



THE CITY OF SAN DIEGO  
**REPORT TO THE PLANNING COMMISSION**

**DATE ISSUED:** February 24, 2012 REPORT NO. PC-12-004  
**ATTENTION:** Planning Commission, Agenda of March 1, 2012  
**SUBJECT:** PATTERSON RESIDENCE: PROJECT NO. 200829 PROCESS 4  
**OWNER:** Robert Patterson  
**APPLICANT:** Latitude 33

**SUMMARY**

**Issue(s):** Should the Planning Commission approve an application for a Site Development Permit for previous grading and construction of retaining walls on Steep Hillside on a 0.43-acre site in the Clairemont Mesa Community Planning Area?

**Staff Recommendation:** DENY Site Development Permit No. 711775.

**Community Planning Group Recommendation:** On February 16, 2010 the Clairemont Mesa Community Planning Group voted 11-1-0 to recommend approval of the project.

**Environmental Review:** Exempt - The project is not located in or adjacent to the Multi-Habitat Planning Area (MHPA) and does not meet the City of San Diego Significance Thresholds for visual impacts. The project also meets the criteria set forth in California Environmental Quality Act (CEQA) Section 15303, New Construction and the exceptions listed in CEQA Section 15300.2 would not apply. Therefore, no adverse impacts would occur.

This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on March 1, 2011, and the opportunity to appeal that determination ended March 15, 2011.

**Fiscal Impact Statement:** All costs associated with the processing of this project are paid for by a deposit account maintained by the applicant.

**Code Enforcement Impact:** Approval of a Site Development Permit or a grading permit for slope restoration would resolve the Neighborhood Code Compliance Civil Penalty Notice and

Order. Denial of the Site Development Permit for slope restoration would necessitate further action by Neighborhood Code Compliance. These actions may include but are not limited to an Administrative Civil Penalty Hearing or referral to the City Attorney's Office for further enforcement.

**Housing Impact Statement:** Not applicable.

## **BACKGROUND**

The project site is a 0.43-acre parcel located at 4218 Conner Court within the Clairemont Mesa Community Planning Area. The property is zoned RS-1-7 and designated for low density residential development. On May 22, 2009 the Neighborhood Code Compliance Division of the Development Services Department issued Robert and Audrey Patterson a Civil Penalty Notice and Order (Attachment 9) for conducting grading activities in Environmentally Sensitive Lands (ESL) Steep Hillside, and for constructing retaining walls that vary from four to five feet in height, an unpermitted set of stairs attached to a deck, and for placing drainage lines that empty into the steep hillside. The San Diego Municipal Code stipulates that "Steep hillside shall be preserved in their natural state, except that development is permitted in steep hillside if necessary to achieve a maximum development area of 25 percent of the premises. For this premises, the 25 percent maximum development area was previously attained through earlier development of the home and deck areas.

## **DISCUSSION**

### **Project Description:**

Approval of this Site Development Permit would authorize previous grading within the Steep Hillside area, as well as the installation of four, approximately five-foot high, retaining walls, spanning 363 feet in length, in a terrace fashion. The walls are constructed with railroad ties and the tiers are planted with 19 fruit trees. The SDP would also authorize the stairs from the deck above to each tier below, as well as mulch, silt fencing, drainage lines and a fiber roll to control storm water runoff and drainage to the properties down slope.

### **Community Plan Analysis:**

The previously constructed project is located in the Clairemont Mesa Community Plan (CMCP) area. The CMCP recommends preserving and enhancing Stevenson Canyon and designated finger canyons as important features providing visual open space and community identity, reducing runoff and the alteration of natural drainage systems, and preventing residential landscaping from modifying the biological resources of canyon areas by using plant species which are non-invasive and compatible with the native vegetation. This project does not enhance this portion of Stevenson Canyon, alters the natural drainage system, and its residential landscaping modifies the biological resources of the canyon area. Further, the CMCP recommends consistency with the Development Regulations for Steep Hillside which require that development in areas with steep hillside only be allowed within the 25 percent developable area of the premises. As this project did not preserve or enhance this area of Stevenson Canyon, altered the natural drainage system, modified the biological resources of the area,

and exceeded the 25 percent developable area requirement, the project is not consistent with the Clairemont Mesa Community Plan.

**Project-Related Issues:**

Environmentally Sensitive Lands Regulations – Because this project does not conform with the Environmentally Sensitive Lands Regulations of the San Diego Municipal Code, a deviation from those regulations is required.

Supplemental findings for deviations to the ESL are also required. The proposed deviation must be the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making. Through previous development and improvements on the premises, the applicant has realized the allowable 25 percent development area and has, therefore, been afforded reasonable use of the project site. Encroaching into the Steep Hillside area is not necessary. Disregarding staff advice and without permits, the applicant graded the land within the Steep Hillside, built the subject retaining walls and stairs, and planted fruit trees. At the beginning of the review process, staff held a meeting with the applicant to indicate that staff would not be able to support the project and that a denial recommendation was very likely. The applicant decided to proceed with the review.

Near the end of the review process, staff informed the applicant that staff's position was unchanged, and offered the owner an option to significantly modify the project as a slope restoration and requiring only a ministerial grading permit. This would require the owner to reduce the height of all retaining walls to three (3) feet or less, slope the terraced sections between the remaining walls, remove all the fruit trees and staircases, colorize the remaining walls to more closely match the existing slope, and remove added drainage lines and plant native vegetation to ameliorate the effect of the remaining walls. A Covenant of Easement would also be required for this option. The owner rejected this offer.

An additional issue leading to staff's denial recommendation was that the applicant was required to show that the five-foot high retaining walls were structurally sound. Section 1807.2.3 of the California Building Code requires a minimum factor of safety of 1.5 be provided against overturning and sliding for all retaining walls. This factor of safety was not demonstrated by the applicant.

**Conclusion:**

The proposed project does not conform to the City's Environmentally Sensitive Lands regulations, nor is a deviation from these regulations warranted in this case. The project as constructed is also inconsistent with the Clairemont Mesa Community Plan (CMCP). The CMCP recommends that these hillside areas be enhanced and protected, and that the natural drainage system not be altered. This project has encroached beyond the developable area of the steep hillside, altered the natural drainage system and negatively affected the visual quality of the resource. An appropriate option was provided to the owner and declined, and the applicant has not demonstrated that the retaining walls are structurally safe. Therefore, staff is recommending the Planning Commission deny the application for a Site Development Permit.

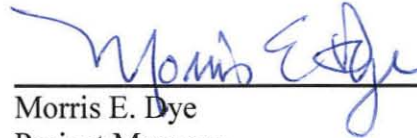
**ALTERNATIVES**

1. **Deny** Site Development Permit No. 711775, **with modifications.**
2. **Approve** Site Development Permit No. 711775, **if the findings required to approve the project can be affirmed.** Respectfully submitted,



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Mike Westlake  
Program Manager  
Development Services Department



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Morris E. Dye  
Project Manager  
Development Services Department

BROUGHTON/MED

Attachments:

1. Aerial Photograph Community Plan Land Use Map
2. Project Location Map
3. Project Data Sheet
4. Draft Permit Resolution with Findings for Denial
5. Draft Permit with Conditions
6. Environmental Exemption
7. Project Plans
8. Ownership Disclosure Statement
9. Civil Penalty Notice and Order
10. Applicant Draft Resolution with Findings for approval

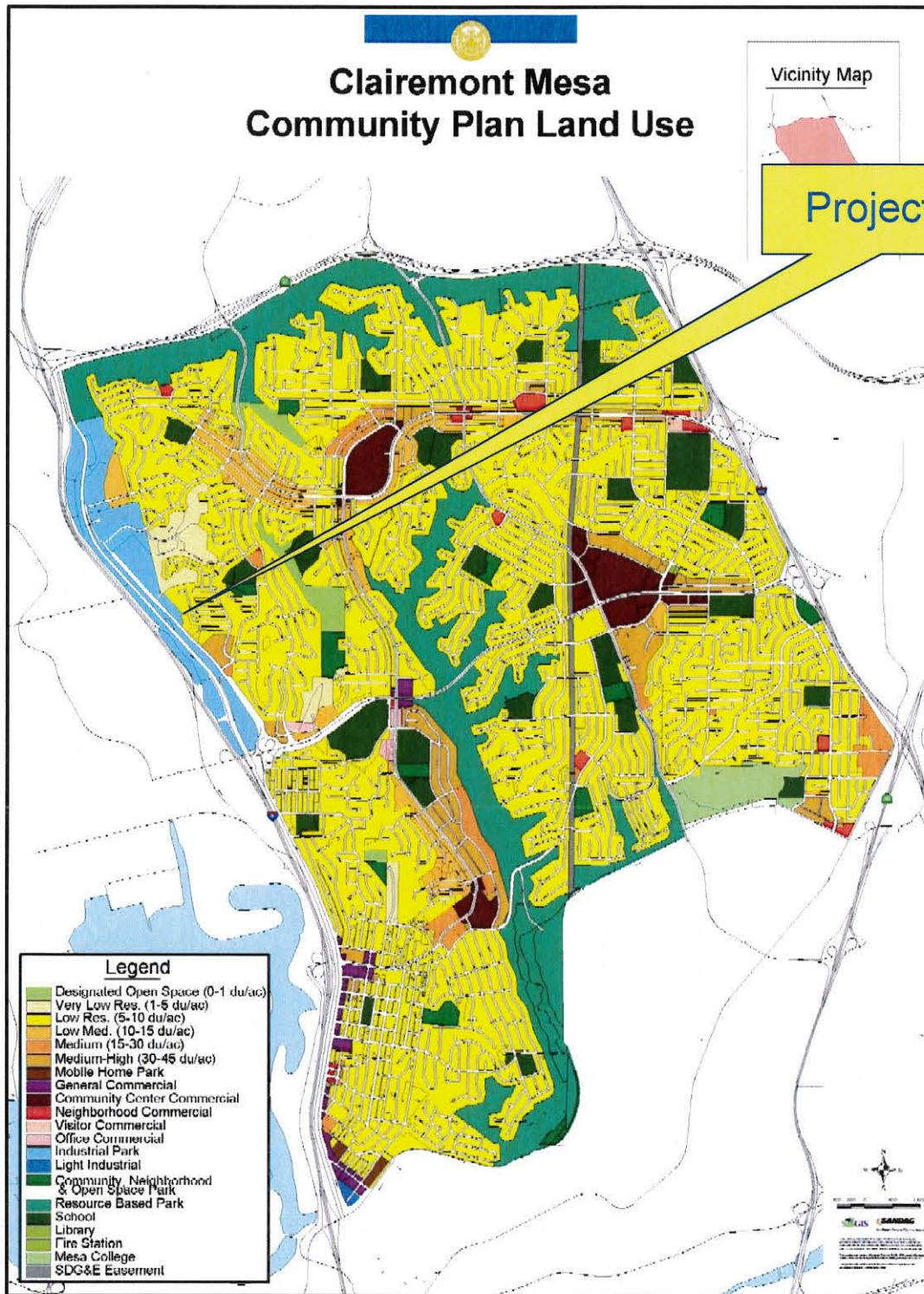
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## Aerial Photo

PATTERSON RESIDENCE - 4218 CONNER COURT  
PROJECT NO. 200829





# Land Use Map

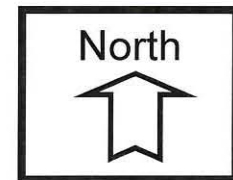
**PATTERSON RESIDENCE – 4218 CONNER COURT**  
**PROJECT NO. 200829**





## Project Location Map

PATTERSON RESIDENCE – 4218 CONNER COURT  
PROJECT NO. 200829



PLANNING COMMISSION RESOLUTION NO.  
SITE DEVELOPMENT PERMIT NO. 711775  
**PATTERSON RESIDENCE PROJECT NO. 200829**

WHEREAS, Robert and Audrey Patterson Family Trust, Owner/Permittee, filed an application with the City of San Diego for a Site Development Permit for Environmentally Sensitive Lands for previous grading and retaining walls to accommodate the planting of fruit trees (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Site Development Permit No. 711775), on portions of a on a 0.43-acre site containing a single family residence; and

WHEREAS, the project site is located at 4218 Conner Court in the RS-1-7 zone of the Clairemont Mesa Community Plan Area; and

WHEREAS, the project site is legally described as Lot 29 Vista Bay Ho, in the City of San Diego, County of San Diego, State of California. According to the map thereof No. 7649, filed in the Office of the County Recorder of San Diego County; and

WHEREAS, on March 1, 2012, the Planning Commission of the City of San Diego considered Site Development Permit No. 711775 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on March 1, 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 15303 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 of Denial, dated March 1, 2012.

FINDINGS:

**Site Development Permit - Section 126.0504**

**Findings for all Site Development Permits**

**1. The proposed development will not adversely affect the applicable land use plan;**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillside to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

The CMCP states that there is a need to establish guidelines for the development of privately owned Canyons and hillside areas to reduce erosion, alteration of hillside topography and vegetation, and other



undesirable effects from development. It further states that a CMCP goal is to preserve and enhance Marian Bear Memorial Park, Tecolote Canyon Natural Park, Stevenson Canyon and the designated finger canyons as important features providing visual open space and community identity, and to reduce runoff and the alteration of the natural drainage system. A drainage pipe is proposed as part of the project to carry water from the retaining walls and onto the natural slope. Staff has required that the water not discharge directly onto the natural slope and instead, flow to an energy dissipater consisting of rip rap. Adding the retaining walls, drainage pipe and dissipater, along with the stairs to accommodate the fruit trees, and removing the natural vegetation has significantly altered the natural canyon and the natural drainage system, inconsistent with the CMCP. In addition, the project has also altered the visual appearance of the natural slope, negatively affecting the visual open space and community identity, inconsistent with the CMCP. Altering the natural topography of the slope is inconsistent with the CMCP. As the project alters the hillside topography and vegetation, does not preserve or enhance the canyon as important features providing visual open space and community identity, and alters the natural drainage system, the proposed development will adversely affect the applicable land use plan.

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

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillides to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

Staff reviewed the project's retaining walls for structural stability and required that the applicant demonstrate that the constructed walls meet a minimum factor of safety of 1.5 against overturning and sliding for all retaining walls per California Building Code Sec. 1807.2.3. The applicant has not provided this demonstration. Therefore, the constructed development is detrimental to the public health, safety and welfare.

**3. The proposed development will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillides to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

Section 143.0112 of the Land Development Code states: It is unlawful to begin development on a premises that contains environmentally sensitive lands without submitting required documentation and obtaining the applicable development permit, or an exemption as required pursuant to this division. If unlawful development occurs on property containing environmentally sensitive lands and an enforcement action has been commenced by the City pursuant to Section 143.0160, no development permit application may be processed until the enforcement action has been concluded. In 2005, the applicant built a deck on the rear of the property in 2005 utilizing the allowable 25 percent of the premises as allowed by LCD Section 143.0142(a). At that time the applicant was informed of the need for a Site Development Permit for any work encroaching into the Steep Hillides area. Subsequently, the

applicant removed vegetation, terraced the hillside, constructed the retaining walls and stairs, and planted fruit trees within the Steep Hillside area without applying for any permits.

The applicant is also required to demonstrate that the constructed walls meet a minimum factor of safety of 1.5 against overturning and sliding for all retaining walls per California Building Code Sec. 1807.2.3. To date, this has not been done.

### **Supplemental Findings--Environmentally Sensitive Lands**

**1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands;**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillside to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

To access the planted fruit trees, stairs and terracing are required due to the steepness of the natural hillside. The project has significantly modified the physical slope, modified the existing natural drainage, and significantly changed the visual esthetic quality of the area. The installation of stairs and retaining walls, the planting of fruit trees and removal of natural vegetation from the slope has significantly altered the steep hillside. Railroad tie retaining walls are now visible on the natural slope and the project visually stands out on the natural hillside. Therefore, the site is not physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

**2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards;**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillside to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

To accommodate the planting of fruit trees the applicant has significantly altered the natural hillside. To control erosional forces the applicant must install rip rap as an energy dissipater for each pipe, further altering the natural hillside and the natural drainage. Therefore, the project will not minimize the alteration of natural land forms.

**3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands;**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillside to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the

RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

To accommodate the planting of fruit trees the project is sited down the natural hillside. Four terraces have been installed significantly affecting the adjacent hillside. Therefore, the proposed development will not be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands.

**4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan;**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillside to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

As the project is not within or adjacent to the Multiple Species Conservation Program (MSCP) Subarea Plan, the proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan

**5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillside to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

The project does not drain into and is not located near or adjacent to any shoreline or beach. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and

**6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillside to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

The project requires no mitigation. Therefore, the nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development

**C. Supplemental Findings--Environmentally Sensitive Lands Deviations**

- 1. There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands; and**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillside to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

Feasible measures available to the applicant include removing the fruit trees, removing the stairs, reducing the height of the retaining walls, removing drainage lines, colorizing the remaining railroad ties to more closely match the native hillside and replacing all removed native vegetation. Therefore, there are feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands.

- 2. The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillside to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

The construction of four terraces, installation of retaining walls that span the width of the property, removal of native vegetation, planting of fruit trees, installation of a drainage system on the natural slope, construction of four sets of stairs and the significant modification of the visual quality of the hillside are of the applicant's making and there are no special circumstances creating the need for these deviations. The lot contains a single family residence and the property has been previously improved with a back yard deck up to the 25 percent limit line for lots containing Environmentally Sensitive Lands (ESL). The minimum deviation necessary to afford relief would to remove the fruit trees, remove all stairs beyond the Steep Hillside area, reduce the height of the retaining walls to three feet, return drainage to pre-project conditions, colorize the remaining railroad ties to more closely match the native hillside and replace all removed native vegetation.

**Supplemental Findings--Steep Hillside Development Area Regulations Alternative Compliance**

- 1. The proposed development is in conformance with the Steep Hillside Guidelines;**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillside to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the

RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

The Steep Hillside Guidelines references Land Development Code Section 143.0142 (a)(2) which states that for projects outside of the Multi-Habitat Planning Area (MHPA), the allowable development area includes all portions of the premises without steep hillsides. Steep hillsides shall be preserved in their natural state, except that development is permitted in steep hillsides if necessary to achieve a maximum development area of 25 percent of the premises. The property is outside the MHPA and has achieved development of 25 percent of the premises with the existing home and rear yard deck. Therefore, encroaching into the remaining steep hillside is not permitted. Therefore, the project is not in conformance with the Steep Hillside Guidelines.

**2. The proposed development conforms to the applicable land use plan; and**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillsides to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

The CMCP states that there is a need to establish guidelines for the development of privately owned Canyons and hillside areas to reduce erosion, alteration of hillside topography and vegetation, and other undesirable effects from development. It further states that a CMCP goal is to preserve and enhance Marian Bear Memorial Park, Tecolote Canyon Natural Park, Stevenson Canyon and the designated finger canyons as important features providing visual open space and community identity, and to reduce runoff and the alteration of the natural drainage system. A drainage pipe is proposed as part of the project to carry water from the retaining walls and onto the natural slope. Staff has required that the water not discharge directly onto the natural slope and instead, flow to an energy dissipater consisting of rip rap. Adding the retaining walls, drainage pipe and dissipater, along with the stairs to accommodate the fruit trees, and removing the natural vegetation has significantly altered the natural canyon and the natural drainage system, inconsistent with the CMCP. In addition, the project has also altered the visual appearance of the natural slope, negatively affecting the visual open space and community identity, inconsistent with the CMCP. Altering the natural topography of the slope is inconsistent with the CMCP. As the project alters the hillside topography and vegetation, does not preserve or enhance the canyon as important features providing visual open space and community identity, and alters the natural drainage system, the proposed development will adversely affect the applicable land use plan.

**3. Strict application of the steep hillside development area regulations would result in conflicts with other City regulations, policies, or plans.**

The project is applying for a Site Development Permit for unpermitted grading, retaining wall and stair construction, and installation of three (3) drainage lines, which would drain onto Steep Hillsides to support the planting of fruit trees on a 0.43-acre site that contains a single family residence within the RS-1-7 Zone and within the Clairemont Mesa Height Limit and Clairemont Mesa Community Planning Area (CMCP).

Staff has reviewed the application for the Site Development Permit and found that denying the application would not result in conflicts with other City regulations, policies or plans. Removing the

development and returning it to its original condition or implementing the offered slope restoration alternative would not conflict with any regulation.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Site Development Permit No. 711775 is hereby DENIED by the Planning Commission.

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Morris E. Dye  
Development Project Manager  
Development Services

Adopted on: March 1, 2012

Job Order No. 24000570

**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: 24000570

**SITE DEVELOPMENT PERMIT NO. 711775**  
**PATTERSON RESIDENCE PROJECT NO. 200829**  
 PLANNING COMMISSION

This Site Development Permit is granted by the Planning Commission of the City of San Diego to Robert and Audrey Patterson, Owners, pursuant to San Diego Municipal Code [SDMC] section 143.0101. The 0.43-acre site is located at 4218 Conner Court in the RS-1-7 zone of the Clairemont Mesa Community Plan Area. The project site is legally described as: Lot 29 Vista Bay Ho, in the City of San Diego, County of San Diego, State of California. According to the map thereof No. 7649, filed in the Office of the County Recorder of San Diego County.

Subject to the terms and conditions set forth in this Permit, permission is granted to Robert and Audrey Patterson, Owners for four graded terraces, including access stairs, 19 fruit trees, railroad retaining walls, drainage pipes and associated rip rap dissipaters described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated March 1, 2012, on file in the Development Services Department.

The project shall include:

- a. Four railroad tie retaining walls, associated access stairs, planting of 19 fruit trees, and the installation of drainage pipes with associated rip rap energy dissipaters, mulch, silt fencing, and a fiber roll;
- b. This permit provides for a deviation from the Environmentally Sensitive Lands – Steep Hillside and allows encroachment into the Steep Hillside area of the property.
- c. Landscaping (planting, irrigation and landscape related improvements);

- 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 March 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 the issuance of a building permit, the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

12. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

13. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications, satisfactory to the City Engineer.
14. Prior to the issuance of any construction permits, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards, satisfactory to the City Engineer.
15. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report, satisfactory to the City Engineer.
16. The drainage system proposed for this development is private, shall be privately maintained and subject to approval by the City Engineer.

**BRUSH MANAGEMENT PROGRAM REQUIREMENTS:**

17. Owner shall submit a Brush Management Plan.

**PLANNING/DESIGN REQUIREMENTS:**

18. Owner/Permittee shall maintain a minimum of two (2) off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.
19. Prior to the issuance of any Building or Grading Permits, the owner/permittee shall record a Covenant of Easement for the Protection of Environmentally Sensitive Lands, as shown on the approved Exhibit "A" drawings dated March 1, 2012 on file in the office of the Development Services Department. The easement shall be drafted in accordance with SDMC Sections. 143.0140(a) and 143.0152.
20. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations.
21. 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.

22. 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.

**GEOLOGY REQUIREMENTS:**

23. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.

24. The Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to exoneration of the bond and grading permit close-out.

**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 March 1, 2012 and Resolution No.

Site Development Permit No. 711775  
Date of Approval: March 1, 2012

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

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Morris E. Dye  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

---

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

**Robert Patterson**  
Owner

By \_\_\_\_\_  
Robert Patterson  
Owner

**Audrey Patterson**  
Owner

By \_\_\_\_\_  
Audrey Patterson  
Owner

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

## NOTICE OF EXEMPTION

(Check one or both)

TO:  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.: 200829

PROJECT TITLE: Patterson Residence

PROJECT LOCATION-SPECIFIC: 4218 Conner Court, San Diego, CA 92117 (Lot 29 Vista Bay HO Map No. 7649)

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

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: Site Development Permit (SDP) for impacts to Environmentally Sensitive Lands (ESL) resulting from unpermitted grading and construction of retaining walls, stairs and installation of drainage lines which drain onto existing steep hillsides on a 0.43 acre site with an existing single residential dwelling unit located in the RS-1-7 Zone in the Clairemont Mesa Height Limit within the Clairemont Mesa Community Plan Area (Council District 6), but is not within or adjacent to the City's MSCP, Multi-Habitat Planning Area (MHPA).

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Mr. Robert Patterson  
 4218 Conner Court  
 San Diego, CA 92117  
 619-246-6244

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  
 STATUTORY EXEMPTIONS:

REASONS WHY PROJECT IS EXEMPT: Although the project involves unpermitted grading into ESL (steep hillsides and sensitive vegetation), less than 1/10 of an acre of sensitive vegetation (Diegan Coastal Sage Scrub) was impacted and would not exceed the City's Significance Thresholds for requiring mitigation. The City of San Diego's Significance Thresholds identifies visual impacts from retaining walls which exceed 6 feet or higher and longer than 50 feet in length. The unpermitted retaining walls for this project are less than 6 feet in height and extend for a longer distance, but are broken up by bends and variation along the length of the walls and therefore, would not result in a significant visual quality impact. The project, therefore, meets the criteria set forth in CEQA Section 15303 which allows for the construction and location of a limited number of new, small facilities or structures; and where the exceptions listed in CEQA Section 15300.2 would not apply. Therefore, no adverse impacts would occur.

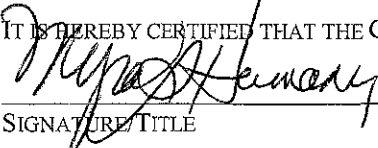
LEAD AGENCY CONTACT PERSON: Lizzi

TELEPHONE: (619) 619-446-5159

IF FILED BY APPLICANT:

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

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

 SENIOR PLANNER  
 SIGNATURE/TITLE

MARCH 1, 2011  
 DATE

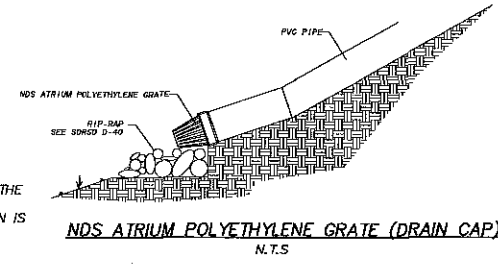
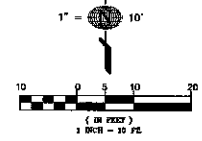
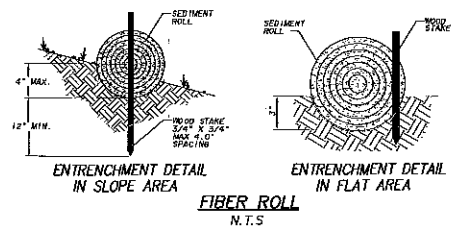
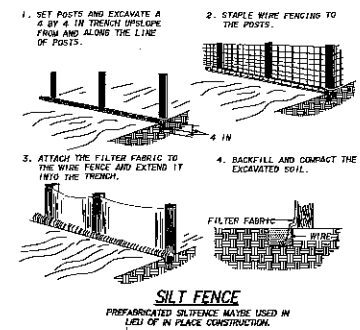
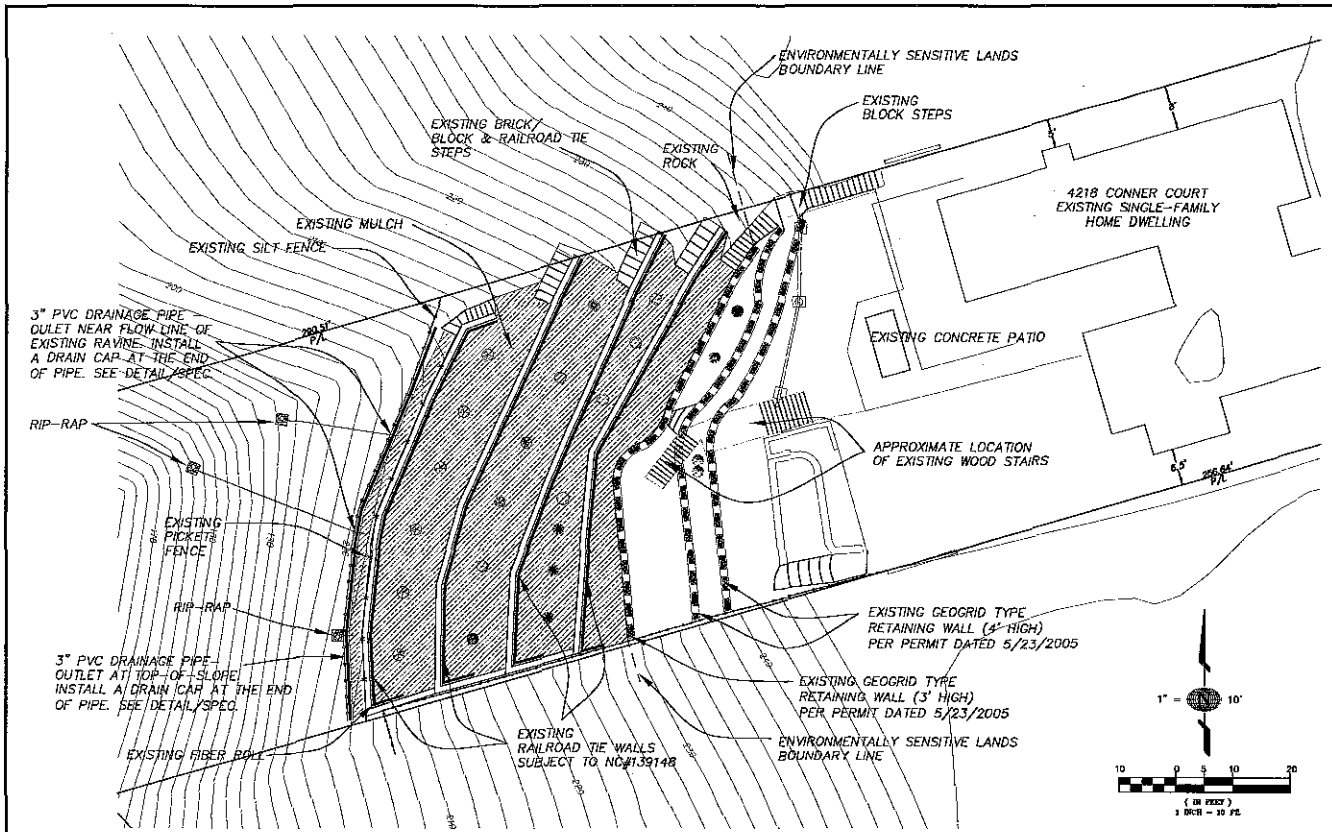
CHECK ONE:

- SIGNED BY LEAD AGENCY  
 SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:







**BMP LEGEND**

DESCRIPTION	HEIGHT	SPREAD	SYMBOL
AVOCADO - PERSEA AMERICANA 10 GALLON 25% FRUIT TREE	30'-40'	25'-35'	⊗
ORANGE - CITRUS SINENSIS 10 GALLON 13% FRUIT TREE	12'-20'	12'-20'	⊙
BRANDYBUTT - CITRUS PARADOXUS 10 GALLON 4.3% FRUIT TREE	12'-20'	15'-25'	⊗
TANGORINE - CITRUS RETICULATA 10 GALLON 4.3% FRUIT TREE	10'-12'	12'-15'	⊙
MANGO - MANGIFERA INDICA 10 GALLON 4.3% FRUIT TREE	30'-45'	30'-40'	⊗
LEMON - CITRUS LIMON 10 GALLON 4.3% FRUIT TREE	10'-20'	10'-15'	⊙
LIME - CITRUS LIMETTA 10 GALLON 4.3% FRUIT TREE	10'-12'	12'-20'	⊙
APRICOT - PRUNUS AEMULANICA 5 GALLON 13% FRUIT TREE	15'-20'	15'-20'	⊗
SANTA ROSA PLUM - PRUNUS SALICINA 5 GALLON 14% FRUIT TREE	10'-35'	10'-20'	⊗
HEARTDART - PRUNUS PERSICA 5 GALLON 4.3% FRUIT TREE	8'-10'	8'-10'	⊙
CORDON ROUGE APPLE - MALUS DOMESTICA 8 GALLON 4.3% FRUIT TREE	18'-25'	18'-25'	⊙
POMEGRANATE - PUNICA GRANATUM 8 GALLON 4.3% FRUIT TREE	8'-20'	4'-15'	⊙
ALMOND - PRUNUS DULCIS 5 GALLON 4.3% FRUIT TREE	10'-15'	10'-15'	⊙

**BMP LEGEND (CONTINUED)**

DESCRIPTION	SYMBOL
EXISTING PICKET FENCE	— x — x —
EXISTING RAILROAD TIE RETAINING WALL	— ■ — ■ —
EXISTING GEGRID TYPE RETAINING WALL	— ■ — ■ —
EXISTING CHAIN LINK FENCE	— — — —
FIBER ROLL	— — — —
SILT FENCE	— — — —
MULCH	▨ ▨ ▨ ▨

**BMP LEGEND (CONTINUED)**

- ALL BMPs SHOWN ARE PERMANENT.
- THIS PUBLIC GRADING PLAN WAS PREPARED AT THE REQUEST OF THE CITY OF SAN DIEGO TO DOCUMENT WORK PERFORMED WITHOUT A PERMIT. RECOGNIZING THIS CONDITION, TERMINOLOGY USED HEREON IS NOT "TYPICAL". IN ADDITION, SOME OF THE STANDARD CITY NOTES HAVE BEEN OMITTED.
- IN LIEU OF PROVIDING A HYDROSEED MIX, MULCH WILL BE PROVIDED ON A YEAR ROUND BASIS TO MEET EROSION CONTROL MEASURES.
- PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMIT, THE OWNER/PERMITTEE SHALL ENTER INTO A MAINTENANCE AGREEMENT FOR ONGOING PERMANENT BMP MAINTENANCE.
- PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMIT, THE OWNER/PERMITTEE SHALL INCORPORATE ANY CONSTRUCTION BEST MANAGEMENT PRACTICES NECESSARY TO COMPLY WITH CHAPTER 14, ARTICLE 2, DIVISION 1 (GRADING REGULATIONS) OF THE SAN DIEGO MUNICIPAL CODE, INTO THE CONSTRUCTION PLANS OR SPECIFICATIONS.
- PRIOR TO THE ISSUANCE OF ANY CONSTRUCTION PERMIT, THE OWNER/PERMITTEE SHALL SUBMIT A WATER POLLUTION CONTROL PLAN (WPCP). THE WPCP SHALL BE PREPARED IN ACCORDANCE WITH THE GUIDELINES IN APPENDIX E OF THE CITY'S STORM WATER STANDARDS.

**Latitude 33**  
Planning and Engineering  
4908 Paracelsus Dr. 2nd Flr.  
San Diego, Ca. 92121  
619-751-0558 Fax 619-751-0554

STEVEN C. KETLER R.C.E. 48308  
REG. EXP. 07-30-2012



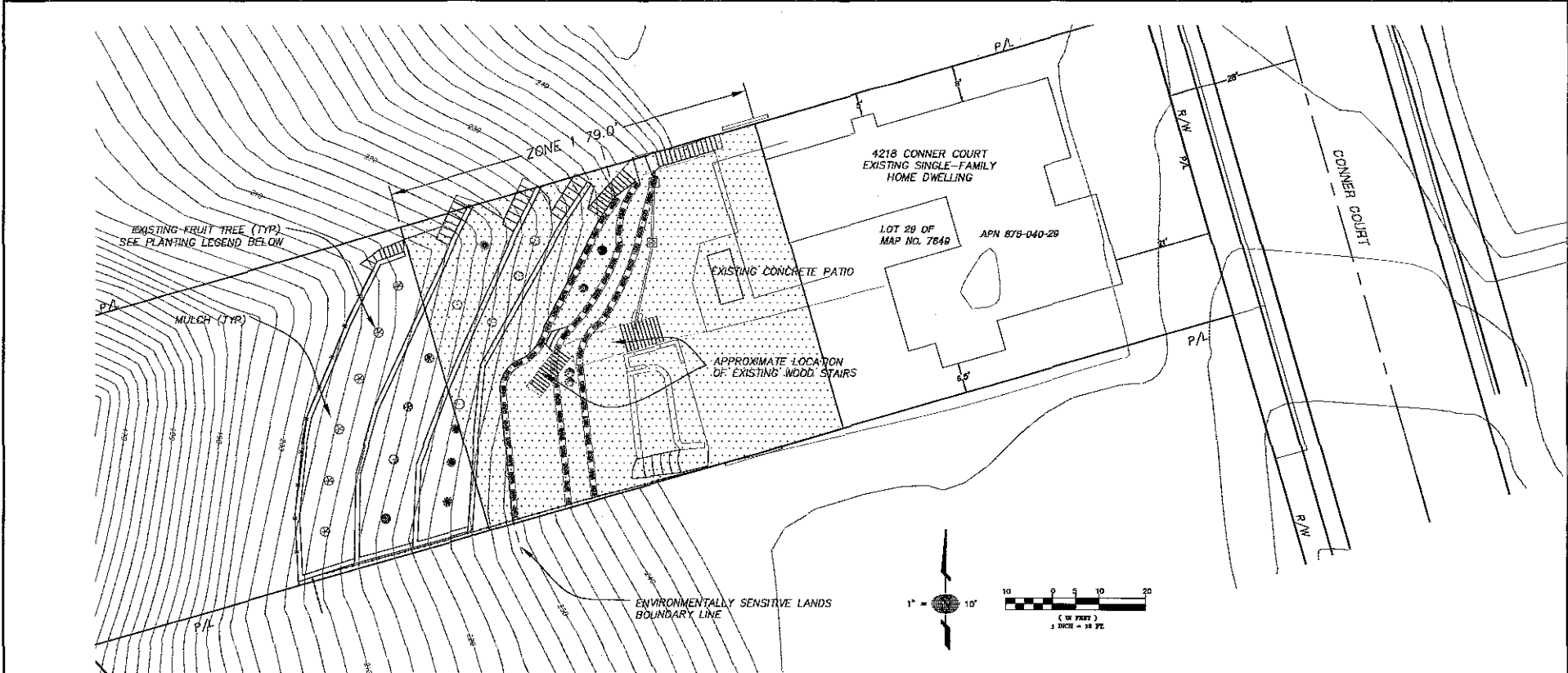
PRIVATE CONTRACT

EROSION CONTROL PLANS FOR:  
**4218 CONNER COURT**

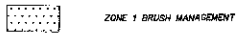
CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT SHEET # 12 OF 4 SHEETS		JD NO. 100000 PTS NO. 200020
FOR CITY ENGINEER	DATE	VTM XXXX
DESCRIPTION BY	APPROVED DATE	FILE#
DESIGNED BY		
NO. SHEETS	DATE STARTED	1978-06-23 HOBBS CORPORATION
CONTRACTOR	DATE COMPLETE	230-1700 LORANT TERRAZZINES
SUPERVISOR		

**-3-D**





**BRUSH MANAGEMENT LEGEND**



**NOTES**

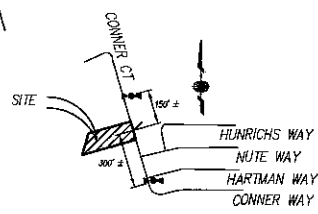
1. BRUSH MANAGEMENT ZONES SHALL BE PERMANENTLY IRRIGATED AND OWNER WILL ENTER INTO A LANDSCAPE MAINTENANCE AGREEMENT WITH CITY OF SAN DIEGO.

2. PER MUNICIPAL CODE SECTION §140.0412 (f), ZONE 1 BRUSH MANAGEMENT ZONE INCREASED TO 78.33 FEET AS SHOWN BELOW:

Z1 = 35' +  $\frac{68'}{3}$   
 Z1 = 79'

**TREE LEGEND**

DESCRIPTION	HEIGHT	SPREAD	SYMBOL
AVOCADO - PERSEA AMERICANA 80 GALLON 20% FRUIT TREE	30'-40'	25'-30'	⊗
ORANGE - CITRUS SINENSIS 10 GALLON 15% FRUIT TREE	12'-20'	12'-20'	⊙
ORANGEPEEL - CITRUS PARADISI 10 GALLON 4.5% FRUIT TREE	12'-30'	15'-25'	⊕
TANGORINE - CITRUS RETICULATA 10 GALLON 4.5% FRUIT TREE	10'-12'	12'-15'	⊗
MANGO - MANGIFERA INDICA 10 GALLON 4.5% FRUIT TREE	30'-45'	30'-40'	⊗
LEMON - CITRUS LIMON 10 GALLON 4.5% FRUIT TREE	10'-40'	10'-15'	⊕
LIME - CITRUS LIMETTA 10 GALLON 4.5% FRUIT TREE	10'-12'	12'-20'	⊙
APRICOT - PRUNUS ABRICATA 5 GALLON 13% FRUIT TREE	15'-20'	18'-20'	⊗
SANTA ROSA PLUM - PRUNUS SALICINA 5 GALLON 1% FRUIT TREE	10'-35'	10'-20'	⊙
NECTARINE - PRUNUS PERSICA 5 GALLON 4.5% FRUIT TREE	8'-10'	8'-10'	⊙
GOLDEN DELICIOUS APPLE - MALUS DOMESTICA 5 GALLON 4.5% FRUIT TREE	18'-25'	18'-25'	⊙
POMEGRANATE - PUNICA GRANATUM 5 GALLON 4.5% FRUIT TREE	8'-20'	4'-15'	⊙
ALMOND - PRUNUS DULCIS 5 GALLON 4.5% FRUIT TREE	10'-15'	10'-15'	⊙



FIRE HYDRANT LOCATION MAP  
 NTS

PRIVATE CONTRACT			
BRUSH MANAGEMENT PLAN FOR: <b>4218 CONNER COURT</b>			
SAN DIEGO, CALIFORNIA		JOB NO. XXXXXX	
SHEET 4 OF 4 SHEETS		PLOT NO. 200829	
FOR CITY ENGINEER	DATE	VITAL	XXX
APPROVED BY	APPROVED DATE (2 LINES)		
ORIGINAL DATE			
		1878-6263	
		TRAVIS TERRAVENNES	
		808-1701	
		LANDSCAPE ARCHITECTS	
AS-BUILTS	DATE STARTED		
CONTRACTOR	DATE COMPLETED		XXXX-4-D
INSPECTOR			



**LEGEND**

DESCRIPTION	SYMBOL
EXISTING PICKET FENCE	- X - X -
EXISTING RAILROAD TIE	— — — — —
EXISTING GEORGD TYPE RETAINING WALL	▤ ▤ ▤ ▤ ▤
STEEP SLOPES 3:125 AND 30' HIGHER IN HEIGHT	[Red Shaded Area]
IMPACTED AREA	[Hatched Area]

**NOTES:**  
 1. STEEP SLOPES +/- 8800 SF (47% OF ENTIRE SITE/LOT)  
 2. IMPACTED AREA: +/- 3300 SF (38% OF STEEP SLOPES)



SEVEN C. REIFLER  
 R.C.E. 048158 EXPIRES 06/30/10 DATE \_\_\_\_\_  
**Latitude 33**  
 Planning and Engineering  
 4833 Paramount Dr., 2nd Flr.  
 San Diego, Ca. 92123  
 858-751-0633 Fax 858-751-0634

PRIVATE CONTRACT			
SLOPE ANALYSIS FOR: 4218 CONNER COURT			
CITY OF SAN DIEGO, CALIFORNIA		VIC. NO. _____	
DEVELOPMENT SERVICES DEPARTMENT		P.I.S. NO. _____	
SHEET 3 OF 31 SHEETS			
FOR CITY ENGINEER		DATE _____	
DESCRIPTION	BY	APPROVED	SITE PLAN NO.
ORIGINAL			
AS-BUILTS			
CONTRACTOR	DATE STARTED	LAMBERT COORDINATES	
INSPECTOR	DATE COMPLETED	TBD - -D	



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

# Ownership Disclosure Statement

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

**Project Title** **Project No. For City Use Only**  
 4218 Conner Court 200829  
**Project Address:**  
 4218 Conner Court

**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):  
 Robert Patterson  
 Owner  Tenant/Lessee  Redevelopment Agency  
 Street Address:  
 4218 Conner Court  
 City/State/Zip:  
 San Diego, CA 92117  
 Phone No: (619) 544-6524 Fax No:  
 Signature: *Robert Patterson* Date: Dec 2<sup>nd</sup> 2009

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:



THE CITY OF SAN DIEGO

May 22, 2009

# CIVIL PENALTY NOTICE AND ORDER

**Location:** 4218 Conner Court  
**APN NO.:** 676-040-29-00  
**Property Owner:** Robert and Audrey Patterson Family Trust  
**Address:** 4218 Conner Court  
San Diego CA 92117  
**Zone:** RS-1-7

You are hereby notified that the property at 4218 Conner Court is in violation of the San Diego Municipal Code (SDMC) and you are subject to civil penalties pursuant to San Diego Municipal Code Section 12.0801 through 12.0810.

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

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

You have violated the law by conducting grading activity on Environmentally Sensitive Lands (ESL), steep hillsides and sensitive biological resources. Additionally, you have constructed retaining walls that vary between 4-5 feet in height, an unpermitted set of stairs attached to a deck, and have placed drainage lines that empty into the steep hillsides.

On April 29, 2008, the property was observed to be in violation of the following section(s) of the SDMC.



Development Services Department  
Neighborhood Code Compliance Division

1200 Third Avenue, 8th Floor, MS 51N • San Diego, CA 92101-4106

Tel (619) 236-5500 Fax (619) 234-5900

<u>SDMC Sec.</u>	<u>Violation Description &amp; Location</u>
121.0302(a)	<b>Required Compliance with the Land Development Code</b> It is unlawful for any person to maintain or use any premises in violation of any of the provisions of the Land Development Code, without a required permit, contrary to permit conditions, or without a required variance.
121.0302(b)	It is unlawful for any person to engage in any of the following activities, or cause any of the following activities to occur in a manner contrary to the provisions of the Land Development Code: <ol style="list-style-type: none"><li>(1) To erect, place, construct, convert, establish, alter, use, enlarge, repair, move, remove, equip, maintain, improve, occupy, or demolish any premises;</li><li>(2) To grade, excavate, clear, fill, grub, build an embankment, construct slopes, or disturb sensitive natural or biological resources on any lot or premises; or</li><li>(3) To change density or intensity of the use of land; or</li><li>(4) To maintain or allow the existence of any condition that creates a public nuisance.</li></ol>
129.0202	Failure to obtain the required building permit for structural work.
129.0111	Failure to obtain the required building inspections and approvals.
129.0602	<b>When a Grading Permit is Required</b> A Grading Permit is required for the following work: (b) Any grading required for the restoration of unauthorized grading; (e) Any grading that includes the following conditions: <ol style="list-style-type: none"><li>(1) Excavation or fill that results in a slope with a gradient of 25 percent or greater (4 horizontal feet to 1 vertical foot) and for which the depth or height at any point is more than 5 feet measured vertically at the face of the slope from the top of the slope to the bottom of the slope;</li><li>(2) Excavation or fill for which the depth or height at any point from the lowest grade to the highest grade at any time during the proposed grading is more than 5 feet measured vertically;</li><li>(5) Grading that adversely affects the existing drainage pattern by altering the drainage pattern, concentrating</li></ol>

Civil Penalty Notice and Order  
4218 Conner Court  
May 22, 2009  
Page 3

runoff, increasing the quantity of runoff, or increasing the velocity of runoff to adjacent properties.

- 142.0103**                    **When a Permit Is Required for Grading**  
(a) A Grading Permit is required for any grading work specified in Section 129.0602.
- 142.0144**                    **Grading Within Environmentally Sensitive Lands**  
Grading within environmentally sensitive lands shall comply with Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations).
- 142.0146**                    **Erosion, Sedimentation, and Water Pollution Control**  
(a) All grading work shall incorporate erosion and siltation control measures in accordance with Chapter 14, Article 2, Division 4 (Landscape Regulations) and the standards established in the Land Development Manual.  
(b) All development shall be conducted to prevent erosion and stop sediment and pollutants from leaving the work site. The property owner is responsible to implement and maintain temporary and permanent erosion, sedimentation, and water pollution control measures to the satisfaction of the City Manager, whether or not such measures are a part of approved plans. The property owner shall install, monitor, maintain, and revise these measures, as appropriate, to ensure their effectiveness. Controls shall include measures outlined in Chapter 14, Article 2, Division 2 Storm Water Runoff Control and Drainage Regulations) that address the development's potential erosion and sedimentation impacts.
- 142.0147**                    **Revegetation Requirements**  
All graded areas including manufactured slopes and disturbed areas other than manufactured slopes shall be revegetated in accordance with Chapter 14, Article 2, Division 4 (Landscape Regulations).
- 142.0202**                    **When Drainage Regulations Apply**  
This division shall apply to all development in the City, whether or not a permit or other approval is required.

**142.0220 Storm Water Runoff Control**

(a) All development shall comply with Municipal Code Chapter 4, Article 3, Division 3 (Stormwater Management and Discharge Control).

(b) All development shall be conducted to prevent erosion and stop sediment and pollutants from leaving the property to the maximum extent practicable. The property owner is responsible to implement and maintain temporary and permanent erosion, sedimentation, and water pollution control measures to the satisfaction of the City Manager, whether or not such measures are a part of approved plans. The property owner shall install, monitor, maintain, and revise these measures, as appropriate, to ensure their effectiveness. Controls shall include the following measures that address the development's potential erosion, sedimentation, and water pollution impacts.

- (1) Erosion prevention.
- (2) Sediment control.
- (3) Phased grading.

**143.0110 When Environmentally Sensitive Land Regulations Apply**

This division applies to all proposed development when environmentally sensitive lands are present on the premises.

(a) Where any portion of the premises contains any of the following environmentally sensitive lands, this division shall apply to the entire premises, unless otherwise provided in this division:

- (1) Sensitive biological resources.
- (2) Steep hillsides.

**143.0160 Violations and Remedies**

The provisions of this division shall be enforced pursuant to Chapter 12, Article 1, Division 2, Enforcement Authorities for the Land Development Code.

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

**Immediately cease all grading activity which includes clearing and grubbing of native vegetation, dumping fill into the canyon and other landscaping activity on the rear portion of the property containing steep hillsides and sensitive biological resources.**

Civil Penalty Notice and Order  
4218 Conner Court  
May 22, 2009  
Page 5

**By June 3, 2009**, a plan must be prepared by a qualified professional showing all erosion control measures to be installed. The erosion control plan must be submitted to Neighborhood Code Compliance Division (NCCD).

Install all necessary erosion and sediment control measures, using Best Management Practices (BMPs), necessary to protect all exposed slopes and pads. These BMPs must eliminate the potential for a discharge of sediments and other pollutants into and adjacent native habitat and properties.

**By August 20, 2009**, you shall submit a grading plan, prepared by a qualified Civil Engineer and Biological Consultant, for restoration and revegetation of the site to restore the property to its pre-existing topography and condition to NCCD for review and approval.

**By August 31, 2009**, you shall submit an application for a permit for restoration and revegetation to Development Services Department (DSD) and have it deemed complete to obtain a grading permit from DSD for restoration and revegetation of the site.

**By February 27, 2010**, you shall obtain a grading permit for restoration/revegetation of the site to its pre-existing condition, perform all work required by the permit, and obtain all final inspection approvals.

- 1) You shall retain the services of a qualified biological consultant to evaluate the existing vegetation on site and quantify the amount of acreage impacted by the unauthorized grading and construction activity. This biological evaluation is required to be prepared in accordance with the City of San Diego's Biological Review References (July 2002) **and include a Revegetation/Restoration Planting Plan prepared in accordance with Attachment "III" (General Outline for Revegetation/ Restoration Plans) of the City of San Diego's LDC Biology Guidelines /Guidelines for Conducting Biological Surveys (Pg. 22) (July 2002).** The biological evaluation shall also include a discussion on the City of San Diego, Section 143.0101 et seq of the San Municipal Code, Environmentally Sensitive Lands Regulations.
- 2) Repair of the site will require the preparation of a grading plan. The property owner must retain the services of a civil engineer to evaluate the slope and the geologic conditions, and design a remedial repair and grading plan to restore the surface to a stable condition in conformance with the requirements within the City of San Diego's *Environmentally Sensitive Lands Regulations*. All grading work shall incorporate storm water pollution prevention control measures in accordance with Chapter 14, Article 2, Division 4 (Landscape Regulations) and the standards established in the Land Development Manual. This shall include the design for controlling surface water runoff and drainage from the portion of the property that has been illegally graded to avoid erosion and siltation.



- 3) A site grading plan on D-sheets shall be submitted to the City of San Diego Development Services Department (Contact: Steve Cousins, Land Development Investigator). The drawing set shall conform to the Development Services Department project submittal requirements.
- a. Summary/Grading specification sheet including all appropriate professional stamps and signatures, particularly under the headings of Grading and Geotechnical Specifications (geologist) and Declaration of Responsible Charge (civil engineer).
  - b. Site Plan/Grading Plan illustrating both existing site contours and all restored contours and limits of work including reference point data as surveyed by either a civil engineer or land surveyor.
  - c. Landscape Irrigation Plan prepared in accordance with the San Diego Land Development Code (LDC) Chapter 14, Article 2, Division 4 and the LDC Landscape Standards (January 2000). All irrigation notes shall be incorporated into this plan set.
  - d. Revegetation/Restoration Planting Plan prepared in accordance with the LDC, Chapter 14, Article 2, Division 4, the LDC Landscape Standards, and Attachment "III" (General Outline for Revegetation/Restoration Plans) of the City of San Diego's LDC Biology Guidelines /Guidelines for Conducting Biological Surveys (Pg. 22) (July 2002). All landscape maintenance and biological monitoring notes shall be incorporated into this plan set.
  - e. Revegetation Maintenance and Monitoring Plan – Detailed note sheets documenting all of the revegetation requirements described in Attachment "III" (General Outline for Revegetation/Restoration Plans) of the City of San Diego's LDC Biology Guidelines /Guidelines for Conducting Biological Surveys (July 2002) shall be included in the plan set (i.e. The revegetation/restoration plan must include discussion of the restoration goals, responsible parties (i.e., consultants/contractors) and their qualifications, erosion control measures, revegetation seeding and planting specifications for specific habitats, performance criteria, long-term maintenance, five-year biological monitoring requirements, and an anticipated schedule for the completion of all work).

Upon submittal of the drawing set to the City of San Diego Development Services Department, the Landowner shall set up a deposit account in accordance with Information Bulletin 502 (Fec/Deposit Schedule for Construction Permits/Grading and Public Right-of-Way) to cover the cost of staff review.

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### **Failure to Comply with Notice and Order**

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

#### **1. Civil Penalties Hearing**

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

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

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

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

#### **2. Assessment of Penalties**

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

Civil penalty amounts are established by the Deputy Director of the Neighborhood Code Compliance. The following factors were used in determining the amount: Environmental impact, seriousness of the violation, and visual impact upon the community.

The penalty rate for the above listed violation(s) has/have been established at \$300.00 per day and shall be an ongoing assessment of penalties at the daily rate until the violations are corrected in accordance with Municipal Code Sections 12.0801 et seq.

Pursuant to SDMC, Section 12.0805(a), in determining the date on which civil penalties shall begin to accrue and the duration, the Deputy Director may consider a date when

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Neighborhood Code Compliance first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence.

### Administrative Costs

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

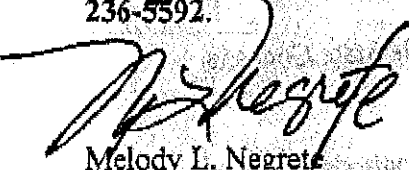
### Waiver

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

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

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

If you have any questions concerning this Notice and Order, or to schedule a compliance inspection, please contact Stephen Cousins, Land Development Investigator at (619) 236-5592.

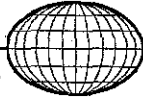
  
Melody L. Negrete  
Code Enforcement Coordinator

MLN/SC/lm

cc: File

NC# 139148

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

***Latitude 33****Planning and Engineering*

CONNER COURT  
SITE DEVELOPMENT PERMIT FINDINGS  
SECTION 126.0504

**(a) Findings for all Site Development Permits**

- (1) The proposed development will not adversely affect the applicable land use plan:

*This proposed project is consistent with the existing land use for the Clairemont Mesa Community single family low density designation.*

*The Site Development Permit is requested to address the development of four retaining walls that were constructed in an area of steep slopes on the property. The project is consistent with the Clairemont Mesa Community Plan in the following ways: The project mimics the natural topography of the hillside by paralleling the slopes. The proposal includes modifying the color of the walls to respect the character of the steep hillsides. The development does not disturb surrounding public view corridors. No geologic hazards exists on-site post-construction of the walls. Lastly, there will be no adverse drainage effects due to the redevelopment of the project area as the peak flows remained unchanged.*

- (2) The proposed development will not be detrimental to the public health, safety, and welfare;

*The project has been evaluated by a professional Geotechnical engineer and it was determined the retaining walls do not increase the geologic risk factor for the slope. The slopes disturbed are secure and will not be detrimental to the public health, safety, and welfare. The development of the retaining walls does not pose any fire or police risks. No adverse drainage effects exist due to the development of the site. Lastly, the removal of the walls may cause impacts beyond the existing limits relative to slope stability and erosion.*

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

*The proposed project complies with all regulations of the Municipal Code with the exception of one deviation. The development requests a deviation from the Environmental Sensitive Regulations to allow encroachment into a portion of the steep hillsides.*

*The property owner unknowingly built the walls without city permits and encroached into the slopes by approximately 38% of the steep hillside. As presented, the project was modified to avoid additional impacts and altered the development to be more visually aesthetic to the hillside. Elements of biology, geology, and drainage have been assessed and it was determined that no hazard exists.*

**(b) Supplemental Findings – Environmentally Sensitive Lands**

- (1) The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands:

*The site is physically suitable for the design and siting of the proposed retaining walls. The development is outside the MHPA boundary and the project minimally impacts 0.07 acres of Diegan Coastal Sage Scrub. This minimal impact will be mitigated; therefore, no significant impact will exist. The walls are developed adjacent to existing development. Removal and repair of the walls may result in a greater damage to the environment.*

*The removal of the walls may result in further impacts to environmentally sensitive lands.*

- (2) The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards;

*The development has been evaluated by a professional Geotechnical engineer and it was determined that the project did not increase the geologic risk; therefore it does not result in undue risk from geologic and erosional forces, or flood hazards. The fire department's review of the development resulted in a determination of no fire hazard. The removal of the walls may cause impacts beyond the existing limits relative to slope stability and erosion.*

- (3) The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands;

*The project has been reviewed by a professional Geotechnical Engineer and Biologist and it was determined that no additional adverse impacts to adjacent environmentally sensitive lands will occur. The applicant proposes to maintain the mulch, silt fencing, and fiber roll to control Stormwater runoff and drainage to the properties down slope. In addition, the Site Development Permit will include conditions and specific requirements to further avoid impacts to any adjacent environmentally sensitive lands.*

*The removal of the walls may cause impacts beyond the existing limits relative to slope stability and erosion.*

- (4) The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan;  
*The project site is not within or adjacent to the City's Multi-Habitat Planning Area (MHPA) for the MSCP.*

- (5) The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and

*The proper erosion control has been installed and will be maintained annually; therefore, the development will not contribute to the erosion of or adversely impact local shoreline sand supply.*

- (6) The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

*A Biological Letter Report prepared by Helix Environmental dated December 18, 2009, found that the activities conducted did not result in indirect impacts to sensitive plant and animal species. The report further indicated that the Direct Impact of 0.07 acres to Diegan Coastal Sage Scrub will be mitigated for at a 1:1 ratio through the purchase of upland credits at the Marron Valley Conservation Bank or through payment into the City's Habitat Acquisition Fund. As a result, the project would be mitigated below a level of significance. In addition, the applicant proposes to maintain the mulch, silt fencing, and fiber roll to control Stormwater runoff and drainage to the properties down slope.*

**(c) Supplemental Findings – Environmentally Sensitive Lands Deviations**

- (1) There are no feasible measures that can further minimize the potential adverse effects on environmentally sensitive lands; and

*The project has been designed to avoid additional adverse impacts to adjacent environmentally sensitive lands. The Site Development Permit will include conditions and specific requirements that further avoid impacts to the environmentally sensitive lands that currently exist. In fact, the removal of the walls may cause impacts beyond the existing limits relative to slope stability and erosion, and environmentally sensitive lands.*

- (2) The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.

*The development encroaches 38% into the steep hillsides of the site. The Site Development Permit limits the existing development to avoid additional impacts and to alter the development to better blend into the hillside. Specifically, the project proposes to mitigate minimal impact to .07 disturbance to Diegan Coastal Sage Scrub, modify the color of the walls to be more incorporated into the hillside aesthetically, and maintain*

*the mulch, silt fencing, and fiber roll to control Stormwater runoff and drainage to the properties down slope.*

**(e) Supplemental Findings – Steep Hillside Development Area Regulations Alternative Compliance**

(1) The proposed development is in conformance with the Steep Hillside Guidelines;

*Although the retaining walls and resulting landscape areas affect a portion of the steep slopes, the area of disturbance is consistent with neighboring properties. The walls have been placed as to mimic the pre-existing landform.*

(2) The proposed development conforms to the applicable land use plan; and

*The site is designated for single-family development and has been developed with one single family home. The retaining walls were built on private property; therefore, the site development is consistent with the Clairemont Mesa Community Plan.*

(3) Strict application of the steep hillside development area regulations would result in conflicts with other City regulations, policies, or plans.

*Strict application of the steep hillside requirements cannot assure geologic stability and will require maintenance of slopes that may not match the pre-existing conditions and requirements, is not economically unfeasible, and may result in further damage to the adjacent slopes, vegetation and the downhill properties.*