phone No: Fax No:
 Name of Corporate Officer/Partner (type or print):
 Title (type or print):
 Signature : Date:

Corporate/Partnership Name (type or print):
 Owner Tenant/Lessee
 Street Address:
 City/State/Zip:
 Phone No: Fax No:
 Name of Corporate Officer/Partner (type or print):
 Title (type or print):
 Signature : Date:

Corporate/Partnership Name (type or print):
 Owner Tenant/Lessee
 Street Address:
 City/State/Zip:
 Phone No: Fax No:
 Name of Corporate Officer/Partner (type or print):
 Title (type or print):
 Signature : Date:

Corporate/Partnership Name (type or print):
 Owner Tenant/Lessee
 Street Address:
 City/State/Zip:
 Phone No: Fax No:
 Name of Corporate Officer/Partner (type or print):
 Title (type or print):
 Signature : Date:

HENNESSEY'S SIDEWALK CAFE
Project No. 243179
Project Chronology

| Date | Action | Description | City Review Time | Applicant Response |
|-----------------------------------|---|--|-----------------------------|----------------------------|
| 7/01/11 | Applicant submits initial plans/Deemed Complete | Project plans distributed for City staff review. | 1 day | |
| 7/26/11 | First Assessment Letter | First Assessment Letter identifying required approvals and outstanding issues provided to applicant. | 25 Days | |
| 8/02/11 | Applicant submits second full set of plans. | Applicant's revised set of plans submitted in response to first assessment letter from City staff. | | 6 Days |
| 9/01/11 | Second Assessment Letter | Second Assessment Letter identifying all remaining/outstanding issues. | 29 Days | |
| 10/17/11 | Applicant submits third set of plans. | Applicant's revised set of plans submitted in response to second assessment letter from City staff. | | 1 Month 16 Days |
| 11/23/11 | Third Assessment Letter | Third Assessment Letter identifying all remaining/outstanding issues. | 1 Month 6 Days | |
| 12/05/11 | Issues resolved | Staff determines project issues resolved, okay Process 2 DSD Approval to proceed. | 12 Days | |
| 12/05/11 | DSD Approval | DSD mailed out Process 2 Notice of Decision | | |
| 12/16/11 | Appeal Filed | Appeal Filed and DSD/applicant schedule Appeal Hearing | | 11 Days |
| 02/16/12 | Planning Commission Appeal Hearing | Public Hearing | 2 Months | |
| TOTAL STAFF TIME | | Averaged at 30 days per month | 5 Months 12 Days | |
| TOTAL APPLICANT TIME | | Averaged at 30 days per month | | 2 Months 3 Days |
| TOTAL PROJECT RUNNING TIME | | | 7 Months, 15 Days | |

Article 9: La Jolla Planned District

*("La Jolla Planned District" added 3-27-2007 by O-19595 N.S.;
effective 4-26-2007.)*

Division 1: General Rules

("General Rules" added 3-27-2007 by O-19595 N.S.; effective 4-26-2007.)

§159.0101 Purpose and Intent

- (a) It is the purpose of the La Jolla Planned District to require that development and redevelopment of land in the central core area, outlying neighborhood commercial centers, and the cultural and multi-family areas west and north of the village commercial core of La Jolla will be accomplished in a manner that retains and enhances the economic, historical, architectural, educational, civic, social, cultural, and aesthetic values, and the overall quality of life within the community. The intent is to implement the goals and objectives of the adopted La Jolla Community Plan (1976), the La Jolla - La Jolla Shores Local Coastal Program Addendum (1983), and the Progress Guide and General Plan of the City of San Diego.
- (b) In accordance with the public health, safety, and general welfare, these regulations are intended to protect the unique character of La Jolla by:
- (1) The maintenance and encouragement of a diversified and balanced land use pattern including adequate levels of community retail services and residential development opportunities within the commercial areas while limiting additional office use;
 - (2) The protection and enhancement of scenic vistas to the ocean, shoreline and hillside areas;
 - (3) The maintenance of traditional building scale and facades in new commercial developments;
 - (4) The provision of plazas, courtyards, malls, and other public amenities which serve to enhance the pedestrian environment;
 - (5) The encouragement of small lot development in keeping with the traditional rhythm and spacing of buildings along the major retail oriented streets;

- (6) The beautification of the streetscape through appropriate landscaping, street furniture, and sidewalk surface treatment;
 - (7) The protection of architecturally, historically and culturally significant structures;
 - (8) The prevention of commercial encroachment into adjacent residential development;
 - (9) The preservation and maintenance of cultural uses in the Cultural Zone;
 - (10) The preservation of the traditionally diverse and harmonious architectural styles, and design preferences reflecting the community's history and to encourage complementary design and construction; and
 - (11) The maintenance of the traditional scale and character of residential development bordering the commercial village core and shoreline areas.
- (c) These regulations are intended to improve traffic circulation and access to recreation, visitor-serving retail, cultural and residential uses through specific restrictions on office development and the provision of off-street parking standards. The office restrictions and parking standards are consistent with the need to maintain the pedestrian scale of the commercial areas, reduce peak hour traffic congestion, and assure that office uses do not come to dominate such areas nor adversely affect the retail continuity of the major commercial streets. Additionally, these regulations are intended to ensure that new residential development and redevelopment is compatible with the traditional scale and character of the multi-family area and complementary to the Cultural Zone.

("Purpose and Intent" added 3-27-2007 by O-19595 N.S.; effective 4-26-2007.)

§159.0102 Boundaries of the Planned District

These regulations shall apply in the La Jolla Planned District which is within the boundaries of the La Jolla community planning area in the City of San Diego, designated on that certain Map Drawing Nos. C-690.2 and B-3934, and described in the appended boundary description filed in the office of the City Clerk under Document Nos. OO-16312 and OO-17613.

("Boundaries of the Planned District" added 3-27-2007 by O-19595 N.S.; effective 4-26-2007.)

Article 2: General Development Regulations**Division 4: Landscape Regulations**

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

§142.0401 Purpose of Landscape Regulations

The purpose of these regulations is to minimize the erosion of slopes and disturbed lands through revegetation; to conserve energy by the provision of shade trees over *streets*, sidewalks, parking areas, and other paving; to conserve water through low-water-using planting and irrigation design; to reduce the risk of fire through site design and the management of flammable vegetation ; and to improve the appearance of the built environment by increasing the quality and quantity of landscaping visible from *public rights-of-way*, private streets, and adjacent properties, with the emphasis on landscaping as viewed from *public rights-of-way*.

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

§142.0402 When Landscape Regulations Apply

- (a) This division applies to all proposed planting and irrigation work.
- (b) Table 142-04A provides the applicable regulations and type of permit required by this division for the landscaping required in conjunction with the specific types of *development* proposals. Any project that proposes more than one of the types of *development* shown is subject to all of the regulations for each type of *development*.

Table 142-04A
Landscape Regulations Applicability

| Type of Development Proposal | | | Applicable Regulations | Required Permit Type/ Decision Process |
|--|--|--|---|--|
| Column A | Column B | Column C ⁽¹⁾ | | |
| 1. New structures that equal or exceed the gross floor area shown (Column B), and are proposing the type of development shown (Column C) | 1,000 square feet | Multiple Dwelling Unit Residential Development or Commercial Development | 142.0403-142.0407, 142.0409, and 142.0413 | Building Permit/ Process One |
| | 5,000 square feet | Industrial Development | | |
| 2. Additions to structures or additional structures on developed properties that exceed the gross floor area shown or that increase the gross floor area by the percent shown (Column B), and are proposing the type of development shown (Column C) | 1,000 square feet or a 20 percent increase in gross floor area | Multiple Dwelling Unit Residential Development | 142.0403-142.0407, 142.0409, 142.0410 (a), and 142.0413 | Building Permit/ Process One |
| | 1,000 square feet or a 10 percent increase in gross floor area | Commercial Development | | |
| | 5,000 square feet or a 20 percent increase in gross floor area | Industrial Development | | |
| 3. New permanent parking and vehicular use area for four or more vehicles including access to the spaces, excluding parking for single dwelling unit uses on a single lot in single dwelling unit zones | | | 142.0403, 142.0406-142.0409, and 142.0413 | Construction Permit/ Process One |
| 4. New temporary parking and vehicular use area for four or more vehicles including access to the spaces, excluding parking for single dwelling unit uses on a single lot in single dwelling unit zones | | | 142.0403, 142.0408, 142.0409, and 142.0413 | Construction Permit/ Process One |

| Type of Development Proposal | Applicable Regulations | Required Permit Type/ Decision Process |
|---|--|--|
| 5. Additions or modifications to existing permanent or temporary parking and <i>vehicular use area</i> that increase the number of parking spaces by four or more | 142.0403, 142.0408, 142.0409, 142.0410 (b), and 142.0413 | Construction Permit/ Process One |
| 6. <i>Single dwelling unit</i> residential use projects proposing new private or <i>public rights-of-way</i> | 142.0403, 142.0409, and 142.0413 | Construction Permit/ Process One |
| 7. Projects proposing slopes with gradients steeper than 4:1 (4 horizontal feet to 1 vertical foot) that are 5 feet or greater in height | 142.0403, 142.0411, and 142.0413 | Construction Permit/ Process One |
| 8. Projects creating disturbed areas of bare soils, or projects with existing disturbed areas | 142.0403, 142.0411, and 142.0413 | No permit required by this division |
| 9. All City owned property, dedicated in perpetuity for park or recreation purposes, within 100 feet of a structure. | 142.0403, 142.0412, 142.0413 | No permit required by this division if work is performed in accordance with applicable regulations |
| 10. Publicly or privately owned <i>premises</i> , that are within 100 feet of a <i>structure</i> , and contain native or naturalized vegetation. | 142.0403, 142.0412, and 142.0413 | No permit required by this division if work is performed in accordance with applicable regulations |
| 11. New <i>structures</i> , additions to <i>structures</i> , or subdivisions that create <i>lots</i> where new <i>structures</i> could be located on <i>premises</i> adjacent to native or naturalized vegetation | 142.0403, 142.0412, and 142.0413 | Building Permit/ Process One |

| | | |
|--|---|--|
| <p>12. New Trees or shrubs planted in the <i>public right-of-way</i></p> | <p>62.0603, 129.0702, 142.0403 142.0409 and 142.0610</p> | <p>Public Right-of-Way Permit or Street Tree Permit/ Process One</p> |
| <p>13. <i>Condominium Conversions</i></p> | <p>142.0403, 142.0404, 142.0405 (b)(1) 142.0409 (a), 142.0412, and 142.0413</p> | <p>No permit required by this division</p> |

Footnote to Table 142-04A

¹ Refer to Section 131.0112 for a description of the types of uses that fit into each *development* category.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 9-19-2005 by O-19413 N.S.; effective 10-19-2005)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)
(Amended 7-5-2006 by O-19505 N.S.; effective 8-5-2006.)
(Amended 1-15-2008 by O-19698 N.S.; effective 2-14-2008.)
(Amended 11-13-08 by O-19800 N.S; effective 12-13-2008.)
(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

[Editors Note: Amendments as adopted by O-20081 N. S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.]

§142.0403 General Planting and Irrigation Requirements

All planting, irrigation, brush management, and landscape-related improvements required by this division must comply with the regulations in this section and with the Landscape Standards in the Land Development Manual.

(a) Plant Point Schedule

Table 142-04B assigns plant points based on plant type and size and applies where plant points are required by this division.

**Table 142-04B
Plant Point Schedule**

| Proposed Plant Material | | Plant Points Achieved per Plant |
|---|--|---------------------------------|
| Plant Type | Plant Size | |
| Proposed Shrub | 1-gallon | 1.0 |
| | 5-gallon | 2.0 |
| | 15-gallon or larger | 10.0 |
| | | |
| Proposed Dwarf Palm | Per foot of brown trunk height | 5.0 |
| Proposed Tree | 5-gallon | 5.0 |
| | 15-gallon | 10.0 |
| | 24-inch box | 20.0 |
| | 36-inch box | 50.0 |
| | 48-inch box and larger | 100.0 |
| Proposed Broad Headed Feather Palm Tree | Per foot of brown trunk height | 5.0 |
| Proposed Feather Palm Tree | Per foot of brown trunk height up to 20 feet in height | 3.0 |
| | each feather palm tree over 20 feet in height | 60.0 |
| Proposed Fan Palm Tree | Per foot of brown trunk height up to 20 feet in height | 1.5 |
| | each fan palm tree over 20 feet in height | 30.0 |

| Existing Plant Material | | Plant Points Achieved per Plant |
|---|--|---------------------------------|
| Plant Type | Plant Size | |
| Existing Shrub | 12-inch to 24-inch spread and height | 4.0 |
| | 24-inch and larger spread and height | 15.0 |
| Existing Native Tree | 2-inch caliper measured at 4 feet above <i>grade</i> | 100.0 |
| | each additional inch beyond 2 inches | 50.0 |
| Existing Non-Native Tree | 2-inch caliper measured at 4 feet above <i>grade</i> | 50.0 |
| | each additional inch beyond 2 inches | 25.0 |
| Existing Broad Headed Feather Palm Tree | Per foot of brown trunk height | 5.0 |
| Existing Feather Palm Tree | Per foot of brown trunk height up to 20 feet in height | 3.0 |
| | each feather palm tree over 20 feet in height | 60.0 |
| Existing Fan Palm Tree | Per foot of brown trunk height up to 20 feet in height | 1.5 |
| | each fan palm tree over 20 feet in height | 30.0 |

(b) Plant Material Requirements

- (1) Planting of invasive plant species, as described in the Landscape Standards of the Land Development Manual, is not permitted.
- (2) All existing, invasive plant species, including vegetative parts and root systems, shall be completely removed from the *premises* when the combination of species type, location, and surrounding environmental conditions provides a means for the species to invade other areas of native plant material that are on or off of the *premises*.
- (3) Plant material species shall be used that will continue to meet the requirements of this division after installation.
- (4) Tree locations shall be measured horizontally from the centerline of the tree trunk at *proposed grade*.
- (5) A minimum root zone of 40 square feet in area shall be provided for all trees. The minimum dimension for this area shall be 5 feet. This minimum dimension and root zone area may be reduced with the use of structural soil or where the combination of soil conditions, root zone area, adjacent improvements, and selected tree species can be demonstrated to provide conditions for healthy tree growth that will not damage adjacent improvements.

- (6) Plant material shall be maintained in a healthy, disease-free, growing condition at all times.
- (7) All pruning shall comply with the standards of the National Arborist Association.
- (8) Any plant material required by this division that dies within 3 years of installation shall be replaced within 30 calendar days of plant death with the same size and species of plant material shown on the approved plan. Required shrubs that die 3 years or more after installation shall be replaced with 15-gallon size, and required trees that die 3 years or more after installation shall be replaced with 60-inch box size material. The City Manager may authorize adjustment of the size and quantity of replacement material where material replacement would occur in inaccessible areas or where the existing plant being replaced is larger than a 15 gallon shrub or 60-inch box tree.
- (9) Trees required by this division shall be self-supporting, woody plants with at least one well defined trunk and shall normally attain a mature height and spread of at least 15 feet.
- (10) Trees required by this division shall be maintained so that all branches over pedestrian walkways are 6 feet above the walkway *grade* and so that all branches over vehicular travel ways are 16 feet above the *grade* of the travel way.
- (11) Shrubs required by this division shall be woody or perennial plants that are low branching or have multiple stems.
- (12) Tree root barriers or structural soil shall be installed where trees are placed within 5 feet of *public improvements* including walks, curbs, or *street* pavement or where new public improvements are placed adjacent to existing trees. The City Manager may waive this requirement where the combination of soil conditions, root zone area, adjacent improvements, and selected tree species can be demonstrated to provide conditions for healthy tree growth that will not damage public improvements.
- (13) Native plants shall be locally indigenous.
- (14) Naturalized plant material shall be plantings that can survive without irrigation after initial plant establishment.
- (15) Plant materials shall be grouped into hydrozones that consist of plant species having similar water demand and by their soil, sun, and shade requirements.

- (16) Plant material shall be selected to meet a maximum applied water allowance as determined by the water budget formula and specifications in Section 142.0413(d).
- (c) Irrigation Requirements
- (1) All required plant material shall be irrigated with a permanent, below-grade irrigation system unless specified otherwise in this division.
 - (2) All required irrigation systems shall be automatic, electrically controlled, and designed to provide water to all required plantings to maintain them in a healthy, disease-resistant condition.
 - (3) Irrigation systems shall meet the following design requirements:
 - (A) No irrigation runoff or overspray shall cross *property lines* or paved areas;
 - (B) The velocity of water flowing in irrigation system piping or supply pipes shall not exceed 5 feet per second downstream of the water meter;
 - (C) Irrigation systems shall be designed to minimize system maintenance requirement after installation. Above-ground irrigation system equipment that is exposed to potential damage shall be designed to be damage-resistant; and
 - (D) An approved rain sensor shutoff device is required for all systems and a moisture-sensing device that regulates the irrigation system for all lawn areas is required.
- (d) Planting Area Requirements
- (1) Planting areas required by this division shall consist of the following:
 - (A) Low-growing woody or herbaceous groundcover, turf, shrubs, or trees;
 - (B) Unattached unit pavers, loose organic or inorganic materials, or *hardscape*; or
 - (C) Built improvements including water features, overhead *structures* (such as gazebos, trellis *structures*, etc.), or fixed seating.
 - (2) Planting areas may be counted toward the planting area required by this division if they are greater than 30 square feet in size with no dimension less than 3 feet.

- (3) All required planting areas shall be maintained free of weeds, debris, and litter.

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

(Amended 9-19-2005 by O-19413 N.S.; effective 10-19-2005.)

(Amended 11-13-08 by O-19800 N.S.; effective 12-13-2008.)

(Amended 10-28-2009 by O-19903 N.S.; effective 11-27-2009.)

EDITORS NOTE: The Land Development Manual includes:

Coastal Bluffs and Beaches Guidelines

Biology Guidelines

Historical Resources Guidelines

Submittal Requirements for Deviations within the Coastal Overlay Zone

See RR-292248 for the Coastal Bluffs and Beaches Guidelines of the Land Development Code; RR-292249 for the Biology Guidelines of the Land Development Code; RR-292250 for the Historical Resources Guidelines of the Land Development Code; RR-292251 for the Submittal Requirements for Deviations within the Coastal Overlay Zone of the Land Development Code.

§142.0404 Street Yard and Remaining Yard Planting Area and Point Requirements

When new *structures* or additions to *structures* are subject to this section in accordance with Table 142-04A, the planting area required and the plants necessary to achieve the number of plant points required in Table 142-04C shall be provided. The required planting area is determined by multiplying the total square footage of the *street yard* or *remaining yard* area on the *premises*, by the percentage shown in Table 142-04C, unless stated otherwise in the table. The required planting points are determined by multiplying the total square footage of the *street yard* or *remaining yard* area on the *premises*, by the points shown in the table. The required planting area and plant points for the *street yard* shall be located within the *street yard*. The required planting area and plant points for the *remaining yard* shall be located within the *remaining yard*.

Table 142-04C
Street Yard and Remaining Yard Planting Requirements

| Type of Development Proposal ⁽⁶⁾ | Type of Yard | Planting Area Required (Percentage of total yard area unless otherwise noted below) ⁽¹⁾ | Plant Points Required ⁽¹⁾ |
|---|----------------|--|--|
| Multiple Dwelling Unit Residential Development | Street Yard | 50% ⁽²⁾ | 0.05 points |
| | Remaining Yard | A minimum of 40 square feet shall be provided per required tree | 60 points shall be provided for each residential building ⁽²⁾ |
| Condominium Conversion | Street Yard | 50% ⁽⁵⁾ | 0.05 points |
| | Remaining Yard | N/A | N/A |
| Commercial Development, or Industrial Development in Commercial Zones | Street Yard | 25% ⁽³⁾ | 0.05 points per square foot of total street yard to be achieved with trees only ⁽³⁾ |
| | Remaining Yard | 30% ⁽³⁾ | 0.05 points per square foot of total remaining yard |
| Industrial Development in any zone other than Commercial Zones | Street Yard | 25% ⁽⁴⁾ | 0.05 points per square foot of total remaining yard |
| | Remaining Yard | See Section 142.0405 (d) | 0.05 points per square foot of total remaining yard |
| Large retail establishments in any Commercial Zone. | Street Yard | 100% ⁽³⁾ of minimum building front and street side setbacks (except access points and with encroachments allowed into the landscaped area for building articulation elements as defined in section 143.0355(a)(b)) 25% of the balance of street yard | 0.05 points, exclusive of palms |
| | Remaining Yard | 30% ⁽³⁾ | 0.05 points |
| Large retail establishments in any Industrial Zone. | Street Yard | 25% ⁽⁴⁾ | 0.05 points, exclusive of palms |
| | Remaining Yard | 30% | 0.05 points |

Footnotes to Table 142-04C

- 1 See Section 142.0405(a)
2 See Section 142.0405(b)
3 See Section 142.0405(c)
4 See Section 142.0405(d)
5 See Section 142.0405(b)(1)
6 Refer to Section 131.0112 for a description of the types of uses that fit into each *development* category.

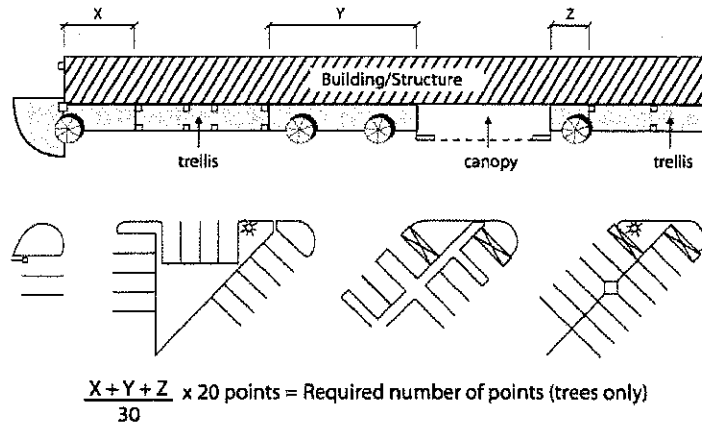
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
 (Amended 7-5-2006 by O-19505 N.S.; effective 8-5-2006.)
 (Amended 6-15-2007 by O-19624 N.S.; effective 7-15-2007.)
 (Amended 11-13-08 by O-19800 N.S.; effective 12-13-2008.)

§142.0405 Additional Yard Planting Area and Point Requirements

- (a) Additional *yard* requirements for all *development*:
- (1) Unless specified otherwise in Table 142-04C, at least one-half of the required planting points shall be achieved with trees.
 - (2) If plants and planting area are provided within a *street yard* or *remaining yard* to meet other requirements of this division, including *vehicular use area* and revegetation requirements, they may be used to satisfy the planting area and plant points required by Table 142-04C.
 - (3) A point score in excess of that required for a yard area may be used to reduce the planting area required for that yard area at a rate of one square foot of area reduction for each excess point provided. The maximum planting area reduction allowed by this section is 25 percent of that total yard area required.
- (b) Additional residential *yard* requirements:
- (1) *Street Yard*
 - (A) A minimum separation of 5 feet shall be maintained between driveway edges located in the *street yard*.
 - (B) Up to 10 percent of the required *street yard* planting area located outside the *vehicular use area* for *multiple dwelling unit residential development* may consist of *hardscape* or unattached unit pavers.
 - (C) Planting area in the *public right-of-way* is not counted towards fulfillment of the required *street yard* planting area.
 - (2) *Remaining Yard*
 - (A) Residential *development* with only two *dwelling units* on a *lot* shall be subject to a minimum of 60 points in the *remaining yard* regardless of the number of buildings on the *lot*.

- (B) Planting for residential *developments* with a single building shall be provided within the *remaining yard* on the side of building access, or where no side access is provided, shall be distributed equally between each side of the building.
 - (C) A minimum distance of 6 feet shall be provided between any tree and building.
- (c) Additional commercial *yard* and *large retail establishment* requirements:
- (1) All of the required *street yard* planting area located outside the *vehicular use area* for commercial zones or commercial development except for auto service stations, may consist of *hardscape* or unattached unit pavers. This does not include the minimum planting area required for trees and the planting area necessary to provide for healthy plant growth.
 - (2) For auto service stations, the required *street yard* planting area is 15 percent of the *street yard* area, and the required plant points are 0.03 points for each square foot of the *street yard*.
 - (3) Where commercial *development* abuts a residential zone, a 5-foot wide area along the entire abutting *property line* shall be planted with trees to achieve a minimum of .05 points per square foot of area in addition to the points required in the *remaining yard*.
 - (4) Façade Planting Area for *large retail establishments*. Within the *street yard*, a façade planting area, as shown in Diagram 142-04A shall be provided between the *vehicular use area* and the *street wall*. This façade planting area shall be planted with a minimum of 20 points (trees only) at a linear rate of 30 feet of building *street wall* wherever trellises, arcades, awnings or extended covered entries do not occur which shall be a minimum of 30 percent of the length of the building *street wall*.

Diagram 142-04A

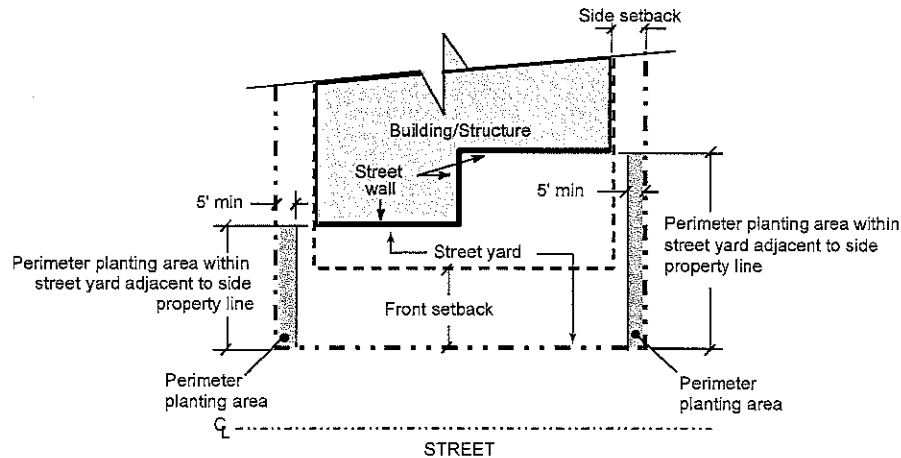
Façade Planting Area for *Large Retail Establishments*

$X + Y + Z = \text{minimum of 30\% of the length of the building street wall}$

- (d) Additional industrial *yard* and *large retail establishment* requirements:
- (1) Perimeter Planting Area. Within the *street yard* for industrial zones or industrial *development*, a 5-foot-wide perimeter planting area adjacent to each side *property line*, as shown in Diagram 142-04B, shall be provided for the full depth of the *street yard* except where vehicular access (maximum 25 feet) and pedestrian access (maximum 6 feet) points cross perpendicular to a side *property line*. This planting area shall be planted with a combination of trees and shrubs that achieves 0.2 points per square foot of the required area. Where loading docks are placed along more than 25 percent of the *street wall* length in the IL and IH zones, the perimeter planting area points required shall be increased to 0.5 points per square foot of area.

Diagram 142-04B

Industrial Perimeter Planting Area



- (2) Facade Planting Area. Within the *street yard*, a facade planting area, as shown in Diagram 142-04C, shall be provided that abuts the *street wall* and is at least equal to 50 percent of the length as determined by adding the lines connecting the outermost points of the structure along the street wall as shown in Diagram 142-04D, and that has a width of at least 9 feet measured perpendicularly to the building. This requirement shall not apply to *large retail establishments*.

Diagram 142-04C

Industrial Facade Planting Areas

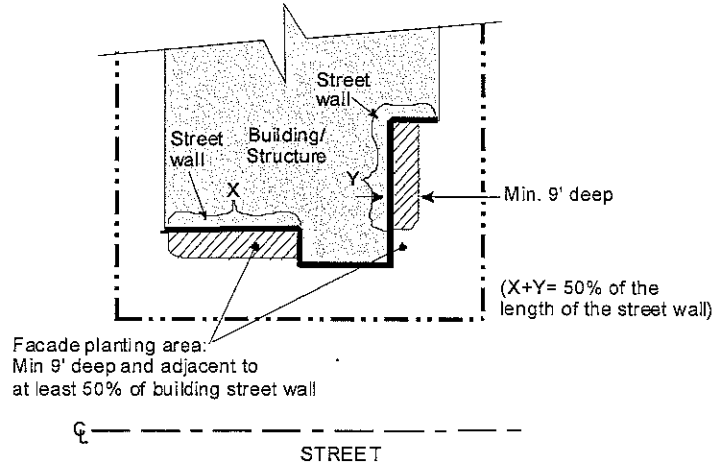
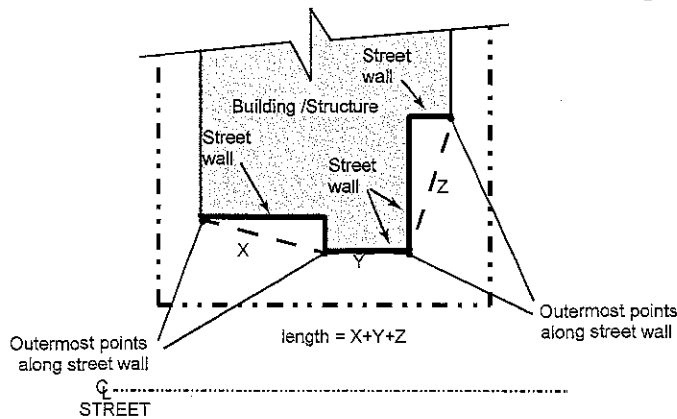


Diagram 142-04D

Industrial Facade Area Street Wall Length



The facade planting area shall be planted with a combination of trees and shrubs that achieves 0.5 points per square foot. Trees within this area must have a typical growth rate that can achieve a height of at least 20 feet within 8 years of being planted. Shrubs at maturity shall achieve a minimum height of 4 feet. In lieu of meeting the facade planting area and point requirements, the applicant may do one of the following:

- (A) Increase the required perimeter planting area width to 10 feet and the required *street yard* plant points to 0.1; or
 - (B) Place a minimum 6-foot-high solid wall between the *setback line* and the front of the *structure* that shall extend along the full width of the property, except at access points. The applicant shall provide tree plantings equal to one half of the required facade area planting points between the wall and the building street wall.
- (3) Where loading docks are located along more than 25 percent of the *street wall* length, all *street yard* plant points shall be increased to 0.1 per square foot of *street yard* area.
 - (4) For industrial uses in industrial zones, a planting area of at least 5 feet wide shall be provided within the *remaining yard*. This area shall be measured perpendicularly to the *property lines* adjacent to the *remaining yard* and shall abut the *property line*. The required planting points shall be placed within this 5 feet wide area.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000; amended 6-19-2000 by O-18814 N.S.; amended 6-19-2000 by O-18814 N.S.)

(Amended 6-15-2007 by O-19624 N.S.; effective 7-15-2007.)

(Amended 11-13-08 by O-19800 N.S.; effective 12-13-2008.)

§142.0406 Vehicular Use Area Planting Area and Point Requirements

- (a) When new *vehicular use areas* are subject to this section in accordance with Table 142-04A, the planting area, the plants necessary to achieve the number of plant points, and the trees required in Table 142-04D shall be provided. The required planting area is determined by multiplying the square footage of the *vehicular use area* located within the *street yard* and outside the *street yard* by the percentage shown in Table 142-04D. The required plant points are determined by multiplying the square footage of the *vehicular use area* located within the *street yard* and outside the *street yard* by the points shown in the Table 142-04D. The required area, points, and trees shall be located within the *vehicular use area* unless listed otherwise in the table.

**Table 142-04D
Vehicle Use Area Requirements**

| Size of Proposed Vehicular Use Area | Planting Area Required ^{(1), (2), (4)} | | Plant Points Required ^{(1), (2)} | | Tree Distribution Requirement ⁽¹⁾ |
|-------------------------------------|---|--|---|-------------------------|--|
| | Street yard | Outside the street yard | Street yard | Outside the street yard | |
| Less than 6,000 square feet | 40 Square Feet per Tree | 40 Square Feet per Tree | 0.05 points | 0.05 points | 1 tree within 30 feet of each parking space ⁽³⁾ |
| 6,000 square feet or greater | 5% of vehicular use area located in the street yard | 3% of vehicular use area located outside the street yard | 0.05 points | 0.03 points | 1 tree within 30 feet of each parking space ⁽³⁾ |

Footnotes to Table 142-04D

- 1 See Section 142.0407(a)
- 2 See Section 142.0407(b)
- 3 See Section 142.0407(c)
- 4 See Section 142.0407(d)

(b) All planting areas and plants in or adjacent to a *vehicular use area* shall be protected from vehicular damage by providing a raised curb or wheel stop of at least 6 inches in height. Where the end of parking spaces abut a planting area that is less than 5 feet in width, 6-inch-high wheel stops or curbs shall be placed within the parking spaces, 2 feet from the edge of the planting area.

(c) A *vehicular use area* located within the *street yard* shall be separated from the curb in the *public right-of-way* by a required planting area totaling at least 8 feet in width, measured perpendicularly to the *public right-of-way*. This planting area shall meet the following requirements:

- (1) The planting area shall extend along, and directly abut, the entire length of the *vehicular use area* except at vehicle or pedestrian access points.
- (2) The planting area shall be planted to screen the *vehicular use area* with densely foliated, evergreen species that achieve a minimum height of 30 inches within 2 years of installation over at least 80 percent of the length of the required planting area. The *screening* may also be achieved through the use of berms, solid fencing, walls, plant material, or any combination of these that provides an equivalent *screen*.

- (3) The width of this planting area may be reduced to 3 feet if a solid wall of at least 3 feet in height is provided for the entire length of the *vehicular use area*—for sites under 5 acres. Sites that are between 5 and 10 acres are required to provide the planting area buffer that is 8 feet. For sites over 10 acres, a planting area buffer must be 12 feet in width with a potential reduction to 8 feet with a 3 feet high wall. The remaining planting area shall be located between the wall and curb within the *public right-of-way* and planted with the equivalent of 1 shrub for every 10 feet of wall length. These shrubs shall achieve at least 18 inches in height of maturity.
- (4) A point score in excess of that required for a *vehicular use area* may be used to reduce the planting area required for that *vehicular use area* at a rate of one square foot of area reduction for each excess point provided. The maximum planting area reduction allowed by this section is 25 percent of the total *vehicular use area* required.

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

(Amended 6-15-2007 by O-19624 N.S.; effective 7-15-2007.)

§142.0407 Additional Vehicular Use Area Requirements

- (a) At least one-half of the required plant points are to be achieved with trees. If planting area and plants are provided within the boundaries of the *vehicular use area* to meet other requirements of this division including revegetation, *street yard*, and *remaining yard* requirements, they may be used to satisfy the planting area and planting points required by Table 142-04D.
- (b) For a *vehicular use area* that is less than 6,000 square feet in size, the required plant points may be provided within 5 feet of the edge of the *vehicular use area*. For a *vehicular use area* 6,000 square feet or greater in size, the required planting area, points, and trees shall be located in the *vehicular use area* except for areas designated for commercial vehicle parking spaces, loading areas, and loading area accessways that are used for the distribution of materials and goods. They may be located within 5 feet of the edge of the *vehicular use area* designated for these purposes.
- (c) The minimum tree size used in a *vehicular use area* shall be 24-inch box, or if palm trees are used they shall be 8-foot brown trunk height. If palm trees are used to meet the *vehicular use area* tree requirements, a palm tree shall be within 15 feet of each parking space.

- (d) Landscaped areas may be counted toward the required planting area if they comply with the following:
- (1) The planting area is bounded on two or more sides by parking spaces or parking accessways, or is within 10 feet of the side of any parking space, and
 - (2) The planting area is greater than 30 square feet in size and has no dimension less than 3 feet.

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

§142.0408 Temporary Vehicular Use Area Requirements

When new temporary *vehicular use areas* are subject to this section in accordance with Table 142-04A, the planting requirements of this section shall apply.

- (a) *Vehicular use areas* that have a specified time limit for discontinuance that is less than 5 years after the date of Building Permit issuance are considered temporary vehicle use areas.
- (b) Temporary *vehicular use areas* shall provide a 3-foot-wide planting area between the *public right-of-way* and the *vehicular use area*. This area shall be planted with evergreen shrubs that achieve a minimum height of 30 inches within 2 years of installation over at least 50 percent of the required planting area. The remaining area shall be covered with mulch. Vehicle access into this planting area shall be prevented by a 6-inch-high curb or wheel stops placed within the parking spaces, 2 feet from the edge of the planting area. The planting area may be paved at designated vehicle access points.
- (c) *Vehicular use areas* that do not have a specified time limit for discontinuance or that are proposed to exist more than 5 years after the date of Building Permit issuance, are subject to the requirements for a permanent *vehicular use area* contained in Sections 142.0406 and 142.0407.

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

§142.0409 Street Tree and Public Right-of-Way Requirements

(a) Street Tree Requirements

When new *structures*, additions to *structures*, *condominium conversions*, or new *vehicular use areas* are subject to this section in accordance with Table 142-04A, street trees within the *parkway* shall be provided in accordance with the following regulations.

(1) Street Tree Quantity. Street trees shall be planted between the curb and *abutting property line*. The number of required street trees shall be calculated at the rate of one 24-inch box tree for every 30 feet of *street frontage*. The installed tree spacing may be varied to accommodate site conditions or design considerations; however, the number of trees required for each *street frontage* on a *lot* bounded by more than one *street* shall be planted along the corresponding *street frontage*. Where site conditions do not allow the installation of the street trees required by this section in the *parkway*, trees may be located on the private property within 10 feet of the property line along that street frontage. Where palm trees are proposed to satisfy this requirement in accordance with Section 142.0409(a)(3), they shall be planted at a rate of one 10-foot brown trunk height palm for each 20 feet of *street frontage*. For projects in the IL and IH zones that have loading docks along more than 25 percent of the building *street wall*, the street tree requirement shall be increased to the rate of one 24-inch box tree for every 20 feet of *street frontage* or one 10-foot brown trunk height palm for each 10 feet of *street frontage*.

(2) Street Tree Locations

- (A) Street trees shall be located 7 feet from the face of curb on *streets* classified in the applicable *land use plan* as major *streets*, primary arterials, or expressways that have a posted speed of 50 miles per hour or greater. For all other *street* classifications, street trees shall be located no closer than 30 inches to the face of curb or within median islands, no closer than four feet to the face of curb.
- (B) Street trees shall be separated from improvements by the minimum distance shown in Table 142-04E.

Table 142-04E

Minimum Tree Separation Distance

| Improvement | Minimum Distance to Street Tree |
|--|---------------------------------|
| Traffic signal, Stop Sign | 20 feet |
| Underground Utility Lines (except sewer) | 5 feet |
| Sewer Lines | 10 feet |
| Above Ground Utility <i>Structures</i> (Transformers, Hydrants, Utility poles, etc) | 10 feet |
| Driveways | 10 feet |
| Intersections (intersecting curb lines of two streets) | 25 feet |

(C) Trees shall be selected and located so that at maturity they do not cause damage or conflict with overhead utility lines.

(3) Street Tree Species Selection. Trees shall be selected in accordance with the landscape standards of the Land Development Manual. Palm trees may only be used to satisfy the street tree requirement where identified as an acceptable street tree species in an adopted *land use plan*.

(b) Additional *Public Right-of-Way* Regulations

(1) Areas within the *public right-of-way* that are not paved for required pedestrian walks or for vehicle access shall be planted or covered with mulch, unattached unit pavers, or other permeable material acceptable to the City.

(2) Plant material, other than trees, within the *public right-of-way* that is located within *visibility areas* shall not exceed 24 inches in height, measured from the top of the adjacent curb.

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

(Amended 7-5-2006 by O-19505 N.S.; effective 8-5-2006.)

(Amended 11-13-08 by O-19800 N.S; effective 12-13-2008.)

EDITORS NOTE: **The Land Development Manual includes:**
 Coastal Bluffs and Beaches Guidelines
 Biology Guidelines
 Historical Resources Guidelines
 Submittal Requirements for Deviations within the Coastal Overlay Zone

See RR-292248 for the Coastal Bluffs and Beaches Guidelines of the Land Development Code; RR-292249 for the Biology Guidelines of the Land Development Code; RR-292250 for the Historical Resources Guidelines of the Land Development Code; RR-292251 for the Submittal Requirements for Deviations within the Coastal Overlay Zone of the Land Development Code.

§142.0410 Previously Conforming Properties Landscape Requirements

- (a) When additions to *structures* or additional *structures* on developed properties are subject to this section in accordance with Table 142-04A, they shall meet the requirements of this section. The required *street yard*, *remaining yard*, and *vehicular use area* planting areas and plant points for *previously conforming* properties are established in accordance with the following formula.
- (1) Determine the percentage of increase in *gross floor area* for the *development* by dividing the proposed additional *gross floor area* by the existing *gross floor area*.
 - (2) Where the percentage of *gross floor area* increase is:
 - (A) 100 percent or greater, the *development* is subject to the full requirements for new *development*.
 - (B) 75 to 99 percent, the *development* is subject to the full requirements for street trees, the *street yard*, and the *vehicular use area* in the *street yard* and *remaining yard* for new *development*.
 - (C) 50 to 74 percent, the *development* is subject to the full requirements for street trees, the *street yard*, and the *vehicular use area* in the *street yard* for new *development*.
 - (D) 1 to 49 percent, the *development* is subject to the full requirements for street trees and the *street yard* for new *development*.
 - (3) For properties that contain plant materials that will be retained, the planting area and number of points for the existing material will be credited towards the above requirements.

- (b) When additions or modifications to existing permanent or temporary parking and *vehicular use areas* are subject to this section in accordance with Table 142-04A they shall meet the requirements of this section. The required *vehicular use area* planting area and plant points for *previously conforming* properties is established in accordance with the following formula.
- (1) Determine the percentage of increase in parking spaces for the *development* by dividing the proposed increase in number of parking spaces by the existing number of parking spaces.
 - (2) Where the percentage of parking space increase is:
 - (A) 100 percent or greater, the *development* is subject to the full requirements for new *development*.
 - (B) 75 to 99 percent, the *development* is subject to the full requirements for street trees, the *street yard*, and the *vehicular use area* in the *street yard* and *remaining yard* for new *development*.
 - (C) 50 to 74 percent, the *development* is subject to the full requirements for street trees, the *street yard*, and the *vehicular use area* in the *street yard* for new *development*.
 - (D) 1 to 49 percent, the *development* is subject to the full requirements for street trees and the *vehicular use area* requirements for the additional *vehicular use area* only.
 - (3) For properties that contain plant materials that will be retained, calculate the planting area and number of points for the existing material and use this as a credit towards the above requirements.

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

§142.0411 Revegetation and Erosion Control

- (a) Permanent Revegetation. All graded, disturbed, or eroded areas that will not be permanently paved or covered by structures shall be permanently revegetated and irrigated as shown in Table 142-04F and in accordance with the standards in the Land Development Manual.

**Table 142-04F
Permanent Revegetation and Irrigation Requirements**

| Location of Disturbed Area | Slope of Disturbed Area | Required Irrigation System | Required Revegetation or Erosion Control |
|---|---|---|--|
| Within 100 feet of areas with native or naturalized vegetation | Less than 4:1 (4 horizontal feet to 1 vertical foot) | Automatic, above grade, temporary irrigation system | Native or naturalized hydroseed mix |
| | 4:1 or greater with a slope height of 15 feet or less | Automatic, above grade, temporary irrigation system | Native or naturalized ground cover consisting of rooted cuttings or hydroseed mix |
| | 4:1 or greater with a slope height over 15 feet | Automatic, above grade, temporary irrigation system | Native or naturalized ground cover consisting of rooted cuttings or hydroseed mix, and native or naturalized trees and shrubs (minimum 1 gallon size) planted at a minimum rate of one plant per 100 square feet of disturbed area |
| 100 feet or further from areas with native or naturalized vegetation | Less than 4:1 (4 horizontal feet to 1 vertical foot) | Automatic, below grade, permanent system or automatic, above grade, temporary irrigation system | Hydroseed, mulch, or equivalent |
| | 4:1 or greater with a slope height of 15 feet or less | Automatic, below grade, permanent irrigation system | Drought tolerant groundcover consisting of rooted cuttings or hydroseed mix |
| | 4:1 or greater with a slope height over 15 feet | Automatic, below grade, permanent irrigation system | Drought tolerant groundcover consisting of rooted cuttings or hydroseed mix, and drought tolerant trees and shrubs (minimum 1 gallon size) planted at a minimum rate of one plant per 100 square feet of disturbed area |

- (b) Temporary Revegetation. Graded, disturbed, or eroded areas that will not be permanently paved, covered by *structure*, or planted for a period over 90 calendar days shall be temporarily revegetated with a non-irrigated hydroseed mix, ground cover, or equivalent material. Temporary irrigation systems may be used to establish the vegetation.
- (c) All required revegetation and erosion control shall be completed within 90 calendar days of the completion of *grading* or disturbance.

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

EDITORS NOTE: The Land Development Manual includes:

Coastal Bluffs and Beaches Guidelines
 Biology Guidelines
 Historical Resources Guidelines
 Submittal Requirements for Deviations within the Coastal Overlay Zone

See RR-292248 for the Coastal Bluffs and Beaches Guidelines of the Land Development Code; RR-292249 for the Biology Guidelines of the Land Development Code; RR-292250 for the Historical Resources Guidelines of the Land Development Code; RR-292251 for the Submittal Requirements for Deviations within the Coastal Overlay Zone of the Land Development Code.

§142.0412 Brush Management

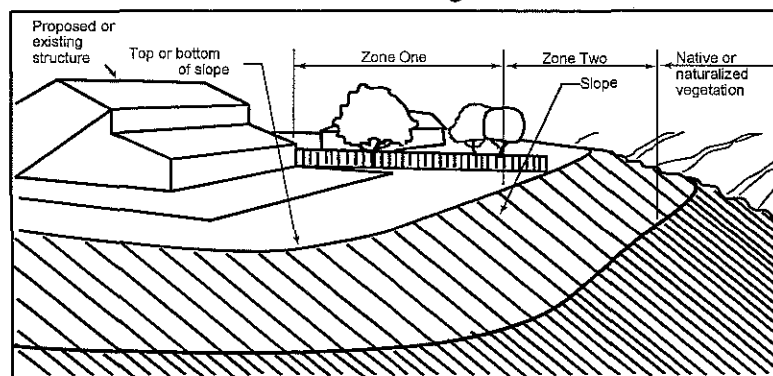
Brush management is required in all base zones on publicly or privately owned *premises* that are within 100 feet of a *structure* and contain native or naturalized vegetation.

- (a) Brush management activity is permitted within *environmentally sensitive lands* (except for *wetlands*) that are located within 100 feet of an existing *structure* in accordance with Section 143.0110(c)(7). Brush management in *wetlands* may be requested with a *development permit* in accordance with Section 143.0110 where the Fire Chief deems brush management necessary in accordance with Section 142.0412(i). Where brush management in *wetlands* is deemed necessary by the Fire Chief, that brush management shall not qualify for an exemption under the Environmentally Sensitive Lands Regulations, Section 143.0110(c)(7).

- (b) Brush Management Zones. Where brush management is required, a comprehensive program shall be implemented that reduces fire hazards around *structures* by providing an effective fire break between all *structures* and contiguous areas of native or naturalized vegetation. This fire break shall consist of two distinct brush management areas called “Zone One” and “Zone Two” as shown in Diagram 142-04E.

Diagram 142-04E

Brush Management Zones



- (1) Brush management Zone One is the area adjacent to the structure, shall be least flammable, and shall typically consist of pavement and permanently irrigated ornamental planting. Brush management Zone One shall not be allowed on slopes with gradient greater than 4:1 (4 horizontal feet to 1 vertical foot) unless the property received *tentative map* approval before November 15, 1989. However, within the Coastal Overlay Zone *coastal development* shall be subject to the *encroachment* limitations set forth in Section 143.0142(a)(4) of the Environmentally Sensitive Lands Regulations.
 - (2) Brush management Zone Two is the area between Zone One and any area of native or naturalized vegetation and typically consists of thinned, native or naturalized non-irrigated vegetation.
- (c) The width of Zone One and Zone Two shall not exceed 100 feet and shall meet the width requirements in Table 142-04H unless modified based on existing conditions pursuant to Section 142.0412(i) and the following:
- (1) The establishment of brush management Zones One and Two for new *development* shall be addressed in a site-specific plan to include all creative site and/or structural design features to minimize impacts to undisturbed native vegetation. Both Zone One and Zone Two shall be provided on the subject property unless a recorded easement is granted by an adjacent property owner to the owner of the subject property to establish and maintain the required brush management zone(s) on the adjacent property in perpetuity.
 - (2) Where Zone Two is located within City-owned property, a Right-of-Entry shall be executed in accordance with Section 63.0103 prior to any brush management activity. Zone Two brush management is not permitted in City-owned open space for new *development* proposals. For properties in the Coastal Overlay Zone, additional requirements for new *subdivisions* are found in Section 142.0412 (n).

**Table 142-04H
Brush Management Zone Width Requirements**

| Criteria | Zone Widths | |
|----------------|----------------|--------|
| | Zone One Width | 35 ft. |
| Zone Two Width | 65 ft. | |

- (d) Brush management activities are prohibited within coastal sage scrub, maritime succulent scrub, and coastal sage-chaparral habitats from March 1 through August 15, except where documented to the satisfaction of the City Manager that the thinning would be consistent with conditions of species coverage described in the City of San Diego’s MSCP Subarea Plan.
- (e) Where Zone One width is required adjacent to the *MHPA* or within the Coastal Overlay Zone, any of the following modifications to development regulations of the Land Development Code or standards in the Land Development Manual are permitted to accommodate the increase in width:
 - (1) The required front *yard setback* of the base zone may be reduced by 5 feet,
 - (2) A sidewalk may be eliminated from one side of the *public right-of-way* and the minimum required *public right-of-way* width may be reduced by 5 feet, or
 - (3) The overall minimum pavement and *public right-of-way* width may be reduced in accordance with the Street Design Standards of the Land Development Manual.
- (f) The Zone Two width may be decreased by 1½ feet for each 1 foot of increase in Zone One width up to a maximum reduction of 30 feet of Zone Two width.
- (g) Zone One Requirements
 - (1) The required Zone One width shall be provided between native or naturalized vegetation and any *structure* and shall be measured from the exterior of the *structure* to the vegetation.

- (2) Zone One shall contain no habitable *structures*, *structures* that are directly attached to habitable *structures*, or other combustible construction that provides a means for transmitting fire to the habitable *structures*. *Structures* such as *fences*, walls, palapas, play structures, and non-habitable gazebos that are located within brush management Zone One shall be of noncombustible, one hour fire-rated or heavy timber construction.
 - (3) Plants within Zone One shall be primarily low-growing and less than 4 feet in height with the exception of trees. Plants shall be low-fuel and fire-resistive.
 - (4) Trees within Zone One shall be located away from *structures* to a minimum distance of 10 feet as measured from the *structures* to the drip line of the tree at maturity in accordance with the Landscape Standards of the Land Development Manual.
 - (5) Permanent irrigation is required for all planting areas within Zone One except as follows:
 - (A) When planting areas contain only species that do not grow taller than 24 inches in height, or
 - (B) When planting areas contain only native or naturalized species that are not summer-dormant and have a maximum height at plant maturity of less than 24 inches.
 - (6) Zone One irrigation overspray and runoff shall not be allowed into adjacent areas of native or naturalized vegetation.
 - (7) Zone One shall be maintained on a regular basis by pruning and thinning plants, controlling weeds, and maintaining irrigation systems.
- (h) Zone Two Requirements
- (1) The required Zone Two width shall be provided between Zone One and the undisturbed, native or naturalized vegetation, and shall be measured from the edge of Zone One that is farthest from the habitable *structure*, to the edge of undisturbed vegetation.
 - (2) No *structures* shall be constructed in Zone Two.
 - (3) Within Zone Two, 50 percent of the plants over 24 inches in height shall be cut and cleared to a height of 6 inches.

- (4) Within Zone Two, all plants remaining after 50 percent are reduced in height, shall be pruned to reduce fuel loading in accordance with the Landscape Standards in the Land Development Manual. Non-native plants shall be pruned before native plants are pruned.
- (5) The following standards shall be used where Zone Two is in an area previously *graded* as part of legal *development* activity and is proposed to be planted with new plant material instead of *clearing* existing native or naturalized vegetation:
 - (A) All new plant material for Zone Two shall be native, low-fuel, and fire-resistive. No non-native plant material may be planted in Zone Two either inside the MHPA or in the Coastal Overlay Zone, adjacent to areas containing *sensitive biological resources*.
 - (B) New plants shall be low-growing with a maximum height at maturity of 24 inches. Single specimens of fire resistive native trees and tree form shrubs may exceed this limitation if they are located to reduce the chance of transmitting fire from native or naturalized vegetation to habitable *structures* and if the vertical distance between the lowest branches of the trees and the top of adjacent plants are three times the height of the adjacent plants to reduce the spread of fire through ladder fueling.
 - (C) All new Zone Two plantings shall irrigated temporarily until established to the satisfaction of the City Manager. Only low-flow, low-gallonage spray heads may be used in Zone Two. Overspray and runoff from the irrigation shall not drift or flow into adjacent areas of native or naturalized vegetation. Temporary irrigation systems shall be removed upon approved establishment of the plantings. Permanent irrigation is not allowed in Zone Two.

- (D) Where Zone Two is being revegetated as a requirement of Section 142.0411(a), revegetation shall comply with the spacing standards in the Land Development Manual. Fifty percent of the planting area shall be planted with material that does not grow taller than 24 inches. The remaining planting area may be planted with taller material, but this material shall be maintained in accordance with the requirements for existing plant material in Zone Two.
- (6) Zone Two shall be maintained on a regular basis by pruning and thinning plants, removing invasive species, and controlling weeds.
- (7) Except as provided in Section 142.0412(i), where the required Zone One width shown in Table 142-04H cannot be provided on *premises* with existing *structures*, the required Zone Two width shall be increased by one foot for each foot of required Zone One width that cannot be provided.
- (i) In consideration of the topography, existing and potential fuel load, and other characteristics of the site related to fire protection, the Fire Chief may modify the requirements of this Section, and where applicable with the approval of the Building Official, may require building features for fire protection in addition to those required in accordance with Chapter 14, Article 5, Division 7 (Chapter 7A of the California Building Code as adopted and amended) if the following conditions exist:
- (1) In the written opinion of the Fire Chief, based upon a fire fuel load model report conducted by a certified fire behavior analyst, the requirements of Section 142.0412 fail to achieve the level of fire protection intended by the application of Zones One and Two; and
- (2) The modification to the requirements achieves an equivalent level of fire protection as provided by Section 142.0412, other regulations of the Land Development Code, and the minimum standards contained in the Land Development Manual; and
- (3) The modification to the requirements is not detrimental to the public health, safety, and welfare of persons residing or working in the area.
- (j) If the Fire Chief approves a modified plan in accordance with this section as part of the City's approval of a *development permit*, the modifications shall be recorded with the approved permit conditions.

- (k) For existing *structures*, the Fire Chief may require brush management in compliance with this section for any area, independent of size, location, or condition if it is determined that an imminent fire hazard exists.
- (l) Brush management for existing *structures* shall be performed by the owner of the property that contains the native and naturalized vegetation. This requirement is independent of whether the *structure* being protected by brush management is owned by the property owner subject to these requirements or is on neighboring property.
- (m) Where specifically authorized by the Fire Chief, goats may be used for brush management in accordance with the following:
 - (1) In order to prevent escapes, harassment from predators or humans, or over browsing, goats shall be managed and monitored 24-hours a day by a contractor with at least two years experience in raising, handling, and controlling of goats. The goat contractor shall maintain a minimum of \$1 million of liability insurance subject to approval by the Office of the City Attorney.
 - (2) At least 10 business days prior to using goats for brush management, the property owner shall apply to the Fire Rescue Department for a permit to use goats for brush management. The *applicant* shall:
 - (A) Obtain and submit written permission from the owner of any property through which the goats must gain access to the area to be browsed.
 - (B) Provide written notice to the Fire Chief and all owners and residents of property located immediately adjacent to the area to be browsed. This notice shall identify Sections 44.0307 and 142.0412(m) as the authority for temporary use of goats.
 - (C) Provide photographs of the existing condition of the site, and a plan describing the methods to be employed and measures to retain existing vegetation in compliance with Section 142.0412(h).
 - (3) The area to be browsed shall be measured, staked, and appropriately fenced with temporary electrically charged fencing to delineate the Zone Two brush management areas. Signs must be posted at 25-foot intervals along the fence warning of the possibility of mild electric shock.
 - (4) The timing of brush management activities shall comply with Section 142.0412(d).

- (5) While goats are browsing:
- (A) No more than 75 goats are permitted on a single acre of the *premises*.
 - (B) Goats shall be moved along periodically so that no more than 50 percent of the vegetation is thinned or reduced.
 - (C) The goats shall remain within a secure enclosure at all times.
 - (D) Goats shall be moved into a separate holding pen at night, which shall be located the maximum distance reasonably practicable from residences.
 - (E) Droppings in the holding pen, and to the extent reasonably possible within the brush management area, shall be removed and properly disposed of daily in accordance with Section 44.0307.
 - (F) The goats shall be used for brush management only and shall be immediately removed when the brush thinning has been accomplished.
- (6) No later than 5 business days from the date of removal of the goats, the *applicant* shall notify the Fire Chief in writing of the removal of the goats.
- (7) The Fire Rescue Department shall not approve any permit under Section 142.0412(m) that will utilize a contractor determined by the City Manager to have negligently performed brush management services within the three prior calendar years. All facts supporting such a determination shall be provided to the *applicant* in writing, and shall constitute a final determination on the City's behalf.
- (n) Within the Coastal Overlay Zone, brush management for new *subdivisions* shall not be permitted to encroach into an environmentally sensitive habitat area [ESHA], except that *encroachment* may be permitted where necessary to achieve a maximum *development* area of 25 percent including Zones One and Two. For purposes of this Section, ESHA shall include southern fordues, torrey pines forest, coastal bluff scrub, maritime succulent scrub, maritime chaparral, native grasslands, oak woodlands, coastal sage scrub and coastal sage scrub/communities, and any vegetative communities that support threatened or endangered species.

- (o) Violations and Remedies
- (1) The provisions of this division shall be enforced pursuant to Chapter 12, Article 1, Division 2 (Enforcement Authorities for the Land Development Code), and Chapter 12, Article 1, Division 3 (Violations of the Land Development Code and General Remedies).
 - (2) In accordance with Section 121.0312, the City Manager may order reasonable restoration of the *premises* and any adjacent affected site to its lawful condition or may require reasonable mitigation at the sole cost of the responsible person.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

(Amended 9-19-2005 by O-19413 N.S.; effective 10-19-2005.)

(Amended 6-15-2007 by O-19624 N.S.; effective 7-15-2007.)

(Amended 1-15-2008 by O-19698 N.S.; effective 2-14-2008.)

(Amended 7-28-2009 by O-19885 N.S.; effective 8-27-2009.)

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

[Editors Note: Amendments as adopted by O-20081 N. S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.]

[Editor's Note Section 142.0412. A Resolution (R-2008-366) was passed by the Council to temporarily allow goat monitoring in the coastal overlay zone for a 5 year trial period (until **September 4, 2013**) during which annual monitoring reports would be distributed to the Coastal Commission. If at the end of 5 years, monitoring reports indicate that the use of goats has adversely impacted ESHA, the use of goats in the coastal zone would be discontinued.]

§142.0413 Water Conservation

- (a) Landscape Area. For the purposes of Section 142.0413, landscape area means the entire *premises*, less the area of building footprints, non-irrigated portions of parking lots, driveways, *hardscapes*, and areas designated for habitat preservation or brush management Zone Two.
- (b) Lawn Requirements.
 - (1) Lawn areas shall not exceed 10 percent of the landscape area on a *premises*, excluding required common areas, active recreation areas, and areas located within the *public right-of-way* between the curb and public sidewalk. This restriction does not apply to *single dwelling units*.

- (2) Lawn areas bounded by impervious surfaces on two or more sides must have minimum dimensions of 8 feet in all directions unless subsurface or low volume irrigation is used.
- (3) Lawn areas located on slopes, where the toe of the slope is adjacent to *hardscape*, shall not exceed a gradient of 25 percent (4:1).
- (c) Mulch Requirements. All required planting areas and all exposed soil areas without vegetation shall be covered with mulch to a minimum depth of 2 inches, excluding slopes.
- (d) Water Budget.
 - (1) *Developments* listed in Table 142-04I shall be subject to a water budget.

Table 142-04I

Water Budget Applicability

| Type of Development | Landscape Area Threshold |
|--|--|
| New non residential <i>development</i> | 1,000 square feet and greater |
| New <i>multiple dwelling unit development</i> | 1,000 square feet ¹ and greater |
| New <i>single dwelling unit development subdivisions</i> | All <i>subdivider</i> installed landscape |

Footnote to Table 142-04I

¹ Total area of landscape in the *development's* common areas.

- (2) The water budget is calculated using the following formula (see Section 2.6 and Appendix E of the Landscape Standards of the Land Development Manual for additional information):

$$\text{Water Budget} = (\text{ETo})(0.62) [(0.7)(\text{LA}) + (0.3)(\text{SLA})]$$

Where:

ETo = Evapotranspiration (inches per year)

0.62 = Conversion Factor (to gallons)

0.7 = Evapotranspiration Adjustment Factor

LA = Landscaped Area (square feet)

0.3 = Evapotranspiration Adjustment Factor for Special Landscape Area and Reclaimed Water

SLA = Special Landscape Area

- (3) The irrigation system is required to be operated within the approved water budget.
- (4) The estimated total water use, as calculated in Section 2.6 of the Landscape Standards of the Land Development Manual shall not exceed the water budget as calculated in Section 142.0413(d)(2).
- (e) Water Meters.
- (1) Dedicated landscape irrigation meters shall be required in all new *development* with a landscape area greater than or equal to 5,000 square feet; except that this requirement shall not apply to new *single dwelling unit development* or to the commercial production of agricultural crops or livestock.
- (2) Landscape irrigation submeters shall be required in the following *developments*:
- (A) New *single dwelling unit development*;
- (B) Improvements to existing industrial, commercial and *multiple dwelling unit development* when:

- (i) The improvement requires a building permit as identified in Table 142-04A; and

- (ii) The landscape area is 1,000 square feet and greater.
- (f) Irrigation Audit. An *applicant* subject to the requirement for a water budget in Table 142-04I is required to conduct and submit to the City an irrigation audit consistent with Section 2.7 of the Landscape Standards of the Land Development Manual.
- (1) All irrigation audits shall be conducted by a California registered landscape architect, a licensed landscape contractor, or other professional licensed by the State to perform this work.
- (2) The irrigation audit shall certify that all plant material, irrigation systems, and landscape features have been installed and operate as approved by the City; and shall be submitted to the City prior to occupancy and use.
- (g) Reclaimed water. New *development* in areas where reclaimed water is available and suitable for irrigation shall provide for a dual water distribution system for all landscaped areas. Only reclaimed water shall be used for irrigation purposes where it is available.

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

(Amended 10-28-2009 by O-19903 N.S; effective 11-27-2009.)

Article 2: General Development Regulations**Division 6: Public Facility Regulations***(Added 12-9-1997 by O-18451 N.S.)***§142.0601 Purpose of Public Facility Regulations**

The purpose of these regulations is to establish when public facilities will be required to be provided by private *development*. The intent of these regulations is to assure that the cost of providing public facilities to serve new *development* is the responsibility of that *development* and that minimum standards for public facilities are maintained to protect the public health, safety, and welfare.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)***§142.0605 When Public Facility Regulations Apply**

This division applies to *development* of private property that requires *public improvements* or the payment of fees for public facilities.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)***§142.0607 Repair and Replacement of Public Facilities**

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, repair or replace the public facility to the satisfaction of the City Engineer.

*(Added 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)***§142.0610 When Public Improvements May Be Required Incidental to a Building Permit**

- (a) Except as provided in Section 142.0610(b) and 142.0611, no *structure* shall be erected or enlarged, and no Building Permit shall be issued, for any *lot* unless the *streets* and *alleys* abutting the *premises* have been dedicated and improved along the abutting frontage to the prevailing standards of the City of San Diego. *Street* improvements shall include street trees, curbs, gutters, sidewalks, and half-width paving. *Alley* improvements shall consist of full-width paving.

- (b) Where *public improvements* do not exist or are not to the prevailing standard, a Building Permit may, nevertheless, be issued under any of the following circumstances provided any needed *dedication* has been granted:
- (1) When a permit for the required *public improvements* has been issued in accordance with the provisions of the Municipal Code, provided, however, that the improvements covered by the permit shall be installed and accepted before the Building Official issues a Certificate of Occupancy for the *structure* permitted under the Building Permit;
 - (2) When *public improvements* constructed to less than the prevailing standard exist and the permit issuing authority finds that they are in *substantial conformance* with the requirements of this section; or
 - (3) When the permit issuing authority determines that the amount of work associated with the requested Building Permit is of such limited scope that the installation of *public improvements* should be deferred until such time as adjacent *public improvements* are installed.
- (c) When the abutting *public improvements* are to be deferred, no Building Permit shall be issued until the property owner executes a waiver of the right of the property owner, or any successor in interest, to protest a future assessment project for installation of the required *public improvements*. The waiver shall be recorded against the property on which the Building Permit is issued.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§142.0611 Exemptions from Requirement to Provide Public Improvements Incidental to a Building Permit

The following activities are exempt from Section 142.0610:

- (a) The construction of accessory buildings such as residential garages;
- (b) The construction of *accessory structures* such as swimming pools or patio decks;
- (c) The alteration of existing buildings where the proposed improvements have a total value, as estimated by the Building Official, of \$50,000 or less; and
- (d) Neighborhood revitalization projects operated by the San Diego Housing Commission.
- (e) The alteration of an existing *single dwelling unit*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)

§142.0612 When Permits Are Required for Public Facilities

Permits are required for the construction of public facilities as follows:

- (a) A Public Right-of-Way Permit is required for the activities specified in Section 129.0702;
- (b) A Site Development Permit in accordance with Chapter 12, Article 6, Division 5 (Site Development Permit Procedures) is required for any of the following:
 - (1) Work involving more than 3,000 feet of *street frontage*; and
 - (2) Work for which established standards and regulations do not apply.

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

§142.0620 When Public Improvements Are Required for Development Permits

The approval of *development permits* shall be conditioned to provide public facilities in accordance with Section 142.0610 and to mitigate any impact the *development* may have on existing public facilities.

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

§142.0630 When Public Improvements Are Required for Subdivisions

The *subdivider* shall improve *public rights-of-way* and provide public facilities as required in Chapter 14, Article 4 (*Subdivision Regulations*).

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

§142.0640 Payment of Development Impact Fees

- (a) The payment of Development Impact Fees (as defined in California Government Code Section 66000) shall be required before the issuance of any Building Permit in areas where Development Impact Fees have been established by Resolution of the City Council. The Development Impact Fee due shall be determined in accordance with the fee schedule approved by the applicable Resolution of the City Council in effect upon the issuance of a Building Permit, and may include an automatic increase consistent with Section 142.0640(b) below.

- (b) Unless otherwise specified in the applicable Resolution(s) establishing the Development Impact Fees, the amount of the Development Impact Fee shall be increased, starting on July 1, 2010, and on each July 1st thereafter, based on the one-year change (from March to March) in the Construction Cost Index for Los Angeles as published monthly in the Engineering News-Record. Increases to Development Impact Fees consistent with the Construction Cost Index in Los Angeles shall be automatic and shall not require further action of the City Council. This Subsection shall not be applicable to Development Impact Fees in communities that are also subject to Chapter 6, Article 1, Division 22.
- (c) Notwithstanding Section 142.0640(a), Building Permits may be issued if the City Manager defers payment of the Development Impact Fees in accordance with this Subsection. Development Impact Fees due pursuant to the City's Regional Transportation Congestion Improvement Program shall not be deferred under any circumstance.
- (1) Payment of Development Impact Fees may be deferred for a maximum period of two years from the effective date of a Fee Deferral Agreement, or until a final inspection is requested, whichever occurs earlier. A final inspection shall not occur until the applicable Development Impact Fees are paid.
- (2) Payment of Development Impact Fees shall not be deferred unless and until a Fee Deferral Agreement is entered into to the satisfaction of the City Manager. The Fee Deferral Agreement shall be recorded against the applicable property in the Office of the San Diego County Recorder. The Fee Deferral Agreement shall be binding upon, and the benefits of the agreement shall inure, to the parties and all successors in interest to the parties to the Fee Deferral Agreement.
- (3) Payment of Development Impact Fees shall only be deferred if the applicable administrative processing fee, as set forth in the Comprehensive Fee Schedule on file in the Office of the City Clerk, is paid by the applicant or landowner.

- (4) At the end of the Development Impact Fee deferral period as set forth in Section 142.0640(c)(1), the deferred Development Impact Fees due shall be determined in accordance with Section 142.0640(a), except that the Development Impact Fee shall be determined by the Development Impact Fee rate for the year in which the Development Impact Fee is actually paid as set forth in the Development Impact Fee schedule in effect when the Fee Deferral Agreement was executed by the City, plus an automatic increase consistent with Section 142.0640(b), or the fee schedule approved by the City Council for a subsequent update or amendment of the applicable public facilities financing plan, whichever fee schedule is lower.
- (d) Any party on whom Development Impact Fees are imposed, may file an application for a waiver, adjustment, or reduction of the Development Impact Fees with the City Manager in accordance with this Subsection. Nothing in this Subsection shall affect the requirements set forth in Section 142.0640(a). The procedures provided in this Subsection are additional to any other procedure authorized by law for protesting or challenging Development Impact Fees.
- (1) An application for a waiver, adjustment, or reduction of Development Impact Fees shall set forth the factual and legal basis to support the application for a waiver, adjustment, or reduction of Development Impact Fees.
- (2) An application for a waiver, adjustment, or reduction of Development Impact Fees shall only be processed after the applicable fee or amount of deposit, as set forth in the Comprehensive Fee Schedule on file in the Office of the City Clerk, has been paid in full. If a deposit is required, and the deposit as shown in the Comprehensive Fee Schedule is insufficient to cover the actual cost to the City to process the application, an additional deposit, in an amount determined by the City Manager, shall be required. Any unused portion of a deposit shall be returned. If the City Council grants the application for a waiver of the Development Impact Fees, then the fee or the amount of the deposit expended shall be returned, minus a processing fee equal to 10 percent of the refund amount up to a maximum of five hundred dollars. If the City Council grants the application for an adjustment or reduction of the Development Impact Fees, then a portion of the fee or amount of the deposit expended, determined by the percentage reduction in the Development Impact Fee imposed, shall be returned, minus a processing fee equal to 10 percent of the refund amount up to a maximum of five hundred dollars.

- (3) An application for a waiver, adjustment, or reduction of Development Impact Fees shall be filed no later than ten (10) calendar days after the Development Impact Fees are imposed or ten (10) calendar days after the Development Impact Fees are paid, whichever occurs earlier.
- (4) The decision on an application for a waiver, adjustment, or reduction of Development Impact Fees shall be decided by the City Council within sixty (60) calendar days of the date that the application is received by the City Manager. The *applicant* shall bear the burden of presenting evidence to support the application for a waiver, adjustment, or reduction of Development Impact Fees.
- (5) Notice of the time and place of the City Council hearing, including a general explanation of the matter to be considered shall be mailed at least 14 days prior to the hearing to the *applicant*, and any interested party who files a written request with the City Manager requesting mailed notice of all applications for a Development Impact Fee waiver, adjustment, or reduction. Written requests for such notice shall be valid for one year from the date on which it is filed unless a renewal request is filed prior to the end of the one-year term. If established by resolution of the City Council, an annual charge for sending notices based on the estimated cost of providing the service, shall be required prior to the requestor's name being placed on a notice list.
- (6) An application for a waiver, adjustment, or reduction of Development Impact Fees may only be granted if:
 - (A) The City Council makes the following *finding*: there is no reasonable relationship between the amount of the Development Impact Fee and the cost of the public facilities attributable to the *development* on which the fee is imposed.
 - (B) The landowner enters into an agreement with the City providing that an intensification of use of the *development* shall subject the *applicant* or landowner to full payment of the Development Impact Fee to the satisfaction of the City Manager. The agreement shall be recorded with the Office of the San Diego County Recorder and shall constitute a lien against the applicable property for the payment of the Development Impact Fee. The agreement shall be binding upon, and the benefits of the agreement shall inure, to the parties and all successors in interest to the parties to the agreement.

- (7) If an application for a waiver, adjustment, or reduction of Development Impact Fees is granted, any Development Impact Fees previously paid with respect to the application at issue shall be refunded in accordance with the resolution adopted by the City Council granting the application, plus any interest earned by the City on the fee, as applicable.

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

(Amended 9-11-2009 by O-19893 N.S.; effective 11-10-2009.)

(Retitled to "Payment of Development Impact Fees" and amended 10-11-2011 by O-20100 N.S.; effective 11-10-2011.)

§142.0650 Requirements for Park and Recreational Facilities

The provision of park facilities and the payment of park fees are required in accordance with Municipal Code Chapter 9, Article 6, Division 4 (Development of Park and Recreational Facilities).

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

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

[Editors Note: Amendments as adopted by O-20081 N. S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.]

§142.0670 Standards for Public Improvements

- (a) Streetscape and *street* improvements shall be constructed in accordance with the applicable adopted Council Policies, the standards established in the Land Development Manual, and the following regulations:
- (1) For *Urbanized Communities*, the design of sidewalks shall be in *substantial conformance* with the historic design of sidewalks on adjacent properties including location, width, elevation, scoring pattern, texture, color, and material to the extent that the design is approved by the City Engineer, unless an alternative design is approved as part of a use permit or *development permit*. An alternative design also requires an Encroachment Maintenance and Removal Agreement in accordance with Section 129.0715.
 - (2) All existing fluted-pole, post-top street light standards shall be maintained or replaced in-kind as redevelopment occurs. Minor variations in design and location are permissible.

- (3) All private improvements in the public right-of-way shall comply with the provisions for *encroachments* in Chapter 12, Article 9, Division 7, adopted Council Policies, and the standards established in the Land Development Manual.
 - (4) Public *street* improvements shall comply with the applicable regulations in the Land Development Code, adopted Council Policies, and the standards established in the Land Development Manual. Where, in the course of *development* of private property, a driveway is abandoned and is no longer suited for vehicular use, the property owner shall remove the depressed curb section and apron and restore the *public right-of-way* to the satisfaction of the City Engineer.
 - (5) Driveways shall comply with the regulations in Chapter 14, Article 2, Division 5 (Parking Regulations).
 - (6) Landscaping within the *public right-of-way* shall comply with the regulations in Chapter 14, Article 2, Division 4 (Landscape Regulations).
- (b) Sewer and wastewater facilities shall be constructed in accordance with the requirements in Municipal Code Chapter 6, Article 4 (Sewers), adopted Council Policies, and the standards established in the Land Development Manual.
 - (c) Water distribution and storage facilities shall be constructed in accordance with the requirements in Municipal Code Chapter 6, Article 7 (Water System), adopted Council Policies, and the standards established in the Land Development Manual.
 - (d) Drainage facilities shall be constructed in accordance with the requirements in Chapter 14, Article 2, Division 2 (Drainage Regulations), adopted Council Policies, and the standards established in the Land Development Manual.
 - (e) *Street* lights shall be constructed in accordance with adopted Council Policies, and the standards established in the Land Development Manual.
 - (f) Traffic studies prepared by or required by the City of San Diego shall use the procedures and traffic generation rates established in the Land Development Manual.

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

(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)

(Amended 4-8-2008 by O-19734 N.S.; effective 5-8-2008.)

§142.0680 Cost Reimbursement District Regulations

- (a) Cost Reimbursement District Regulations. This section shall be known as the “Cost Reimbursement District Regulations.”
- (b) Purpose and Intent. In the course of developing property, whether through the subdivision process or the development or redevelopment of previously subdivided properties, it is frequently necessary or desirable to require the developer to install certain *public improvements*, dedicated for public use, that are supplemental in size, capacity, number, or length to those *public improvements* normally required to benefit the development, for the benefit of property not within the subdivision or development. The purpose of the Cost Reimbursement District Regulations is to establish requirements and procedures for reimbursement to either the developer or the City, or both, by those property owners who subsequently benefit from the *public improvements* to the extent of their benefit. It is the intent of the Council that property owners who develop their property and subsequently benefit from the *public improvements* make the appropriate reimbursements to the developer or City, or both. It is further the intent of the Council that the Cost Reimbursement District Regulations shall be supplemental to the reimbursement procedures set forth in the California State Subdivision Map Act Government Code sections 66485 and 66486.
- (c) When a Cost Reimbursement District May Be Formed.
- (1) A developer may apply to initiate the formation of a cost reimbursement district when the developer elects or is required by the City to install or replace *public improvements* which are supplemental in size, capacity, number, or length to those *public improvements* required to accommodate the development, for the benefit of property outside of the development, and will be dedicated to the public.
- (2) A cost reimbursement district shall not be formed if construction of the *public improvements* has been completed and accepted by the City Engineer prior to the application for the cost reimbursement district, or if the costs of the *public improvements* will later be reimbursed through an assessment district.
- (3) The City may initiate the formation of a cost reimbursement district whenever the City participates in the costs of *public improvements*, which will benefit property other than, or in addition to, the developer’s property.

- (d) General Cost Reimbursement District Regulations.
- (1) The developer shall submit an application requesting initiation and formation of a cost reimbursement district. The application shall be in writing and shall be accompanied by an application deposit, which shall be set by City Council resolution.
 - (2) The City Engineer shall process the request and recommend to the City Council whether to initiate the cost reimbursement district.
 - (3) The application deposit shall be deposited in a fund established by the City Auditor and Comptroller for each cost reimbursement district. The deposit shall be that amount sufficient to cover administrative and engineering expenses associated with the initiation, formation and monitoring of the cost reimbursement district, including calculation of the costs attributable to the *public improvements* which benefit areas outside the development area, determination of the development area benefited by the *public improvements*, determination of the proposed spread of the costs attributable to the *public improvements* which benefit those parcels outside the development area, an accounting of funds, publication and mailings of notices associated with the initiation or formation of the cost reimbursement district, recordation, and similar costs.
- (e) Cost Reimbursement District Resolution of Initiation.
- Upon recommendation by the City Engineer, the City Council, in its sole discretion, may adopt a "Resolution of Initiation," approving the initiation of a cost reimbursement district and a reimbursement agreement with the developer.
- (f) Actions Necessary to Form a Cost Reimbursement District
- (1) Engineer's Report. After the City Council initiates the cost reimbursement district, the City Engineer may consult with the developer and thereafter, shall file with the City Clerk an engineer's report which shall include the following:
 - (A) A plat indicating the proposed boundaries of the cost reimbursement district which identifies all parcels within the cost reimbursement district;
 - (B) The actual or total estimated cost of the *public improvements*; and.

- (C) An estimate of the assessment and methodology necessary to equitably distribute the costs attributable to the *public improvements* that benefit areas outside the development area, to the benefiting properties. Benefit may be obtained and calculated by frontage, equivalent dwelling units, average daily trips, proximity to the *public improvements*, or other similar means determined by the City Engineer.
- (2) Notice and Hearing on Formation of Cost Reimbursement District.
- (A) Upon receiving the request from the City Engineer to set a hearing on formation of a cost reimbursement district, the City Clerk shall set a noticed public hearing before the City Council.
 - (B) The City Clerk shall cause a notice of the hearing, in substantially the following form, to be published once in a newspaper of general circulation in the City at least ten (10) calendar days prior to the hearing:

NOTICE OF HEARING

The City Council of the City of San Diego will hold a public hearing at _____ on _____ at the City Council Chambers on the 12th Floor of the City Administration Building, 202 C Street, San Diego, California, 92101 to consider the establishment of a reimbursement district for the financing of certain public facilities and related improvements within the City otherwise known as the Cost Reimbursement District No. (_____).

Your property is located within the proposed boundaries of the cost reimbursement district and may be subject to a lien to pay a portion of the cost of providing such facilities. If, within a twenty-year period from the date of forming this district, you either file a final map or are issued a building permit, the lien amount will become due and payable. Payment of the lien under these reimbursement proceedings shall not be required in the following circumstances:

- (a) For issuance of a building permit for improvements to an existing residential dwelling unit.
- (b) For issuance of a building permit for the addition of accessory structures to an existing dwelling unit provided the accessory structure is not a companion unit.
- (c) For issuance of a building permit to replace an existing dwelling unit provided the density on the lot is not increased.
- (d) For issuance of a building permit to replace existing non-residential structures provided the size or intensity of use of the structures is not increased. For purposes of this section, "intensity of use" includes, but is not limited to, any increase in average daily trips, sewer usage, or water usage.
- (e) For issuance of a building permit to repair or modify an existing non-residential structure, provided such improvements do not expand the size or intensity of use of the structure.

The boundaries of the district are more particularly described by Plat No. _____ which is on file in the Office of the City Clerk.

All persons desiring to testify with respect to: the necessity of the proposed public improvements, the cost of the proposed public improvements, the benefited area or the amount of the costs eligible to be recovered, may appear and be heard at this hearing.

- (C) The City Engineer shall, at least twenty (20) days prior to the hearing, cause a copy of the Notice of Hearing to be mailed to each owner of real property within the benefited area as shown on the last equalized tax roll. The notice shall be accompanied by a map of the proposed cost reimbursement district area and a statement by the City Engineer describing:
- (i) The *public improvements* and that portion considered to be in excess of the developer's requirements which benefits other properties.
 - (ii) The estimated or actual costs necessary to pay for the *public improvements*.
 - (iii) The estimated or actual costs which are proposed to be assessed against the benefiting property when the property is developed.
 - (iv) A plat, indicating the boundaries of the cost reimbursement district.
- (3) Additional Deposits by Developer.
- (A) No later than three weeks prior to the date of the hearing set in accordance with section 142.0680(e)(2), the developer shall deposit with the City any additional funds determined by the City Engineer necessary to cover the costs required for the formation and monitoring of the cost reimbursement district.
 - (B) If the City Council approves formation of the cost reimbursement district, the funds shall be used to cover the costs of annually monitoring the cost reimbursement district for its life.
 - (C) If funds become depleted below the amount deposited at formation, the City Engineer may require the developer to deposit additional funds, or may require an additional amount be withheld from any lien payments to replenish the fund to an appropriate level.
- (g) Formation of a Cost Reimbursement District.
- (1) Following the public hearing, the City Council, in its sole discretion, may:
 - (A) approve the formation of a cost reimbursement district,
 - (B) determine the area benefited by the improvements,

- (C) authorize the City Manager to enter into a cost reimbursement agreement with the developer to provide for the disbursements of proceeds from the cost reimbursement district, and
 - (D) adopt a Resolution of Lien pursuant to Section 142.0680(g).
- (2) The Resolution of Lien shall reference an exhibit containing the following:
- (A) A list of the properties, identified by assessor's parcel number and ownership of record, which are included within the cost reimbursement district boundaries.
 - (B) A plat, indicating the boundaries of the cost reimbursement district and identifying the properties assessed.
 - (C) An apportionment of the costs attributable to the improvements that benefit areas outside the development area, which represent the lien to be charged each parcel within the cost reimbursement district. If the costs are estimated, the Resolution of Lien shall indicate that the liens are subject to recomputation by the City Engineer when the construction of the *public improvements* and final audit have been completed.
 - (D) The actions causing the liens to become due and payable.
 - (E) Other matters as appropriate to the establishment and administration of the cost reimbursement district.
- (h) Lien on Property.
- (1) The Resolution of Lien constitutes a statement of charges, which may become due from the owners and their successors, heirs or assigns of the various parcels of property as their benefited share of the *public improvements*.
 - (2) Subsequent to the construction of the *public improvements*, the City Engineer shall re-spread the lien after final costs have been calculated and verified by an audit, and shall cause the assessment roll to be appropriately modified. All affected property owners shall be notified in writing of their final lien amount.
 - (3) If the scope of the project or nature of the work is altered during construction of the *public improvements*, City Council may increase the estimated cost.
 - (4) The liens against each parcel within the cost reimbursement district shall be subject to an annual 6 percent simple interest payable at the time the lien is paid and as may be more specifically provided for in the reimbursement agreement with the developer.

- (5) The City Engineer shall record a copy of the Resolution of Lien with the County Recorder. Upon payment of the amounts due, or upon the expiration of the cost reimbursement district, the City Engineer shall cause to be filed a release of lien upon the affected property.
- (6) The maximum term of any liens on property shall not exceed twenty years from formation of the cost reimbursement district.
- (7) If, during the period following the formation of the cost reimbursement district, any person records a *final map* (subdivision, parcel, or consolidation map) or applies for a building permit for construction on a lot for which a lien for *public improvements* has been established in accordance with section 142.0680, and such person or predecessor in interest has not paid the lien to the City, the established lien shall be paid prior to the earlier of the filing of the *final map* or the issuance of the building permit. Payment of the lien shall not be required in the following circumstances:
 - (A) For issuance of a building permit for improvements to an existing residential *dwelling unit*.
 - (B) For issuance of a building permit for the addition of *accessory structures* to an existing *dwelling unit* provided the *accessory structure* is not a companion unit.
 - (C) For issuance of a building permit to replace an existing *dwelling unit* provided the density on the lot is not increased.
 - (D) For issuance of a building permit to replace existing non-residential *structures* provided the size of the *structures* or intensity of use of the *premises* is not increased. For purposes of this section, intensity of use includes, but is not limited to, any increase in average daily trips for the *premises*; increase in the use of water, sewer drainage facilities or other public facilities; increase in the access to water, sewer drainage facilities or other public facilities.
 - (E) For issuance of a building permit to repair or modify an existing non-residential *structure*, provided such improvements do not expand the size or intensity of use of the *structure*.

- (i) Collection and Disbursement of Funds.
- (1) All funds collected in accordance with section 142.0680 shall be deposited into an appropriate fund established for the collection of funds and the monitoring of the established cost reimbursement district.
 - (2) The City shall notify the developer constructing the *public improvements* pursuant to a reimbursement agreement of the existence of funds deposited. No funds may be reimbursed to the developer until all costs included in the cost reimbursement district have been verified or audited. The notification shall be mailed to the developer's address contained in the cost reimbursement agreement and no further inquiries or notification shall be required of the City.
 - (3) If funds remains on deposit with the City without being claimed by the developer within three (3) years after notice has been made as provided in section 142.0680(h)2), the funds shall be forfeited to the City, and shall be transferred to the general fund of the City.

(Added and Amended by renumbering section 62.0208 to 142.0680 11-22-2004 by O-19335 N.S.)

(h) Bicycle Facilities

All premises used for one or more of the permitted uses listed in Section 159.0302 of the La Jolla Planned District Ordinance shall be provided with facilities and permanently maintained bicycle parking spaces (storage lockers or racks) easily accessible to the public, on the same premises as follows:

- (1) Business and professional offices including banks and savings and loans -- one bicycle space for each 2,500 square feet of gross floor area. Additionally, any business or professional office containing more than 7,500 square feet of gross office floor area shall be required to provide shower facilities.
- (2) Restaurants and similar establishments -- one bicycle space for every 20 seats.
- (3) Retail establishments -- one bicycle space for each 3,500 square feet of gross floor area.
- (4) For hotels and motels -- one bicycle space for 10 guest units, or provision of bicycle rental facilities on-site.

("Parking and Transportation Regulations" added 3-27-2007 by O-19595 N.S.; effective 4-26-2007.)

§159.0405 Streetscape Development Regulations/Encroachment Permits

- (a) Within all zones no building or portion thereof shall be erected, constructed, converted, established, altered or enlarged, nor shall any such premises be used unless the lot or premises and buildings shall comply with the following requirements and special regulations pertaining to the development and use of the abutting public right-of-way. The above shall apply to all projects.
- (b) The following Streetscape and Encroachment Permit Standards shall be the basis for project review by the City Manager. Final approval for encroachment permits shall be by the City Engineer based on the City Manager's recommendations of consistency with the La Jolla Planned District Ordinance (see Appendix D.).

(c) Driveways and Curb Cuts

Driveways and curb cuts shall be provided in accordance with Land Development Code Chapter 14, Article 2, Division 5 (Parking Regulations).

- (d) Underground Parking Encroachments
- (1) Encroachment into the public right-of-way for underground parking spaces may be permitted only if a more efficient underground parking design can be provided without resulting in a major expansion to the underground parking area.
 - (2) No encroachments into the public right of way for parking access ramps (underground and above-ground) parallel to the street shall be permitted.
 - (3) Any access from underground parking areas to the street shall give the pedestrian the right-of-way at all times. Safety design, stop signs and other signage are required.
- (e) Sidewalk Development
- (1) Minimum Width

For existing projects all sidewalks shall maintain their present width and shall also maintain standard sidewalk elevation in relation to the curb for the entire distance between the curb and property line.
 - (2) Clear Path

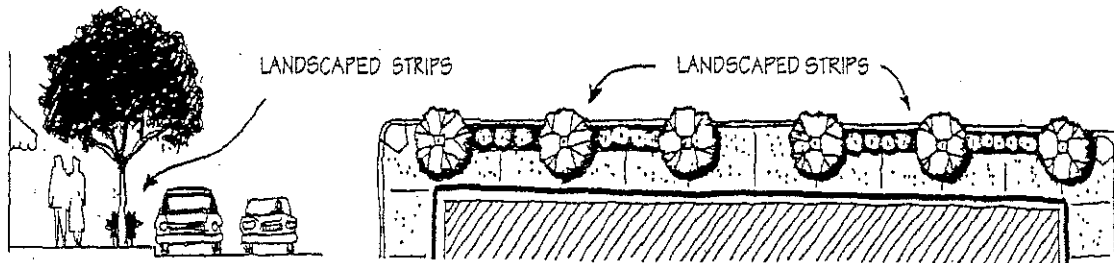
For new construction a minimum clear path (free of obstructions) of 8 feet in width shall be maintained at all points within the sidewalk right-of-way. The clear path may be linear, angled or curved, provided that the configuration will not impede handicapped access. A clear path of greater than 8 feet may be required if necessary to maintain a line of sight essential for traffic or pedestrian safety. Where there are street trees, the clear path shall be measured from the trunk of the tree, provided tree grates conforming to the requirements of Section 159.0405(f)(9) of the La Jolla Planned District Ordinance are installed and maintained at all times.
 - (3) Surface Treatment (sidewalk paving)
 - (A) All development proposing sidewalk improvements through an encroachment permit shall be required to improve the abutting sidewalk areas in accordance with the provisions listed herein.

In addition to giving the streetscape a unified character through the landscaping, the street furniture should also be coordinated.

General Guidelines for Village Area

Pedestrian Movement

- Separate sidewalks from the street by using landscape strips to buffer pedestrians from the vehicles.



- Encroachment on pedestrian walkways should not be granted routinely.
- Identify with signage narrow and underutilized public walkways that are located between commercial structures in order to increase pedestrian use of these paths, particularly those paths that connect Prospect Street with Coast Walk along Ellen B. Scripps Park.
- Minimize the need for curb cuts across the sidewalk in order to reduce potential conflicts between pedestrian and vehicle. Where such conflicts exist, the visual continuity of the pedestrian pathway can be maintained by continuing the pavement pattern across the driveway.

Street Furniture

- Street furniture should be organized along a street to complement the activities and pedestrian flows and should not be obstructive to pedestrian paths. Street furniture should also be grouped between street trees and not hinder the rhythm of tree planting. Well placed, these elements complement the overall character.

