



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: May 7, 2013 **REPORT NO.** PC-13-062

ATTENTION: Planning Commission, Agenda of May 16, 2013

SUBJECT: Goldfinch Public Right-of-Way Vacation - Project No. 270034
Process 5

**OWNER/
APPLICANT:** Claudio Canive and Leyla Larijani, Owner
Claude-Anthony Marengo, Marengo Morton Architects, Applicant

SUMMARY

Issue(s): Should the Planning Commission recommend approval of the public right-of-way vacation along Goldfinch Street and private encroachments into the public right-of-way on a 0.87-acre site located at 3232 Goldfinch Street within the Uptown Community Plan area?

Staff Recommendation: Recommend City Council **Approve** Neighborhood Development Permit No. 1063079, and Public Right-of-Way Vacation No. 949135.

Community Planning Group Recommendation: On May 1, 2012, the Uptown Community Planning Group voted 13-0-1 to recommend approval of the proposed project with no additional conditions (Attachment 7).

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15305, Minor Alterations in Land Use Limitations (Attachment 4). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on November 15, 2012, and the opportunity to appeal that determination ended November 30, 2012.

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

Code Enforcement Impact: On December 19, 2007, the City of San Diego recorded a Notice of Violation (NOV), in reference to Neighborhood Code Violation No.



NC00119218, on the single family residence located at 3232 Goldfinch Street for building code and permit violations, and structure encroachments into the public right of way (Attachment 5). The NOV's Administrative Enforcement Order (Order) required the homeowners to remedy the violations or re-establish the property into its last permitted condition. The owners of the property have applied for the subject project's development permit and vacation in efforts to comply with the Order and remedy the violations to the City's satisfaction.

Housing Impact Statement: The project does not propose any new residential development within an existing established residential neighborhood and there will not be any housing impacts.

BACKGROUND

The project is located on a 0.87-acre site located at 3232 Goldfinch Street, south of West Thorn Street (Attachment 1) within the RS-1-7 Zone of the Uptown Community Plan. The project site is currently developed with an existing single family residence built in 1938 and remodeled in 2002 with garage and retaining wall improvements (Attachment 2). The Community Plan's Residential Element designates the site for residential use with low-density residential use (5-10 dwelling units per acre), and is also identified within a "single-family protected" neighborhood, in which only one detached dwelling unit per lot is permitted (Attachment 3).

In the late 1800's, Goldfinch Street was originally created as a major collector street, 80 feet wide overall of public right-of-way with a 20-foot wide curb to property line. Due to the topography, the Goldfinch Street blocks were modified during actual residential development and reduced to a neighborhood street, 40 feet of right-of-way with 5-foot curb to property line, as existing north of the 3200 block area. The 3200 block of Goldfinch Street remains an 80-foot wide public right-of-way. South of the 3200 block area also continues as an 80-foot wide public right-of-way, but is constricted by a large vertical slope that exceeds City standards pursuant to the Street Design Manual. Also, the existing residential improvements along this portion of the street limit the expansion of this area and would not be consistent with the rest of the Goldfinch Street improvement areas.

The 2002 single family residence's completed garage and retaining wall improvements were not properly permitted with the City and were constructed within the property's front yard setback and public right-of-way along Goldfinch Street. The City's Neighborhood Code Compliance Division (NCCD) began investigations on the project site in 2003 and recorded a Notice of Violation (NOV) NC 119218 on December 19, 2007.

In efforts to obtain compliance with zoning regulations for their constructed improvements, the property owner at 3232 Goldfinch Street submitted an application to summarily vacate portions of Goldfinch Street's 3200 block area between West Thorn Street and Spruce Street, a mapped paper street, and obtain a Neighborhood Development Permit (NDP) to allow portions of their privately owned structures to remain within the public right-of-way dedicated for a street, where they are the record owner of the underlying fee title.

DISCUSSION

Project Description:

All of the residential lots along the 3200 block area of Goldfinch Street have constructed improvements, such as retaining walls and access steps, that encroach within the public right-of-way's 20-foot curb to property line area. A few lots have garage structures within the RS-1-7 zone's front setback area. However, the specific NCCD case on the single family residence at 3232 Goldfinch Street with the existing front retaining walls and stepped accessway completely encroaches in the public right-of-way and the existing garage is within the existing 15-foot setback for the zone.

The property owner at 3232 Goldfinch Street proposes to vacate 10 feet on each side of the existing street public right-of-way within the block area to create a 60-foot wide overall public right-of-way with 10-foot curb to property lines. Once the vacation occurs and the front property line on the lot is adjusted, the majority of the existing retaining walls and access walkway steps will be outside of the public right-of-way and the garage will meet the setback requirements for the zone. Pursuant to SDMC section 126.0402(j), portions of the retaining walls and walkway steps that remain within the public right-of-way (approximately 39 linear feet) will require an NDP to allow privately owned structures within the public right-of-way dedicated for a street, where the applicant is the record owner of the underlying fee title. As a condition of the NDP, the property owner would be required to execute an Encroachment, Maintenance, and Removal Agreement with the City for the privately owned and maintained improvement located within the public right-of-way.

Similar to the property owner at 3232 Goldfinch Street, the other property owners along the 3200 block area may also file for an NDP for any continued encroachments if necessary.

Community Plan Analysis:

According to the Open Space and Recreation Element of the Uptown Community Plan, street rights of way should not be vacated only if the right-of-way will no longer be used for public access to individual parcels or to public open space; to provide public parking; to provide open space for public use; or to maintain views of open space from public rights-of-way. The project proposes to request the partial right of way vacation to bring existing structures into compliance with curb to property line and setback requirements.

As proposed, the public access to existing parcel lots and off-street parking would be maintained along the existing Goldfinch Street public right-of-way. Furthermore, the right of way vacation would not impede access on the existing improved street, to any adjacent open space, or obscure public views to open space.

Conclusion:

City staff has reviewed the proposed project and all issues identified through the review process have been resolved in conformance with adopted City Council policies and regulations of the Land Development Code. Staff has provided the draft findings to support approval of the proposed development, draft conditions of approval, and draft vacation resolution. City staff is recommending the Planning Commission recommend approval of the project to the City Council.

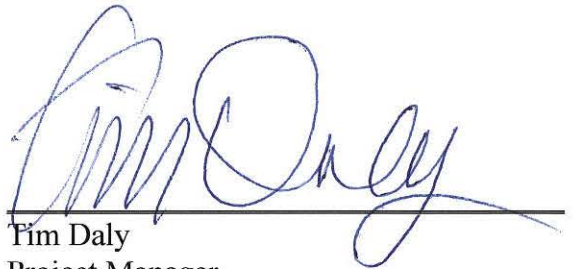
ALTERNATIVES

1. Recommend **Approval** of Neighborhood Development Permit No. 1063079, and Public Right of Way Vacation No. 949135, with modifications.
2. Recommend **Denial** of Neighborhood Development Permit No. 1063079, and Public Right of Way Vacation No. 949135, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Mike Westlake
Assistant Deputy Director
Development Services Department

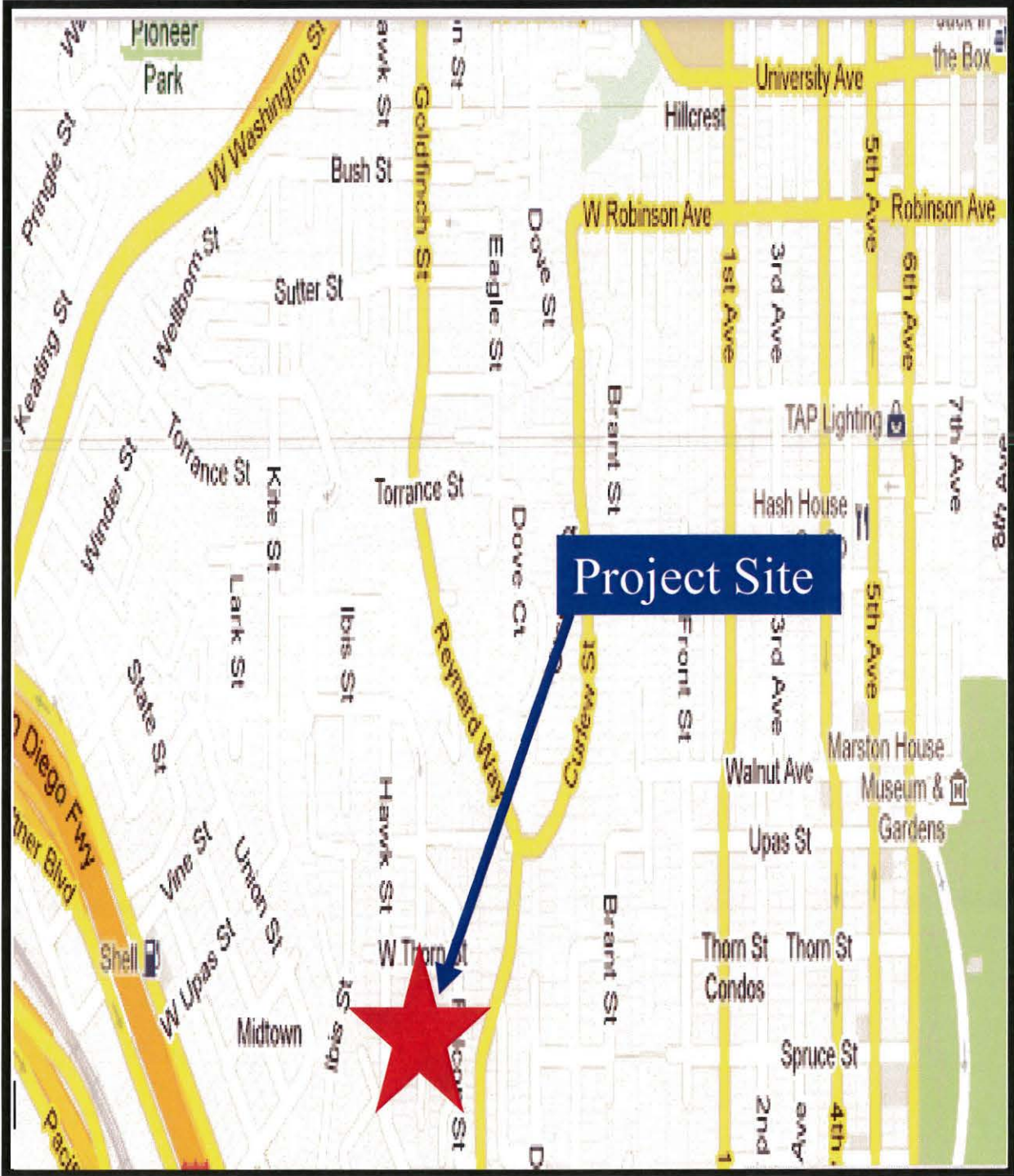


Tim Daly
Project Manager
Development Services Department

WESTLAKE/TPD

Attachments:

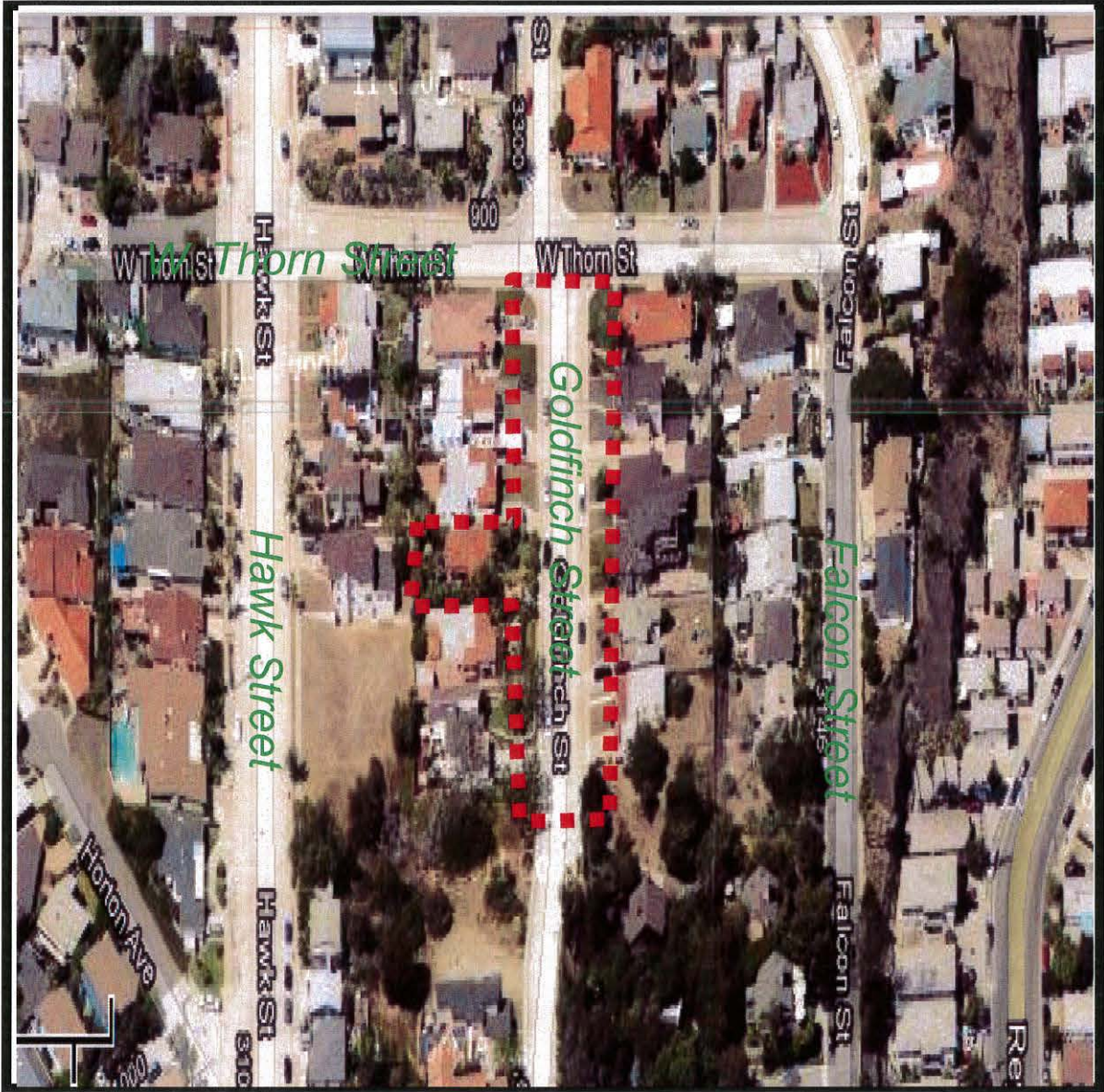
1. Project Location Map
2. Aerial Photograph
3. Community Plan Land Use Map
4. Environmental Exemption
5. Notice of Violation NC 119218
6. Project Plans
7. Community Planning Group Recommendation
8. Draft Permit Resolution with Findings
9. Draft Permit with Conditions
10. Draft Vacation Resolution with Findings
11. Exhibits A and B
12. Ownership Disclosure Statement
13. Project Data Sheet
14. Project Chronology



Project Location

**Goldfinch Street Vacation, Project No. 270034
3232 Goldfinch Street**

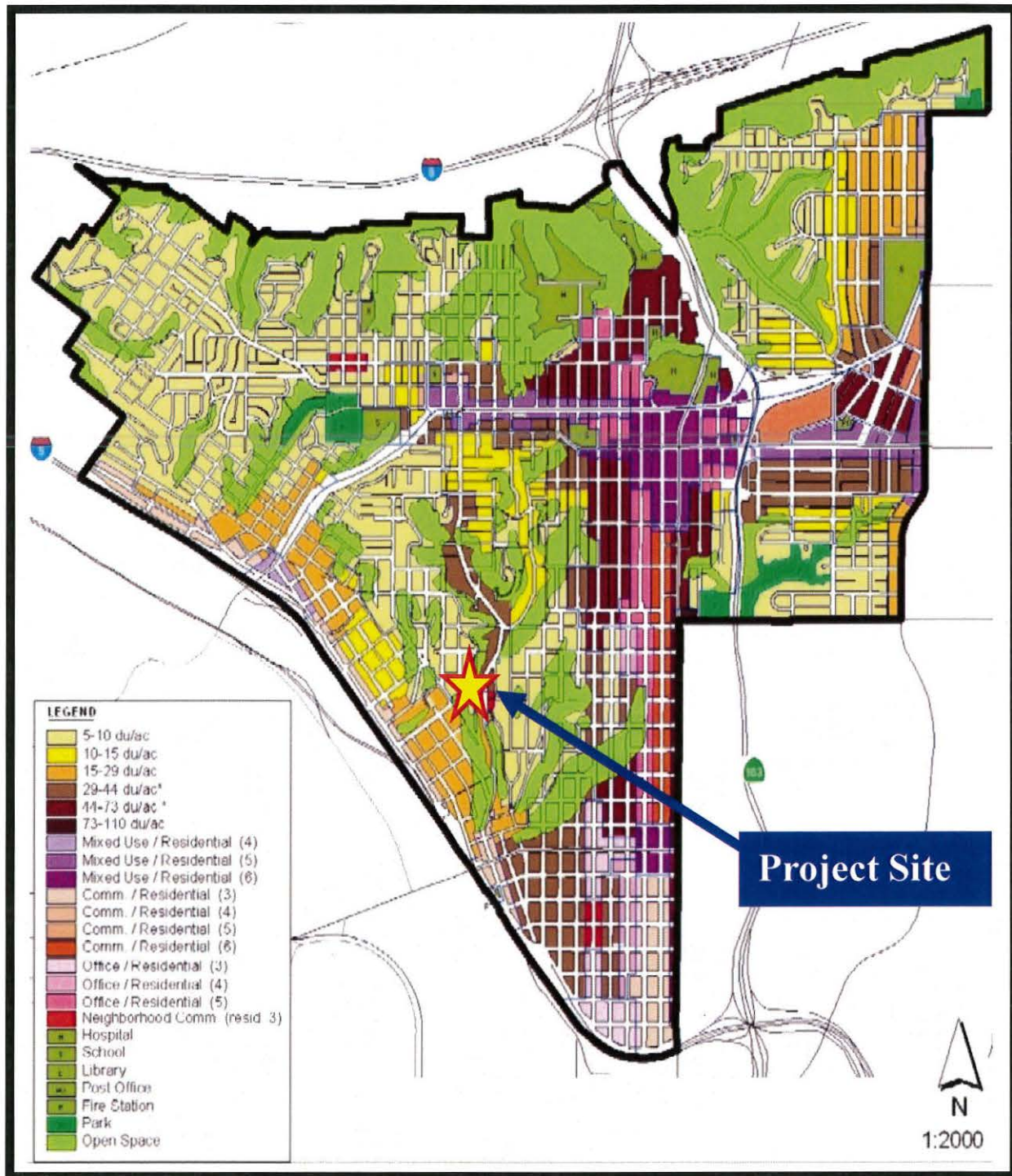




Aerial Photo

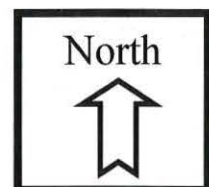
Goldfinch Street Vacation, Project No. 270034
3232 Goldfinch Street





Uptown Community Land Use Map

Goldfinch Street Vacation, Project No. 270034
3232 Goldfinch Street



NOTICE OF EXEMPTION

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.: 270034

PROJECT TITLE: **GOLDFINCH PUBLIC RIGHT OF WAY VACATION**

PROJECT LOCATION-SPECIFIC: 3232 Goldfinch Street, San Diego, California 92103

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

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: The project proposes Public Right-of-Way (PROW) Vacation to vacate 10 feet on each side of Goldfinch Street between Thorn Street and Spruce Street, and a Neighborhood Development Permit (NDP) to allow for an existing retaining wall to remain in the PROW located at 3232 Goldfinch Street.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Claude-Anthony Marengo (Agent)
 Marengo Morton Architects (Firm)
 7724 Girard Avenue, Suite 200
 La Jolla, CA 92037
 (619) 417-1111

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: CEQA EXEMPTIONS 15305(MINOR ALTERATIONS IN LAND USE LIMITATIONS)
 STATUTORY EXEMPTIONS:

REASONS WHY PROJECT IS EXEMPT: The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment. The project meets the criteria set forth in CEQA Section 15305 which includes minor alterations in land use limitations in areas with an average slope of less than 20 percent, and which do not result in any changes in land use density. In addition; the exceptions listed in CEQA Section 15300.2 would not apply.

LEAD AGENCY CONTACT PERSON: Rhonda Benally

TELEPHONE: (619) 446-5468

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

Gene L. Morgan AICP / Senior Planner
 SIGNATURE/TITLE

NOVEMBER 15, 2012
 DATE

CHECK ONE:

- SIGNED BY LEAD AGENCY
 SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:

THE ORIGINAL OF THIS DOCUMENT
WAS RECORDED ON DEC 19, 2007
DOCUMENT NUMBER 2007-0781581
GREGORY J. SMITH, COUNTY RECORDER
SAN DIEGO COUNTY RECORDER'S OFFICE
TIME: 12:37 PM

RECORDING REQUESTED BY
and when recorded mail to:
City of San Diego, NCCD

Attn: Teresa Almazan
1200 Third Avenue, 8th Floor, MS 51N
San Diego, CA 92101-4154

Space above this line for Recorder's use.


RECORDED NOTICE OF VIOLATION

ASSESSORS PARCEL NUMBER: 451-561-09-00
PROPERTY ADDRESS: 3232 Goldfinch Street, San Diego, CA 92103
OWNER OF RECORD: Leyla Larijani
DATE: December 19, 2007

Pursuant to the provisions of San Diego Municipal Code Section 12.1003, the City of San Diego is hereby filing this notice, as public record, that the above identified real property within the City of San Diego more specifically described as "**Lot 1 in Block 373 of Horton's Addition, According to Map thereof made by L.L. Locking**" is not in compliance with the provisions of the San Diego Municipal Code. A copy of the Notice of Violation is attached.

This notice shall remain on record until all necessary corrections have been made and the property is in compliance with the Municipal Code sections related to the violations cited. In addition, as long as these violations exist, the City of San Diego may withhold permits for buildings, alteration, use or development of the property.

CITY OF SAN DIEGO


Melody Negrete
Code Enforcement Coordinator

MN/JP/ta

Attachment: Copy of Administrative Enforcement Order dated November 9, 2007
Copy of NOV dated March 2, 2006

cc: File
Owner(s)

NC 119218

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

Katherine Jane Morris
 Administrative Hearing Officer
 City of San Diego

IN THE MATTER OF)
)
 CLAUDIO CANIVE &)
 LEYLA LARIJANI)
 3232 GOLDFINCH ST.)
 SAN DIEGO, CALIFORNIA)
 _____)

APPEAL---RECORD NOTICE OF VIOLATION
 ADMINISTRATIVE ENFORCEMENT ORDER

**I
 STATEMENT OF THE CASE**

This matter came on regularly for hearing before Katherine Jane Morris, Administrative Hearing Officer for the City of San Diego, on 29 October 2007 at 9:30 a.m. and was heard on that date, notice duly and regularly given. The purpose of the hearing was to determine whether the responsible Person has caused or maintained a violation of the Municipal Code or applicable state code that existed on the dates specified on the Notice of Violation and whether the Notice of Violation shall be recorded.

Melody Negrete, Code Enforcement Coordinator, appeared on behalf the Development Services Department, Neighborhood Code Compliance Division. The appellants, Claudio Canive and Leyla Larijani appeared in person and represented themselves.

The following individuals testified on behalf of the Neighborhood Code Compliance Department:

1. Melody Negrete, Code Enforcement Coordinator.
2. Joe Pena, Combination Inspector.
3. Tonia Rodin, Senior Combination Inspector.

The following individuals testified on behalf of the appellants, Claudio Canive and Leyla Larijani:

1. Claudio Canive, Property Owner.
2. Leyla Larijani, Property Owner.
3. Michael Contreras, Civil Engineer.

The following documents or other physical evidence were introduced by Ms. Negrete and received into evidence:

1. Exhibit #C1: Letter dated 8/16/07 appealing the Intent to Record Notice of Violation.
2. Exhibit #C2: Intent to Record Notice of Violation, dated 8/7/07.
3. Exhibit #C3: Receipt for Certified Mail, dated 8/7/07.
4. Exhibit #C4: Parcel Information Report, dated 6/12/07.
5. Exhibit #C5: Legacy BPIS Permits, dated 6/12/07.
6. Exhibit #C6: Legacy BPIS Permits, dated 6/12/07.
7. Exhibit #C7: Legacy BPIS Permits, dated 6/12/07.
8. Exhibit #C8: Project Information, dated 6/29/06.
9. Exhibit #C9: Notice of Violation, dated 3/2/06.
10. Exhibit #C10: Building Permit & Inspection Status, dated 8/18/05.
11. Exhibit #C11: Grant Deed, dated 11/18/04.
12. Exhibit #C12: Plans, dated 2003.
13. Exhibit #C13: Curb to Property Information, 3232 Goldfinch Street, undated.
14. Exhibit #C14: Residential Building Records, undated.
15. Exhibit #C15: MetroScan/Ownership Information screen, undated.
16. Exhibit #C16: Receipt for Certified Mail, dated 10/18/07.
17. Exhibit #C17: Request for Voluntary Compliance, dated 8/16/05.
18. Exhibit #C18: Site Plan, 3232 Goldfinch Street, undated.
19. Exhibit #C19: Photographic Exhibit, various dates including 2/9/04, 6/20/06 and 5/1/07.
20. Exhibit #C20: NCCD Administrative Costs in the amount of \$996.80.

The following documents or other physical evidence were introduced by the appellants and received into evidence:

1. Exhibit #A1: Chronology/Summary re: 3232 Goldfinch Street for the period 1/23/01-10/24/07.
2. Exhibit #A2: Letter appealing the Notice of Intent to Record Notice of Violation dated 8/16/07 with attachments.
3. Exhibit #A3: Letter of Transmittal from Shellie Kondovski, Earth Support Systems, Inc., dated 4/13/06 acknowledging transmittal of Land Development Manual dated 10/2/01 and Full Size Plans dated 11/23/01, and declining to take on project at 3232 Goldfinch Street.
4. Exhibit #A4: Fax transmittal from Leyla Larijani to Mike Contreras, undated.
5. Exhibit #A5: Memorandum from Marlang Planning and Design dated 4/26/06.
6. Exhibit #A6: San Diego Municipal Code section, Article 6, Development Permits; Division 8: Variance Procedures.
7. Exhibit #A7: City of San Diego, Development Services, General Application, 3232 Goldfinch Street, dated 4/2/07.
8. Exhibit #A8: City of San Diego, Development Services, Original Permit, 3232 Goldfinch Street, issued 11/27/01.
9. Exhibit #A9: Copy of Business Card of Steven Potter, Senior Investigator, State of California, Department of Consumer Affairs.
10. Exhibit #A10: Fax Transmittals to Hillary Coulson dated 10/17/07 with attachments.

11. Exhibit #A11: Subpoena in Criminal Case issued to Leyla Larijani, The People of the State of California vs Jose Martinez, dated 10/18/07.
12. Exhibit #A12: Subpoena in Criminal Case, issued to Claudio Canive, The People of the State of California vs Jose Martinez, dated 10/18/07.
13. Exhibit #A13: Fax cover sheet, San Diego District Attorney, addressed to Claudio Canive, dated 10/25/07.
14. Exhibit #A14: Plans, 3232 Goldfinch Street, undated.

II FINDINGS OF FACT

1. Following a complaint to the Neighborhood Code Compliance Department regarding water seepage involving 3232 Goldfinch Street, San Diego, California, a case was entered and assigned to Inspector Ivan Kornblau on 9/8/03; a Voluntary Compliance Letter was subsequently sent to the property owners. This case was eventually dropped by the complainant.
2. On or about 8/15/05 following a complaint to the Neighborhood Code Compliance Department, a case involving 3232 Goldfinch Street, San Diego, California, was opened and assigned to Inspector Pat Ash; a Voluntary Compliance Letter was subsequently sent to the property owners
3. The owners of record of the property at 3232 Goldfinch Street, San Diego, California are Claudio Canive and Leyla Larijani.
4. Following several telephone calls, Inspector Ash informed the complainant that her concerns were a civil matter and closed the case on 9/29/05.
5. Following a complaint on 1/12/06 Inspector Tony Khalil determined that the appellants had built a garage in 2003 without permits; on 1/30/06 he reopened the case on 3232 Goldfinch Street and conducted a site inspection and determined the deck at 3232 Goldfinch Street did not have a permit.
6. On 2/1/06 the case having been reopened, Pat Ash did a written permit review for 3232 Goldfinch Street with Tony Khalil. No final inspection had been done on a retaining wall or the garage and the permits had expired on 5/26/02.
7. On 2/23/06 Inspector Ash conducted a site inspection at 3232 Goldfinch Street and discussed violations with property owner.
8. On 2/26/07 Inspector Ash prepared the Notice of Violation which was dated and mailed 3/2/06. The following items lack permits: garage, roof and deck, rear block wall, the front and side garage wall. The Notice included the specific code sections in violation including but not limited to: SDMC section 129.0202 Failure to obtain the required building permit for structural work; SDMC section 129.0111 Failure to obtain the required building inspections and approvals; SDMC section 129.0302 Failure to

obtain the required electrical permit for electrical work; SDMC section 129.0314 Failure to obtain the required electrical inspections and approvals; SDMC section 129.0702 Failure to obtain the required Encroachment Permits for structures, material, objects or work done in the public right-of-way; SDMC section 142.0210 Drainage or run-off shall be controlled so as to be maintained within property boundaries. If storm water run-off (no sediment or chemicals), a drain pipe may be placed under the sidewalk if designed to meet standard specifications. The property owners were required to submit plans and other required documents by 5/1/06; obtain permits and approvals by 6/6/06, and obtain final inspection approval by 7/1/06.

9. On or about 6/21/06 Inspector Ash conducted a site inspection and saw no change. She checked the Project Tracking System and saw no submittal.

10. On or about 12/6/06 Inspector Ash checked the Project Tracking System as saw no application.

11. On or about 1/19/07 Sheri Carr, NCCD Acting Director, went to the site at 3232 Goldfinch Street and informed Inspector Ash that the property owners were going to apply for a variance.

12. Following the retirement of Inspector Ash, Inspector Joe Pena was assigned to the case; during a site visit at 3232 Goldfinch Street on 4/30/07 Claudio Canive informed him that he would be asking for a variance.

13. In August 2007 Inspector Pena was informed that the property at 3232 Goldfinch Street was for sale; he spoke with the Realtor and informed her of the existing Notice of Violation. The property was subsequently taken off the market.

14. On 8/7/07 Melody Negrete, Code Enforcement Coordinator, Neighborhood Code Compliance Department, issued the Notice of Intent to Record Notice of Violation to the appellants.

15. The Notice of Intent to Record Notice of Violation was served upon the appellants in accordance with San Diego Municipal Code section 11.0302 by certified mail, postage prepaid, return receipt requested. Simultaneously the same notice was sent by regular mail.

16. At the hearing of 10/29/07 the appellants testified regarding the reasons they had failed to obtain the permits for their home since 2003 including their inexperience as first-time home owners, using and relying on contractors who were unlicensed and did not complete their work and their final contractor, Jose Martinez, who was under investigation for consumer fraud. He had lied to them about the status of their permits and then could not be found. They had recently been subpoenaed to testify against him in a criminal case. Because they had paid him, they no longer had enough money to pay for a variance.

17. The written notice of the time and place of the hearing was served upon the appellants at least ten calendar days prior to the hearing.

18. The written notice of the time and place of the hearing was served upon the appellants in accordance with San Diego Municipal Code section 11.0301 by certified mail, postage prepaid, return receipt requested. Simultaneously the same notice was sent by regular mail.

III DETERMINATION OF ISSUES

1. By reason of the facts found in Findings of Fact paragraph number 3, Claudio Canive and Leyla Larijani are the Responsible Parties.

2. By reason of the facts found in Findings of Fact paragraph number 2, the appellants were notified of the Letter Requesting Voluntary Compliance dated 8/16/05.

3. By reason of the facts found in Findings of Fact paragraph number 8, the appellants were notified of the Notice of Violation dated 3/2/06.

4. By reason of the facts found in Findings of Fact paragraph numbers 14 and 15, the appellants were notified of the Notice of Intent to Record Notice of Violation.

5. By reason of the facts found in Findings of Fact paragraph numbers 17 and 18, the appellants were notified of this Administrative Hearing.

6. By reason of the facts found in Findings of Fact paragraph numbers 9-12, the appellants failed to comply with the Notice of Violation.

7. By reason of the facts found in Findings of Fact paragraph numbers 5-8, the appellants violated the following San Diego Municipal Code sections: 129.0202 Failure to obtain the required building permit for structural work; 129.0111 Failure to obtain the required building inspections and approvals; 129.0302 Failure to obtain the required electrical permit for electrical work; 129.0314 Failure to obtain the required electrical inspections and approvals; 129.0702 Failure to obtain the required Encroachment Permits for structures, material, objects or work done in the public right-of-way; 142.0210 Drainage or run-off shall be controlled so as to be maintained within property boundaries.

8. By reason of the facts found in Findings of Fact paragraph numbers 5-8, the Notice of Intent to Record Notice of Violation is Upheld.

**IV
ORDER**

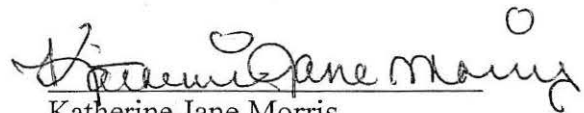
THEREFORE, the following order is made:

1. Appellant shall pay NCCD Administrative Costs in the Amount of \$996.80.
2. Payment shall be made to the City Treasurer no later than the date indicated on the invoice.

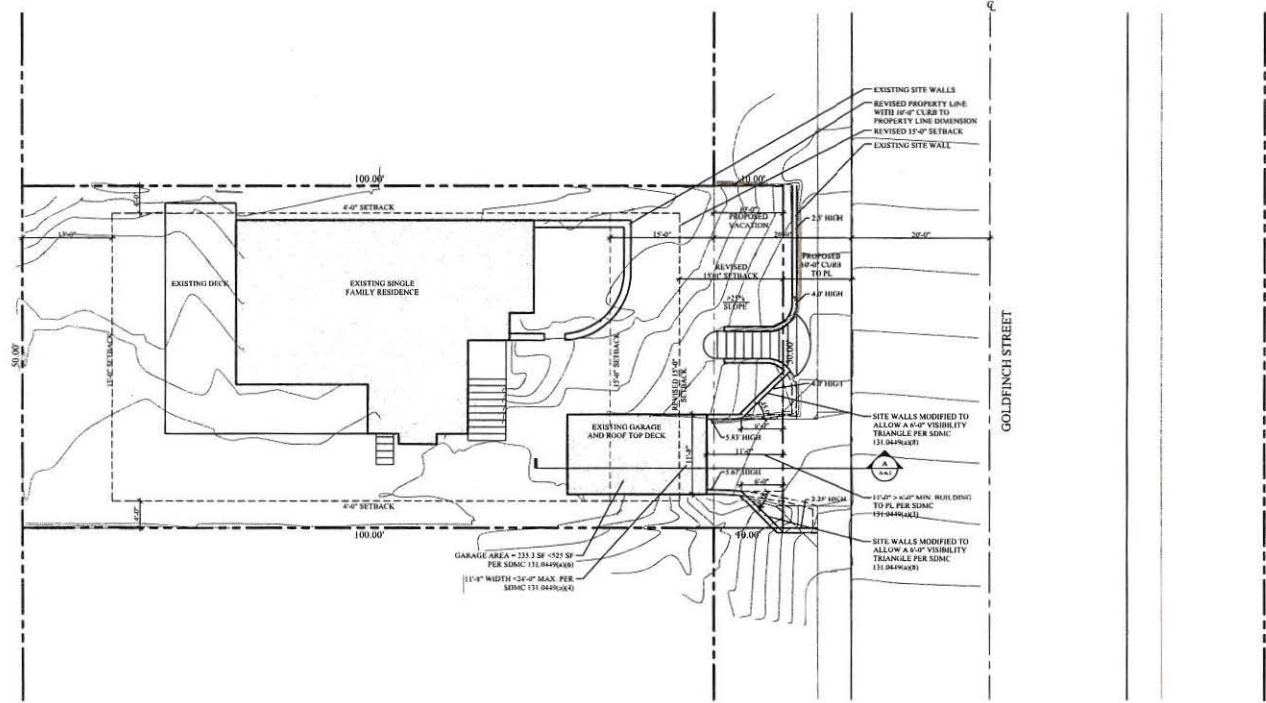
Administrative Enforcement Order

The Notice of Intent to Record Notice of Violation for the Property located at 3232 Goldfinch Street will be stayed for thirty (30) days from the date of the Hearing Officer's decision in order to allow the appellants to submit a set of plans which are deemed complete for a variance. If the variance is denied the appellants shall within thirty (30) days of the denial submit plans to bring the property into its last permitted condition. The Hearing Officer shall retain jurisdiction in this matter.

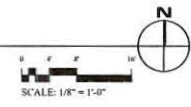
Dated: 11/9/07



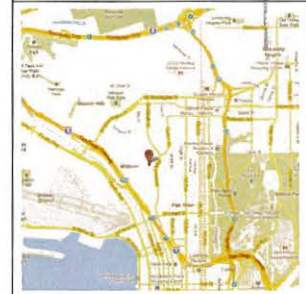
Katherine Jane Morris
Administrative Hearing Officer



1 EXISTING SITE PLAN



VICINITY MAP



PROJECT TEAM

OWNER'S
311 Goldfinch Street
San Diego, CA 92161

ARCHITECT
Marengo Morton Architects
7724 Girard Avenue, Second Floor
La Jolla, CA 92037
Telephone: (858) 459-3769
Fax: (858) 459-3768
Contact: Claude Anthony Marengo
cmarengo@mmarc.com
Cell: (619) 447-1111

PROJECT SCOPE

NEIGHBORHOOD DEVELOPMENT PERMIT No. 163079

PROJECT DATA

LEGAL DESCRIPTION: LOT 1, BLOCK 373 in the City of San Diego, County of San Diego, State of California, according to Map Record No. DBM01579122.

APR: 451-561-09-00

YEAR BUILT: 1947

ZONE: RS-1-7

OVERLAYS: AIRPORT APPROACH AIRPORT INFLUENCE AREA

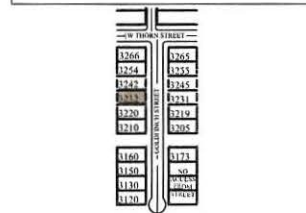
EXISTING LOT SIZE: 5,800 SF

PROPOSED LOT SIZE: 5,500 SF

NOTE: WE PROPOSE TO NOT USE THE INCREASE IN AREA TO INCREASE THE FAR FOR ANY BUILDING ON SITE.

DRAWING INDEX

| NAME | CONTENTS | SHEET |
|-------|------------------------------|-------|
| A-1.1 | SITE PLAN / TITLE SHEET | 1 |
| A-1.2 | 3212 GOLDFINCH SITE / PHOTOS | 2 |
| A-1.3 | 3212 GOLDFINCH SECTIONS | 3 |
| A-1.4 | 3212 GOLDFINCH PERSPECTIVES | 4 |



KEY MAP



Marengo Morton Architects
7724 Girard Ave.
Second Floor
La Jolla, CA 92037
Tel. (858) 459-3769
Fax. (858) 459-3768
Michael Morton AIA
Claude Anthony Marengo DASA



All design, site and arrangement are indicated on these drawings are the legal property of Marengo Morton Architects, Incorporated and the specific project for which they were prepared. No other use, without the express written consent of Marengo Morton Architects, Incorporated is permitted. There shall be no change, substitution, modification or increase from these drawings or accompanying specifications without the consent of Marengo Morton Architects, Incorporated. Visual, photo, or electronic copies or use of these drawings and attached specifications shall constitute the acceptance of all these restrictions.

GOLDFINCH STREET
PARTIAL RIGHT OF WAY
VACATION
3120 - 3266 GOLDFINCH STREET
SAN DIEGO, CA 92103

REVISIONS
08-26-2011 START OF DRAWINGS
08-26-2011 PRESENTATION
08-17-2012 RESUBMITTAL
05-28-2013 RESUBMITTAL

PHASE FEASIBILITY PHASE

PROJECT NO. 2011-14

REVIEWED BY: CAM

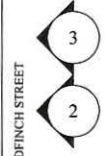
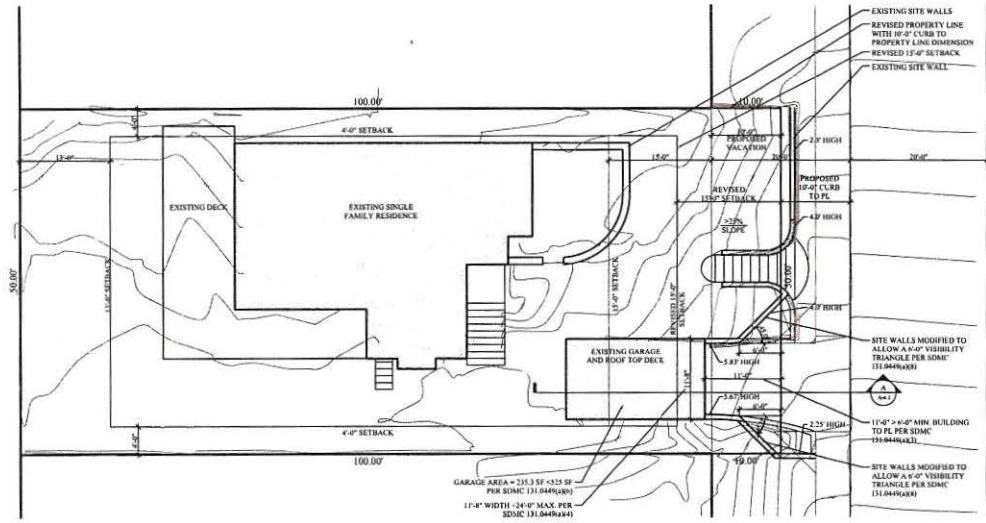
DRAWN BY: JK

DATE: 02-20-2013

Marengo Morton Architects, Inc. is a professional corporation organized under the laws of the State of California. It is a member of the American Institute of Architects (AIA) and the California Institute of Architects (CAIA). The firm is licensed by the State of California as an Architectural Firm. The firm's principal office is located at 7724 Girard Avenue, Second Floor, La Jolla, CA 92037. The firm's telephone number is (858) 459-3769 and its fax number is (858) 459-3768. The firm's website is www.mmarch.com. The firm's email address is mmarch@mmarc.com. The firm's principal architect is Michael Marengo, AIA, No. C-19371. The firm's principal interior designer is Claude Anthony Marengo, DASA. The firm's principal landscape architect is Michael Marengo, AIA, No. C-19371. The firm's principal civil engineer is Michael Marengo, AIA, No. C-19371. The firm's principal mechanical engineer is Michael Marengo, AIA, No. C-19371. The firm's principal electrical engineer is Michael Marengo, AIA, No. C-19371. The firm's principal structural engineer is Michael Marengo, AIA, No. C-19371. The firm's principal geotechnical engineer is Michael Marengo, AIA, No. C-19371. The firm's principal environmental engineer is Michael Marengo, AIA, No. C-19371. The firm's principal surveyor is Michael Marengo, AIA, No. C-19371. The firm's principal planner is Michael Marengo, AIA, No. C-19371. The firm's principal urban designer is Michael Marengo, AIA, No. C-19371. The firm's principal interior designer is Michael Marengo, AIA, No. C-19371. The firm's principal landscape architect is Michael Marengo, AIA, No. C-19371. The firm's principal civil engineer is Michael Marengo, AIA, No. C-19371. The firm's principal mechanical engineer is Michael Marengo, AIA, No. C-19371. The firm's principal electrical engineer is Michael Marengo, AIA, No. C-19371. The firm's principal structural engineer is Michael Marengo, AIA, No. C-19371. The firm's principal geotechnical engineer is Michael Marengo, AIA, No. C-19371. The firm's principal environmental engineer is Michael Marengo, AIA, No. C-19371. The firm's principal surveyor is Michael Marengo, AIA, No. C-19371. The firm's principal planner is Michael Marengo, AIA, No. C-19371. The firm's principal urban designer is Michael Marengo, AIA, No. C-19371.

SHEET TITLE
EXISTING SITE PLAN

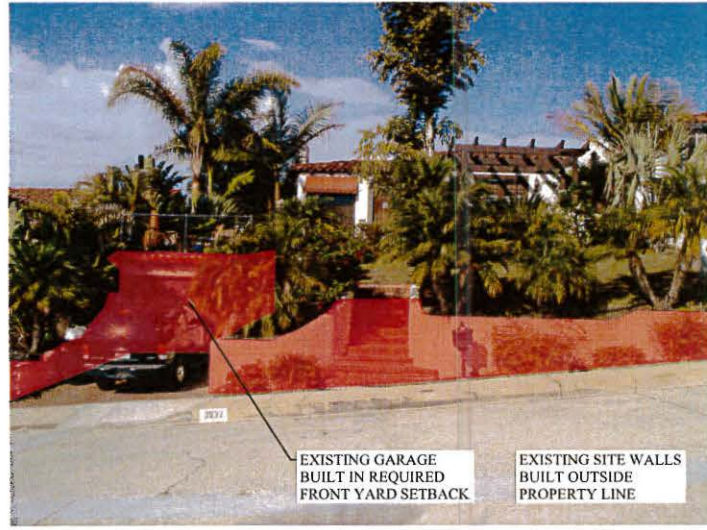
A-1.1
SHEET 1 OF 4



1 SITE PLAN FROM AS-BUILTS



2 FRONT PHOTO OF 3232 GOLDFINCH STREET



3 FRONT PHOTO - ENCROACHMENTS OF 3232 GOLDFINCH STREET

NOTES

EXISTING:
EXISTING SITE WALLS OUTSIDE PROPERTY LINE AND GARAGE BUILT IN REQUIRED FRONT YARD SETBACK

PARTIAL RIGHT OF WAY VACATION:
PARTIAL R.O.W. VACATION WOULD PUT MAJORITY OF SITE WALLS WITHIN PROPERTY LINE AND GARAGE IN COMPLIANCE



KEY MAP



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Fax. (858) 459-3768
Michael Morton AIA
Claude Anthony Marengo DREA



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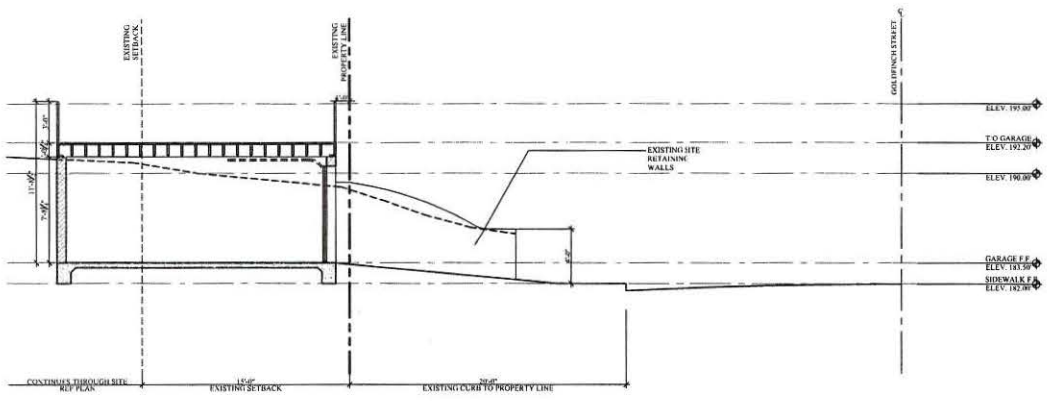
GOLDFINCH STREET
PARTIAL RIGHT OF WAY VACATION
3120 - 3266 GOLDFINCH STREET
SAN DIEGO, CA 92103

REVISIONS
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10-04-2011 PRESENTATION
08-17-2012 RESUBMITTAL
02-20-2013 RESUBMITTAL

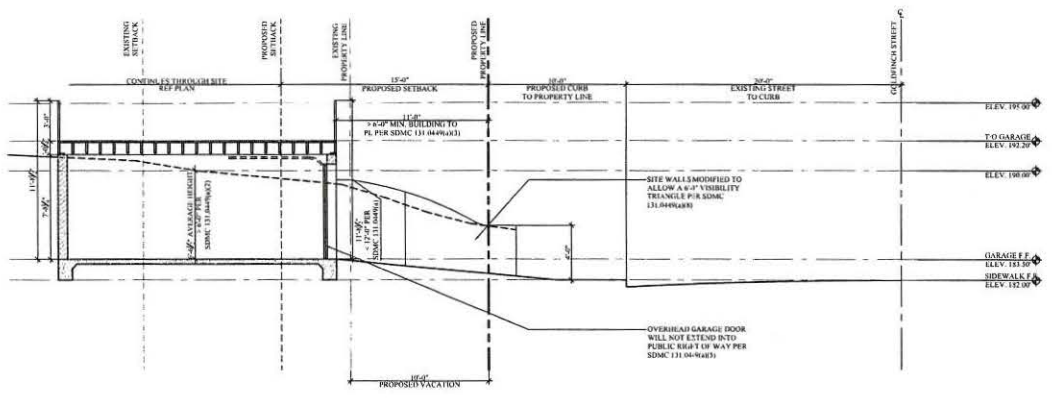
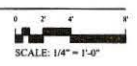
PHASE FEASIBILITY PHASE
PROJECT NO. 2011-14
REVIEWED BY CAM
DRAWN BY JK
DATE 02-20-2013

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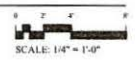
3232 GOLDFINCH
A-1.2
SHEET 2 OF 4



B PARTIAL SITE AND GARAGE SECTION - EXISTING PL AND SETBACK



A PARTIAL SITE AND GARAGE SECTION - PARTIAL R.O.W. VACATION



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**GOLDFINCH STREET
 PARTIAL RIGHT OF WAY
 VACATION**
 3120 - 3266 GOLDFINCH STREET
 SAN DIEGO, CA 92103

REVISED
 06-26-2011 START OF DRAWINGS
 06-28-2011 PRESENTATION
 06-17-2012 RESUBMITTAL
 02-20-2013 RESUBMITTAL

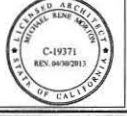
PHASE FEASIBILITY PHASE
 PROJECT NO. 2011-14
 REVISION BY CAM
 DRAWN BY JK
 DATE 02-20-2013

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SHEET 003 EXISTING GARAGE SECTION
A-1.3
 SHEET 3 OF 4



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**GOLDFINCH STREET
 PARTIAL RIGHT OF WAY
 VACATION**
 3120 - 3266 GOLDFINCH STREET
 SAN DIEGO, CA 92103

REVISIONS
 09-20-2011 START OF DRAWINGS
 10-04-2011 PRESENTATION
 09-17-2012 RESUBMITTAL
 03-20-2013 RESUBMITTAL

PHASE: FEASIBILITY PHASE

PROJECT NO: 2011-14

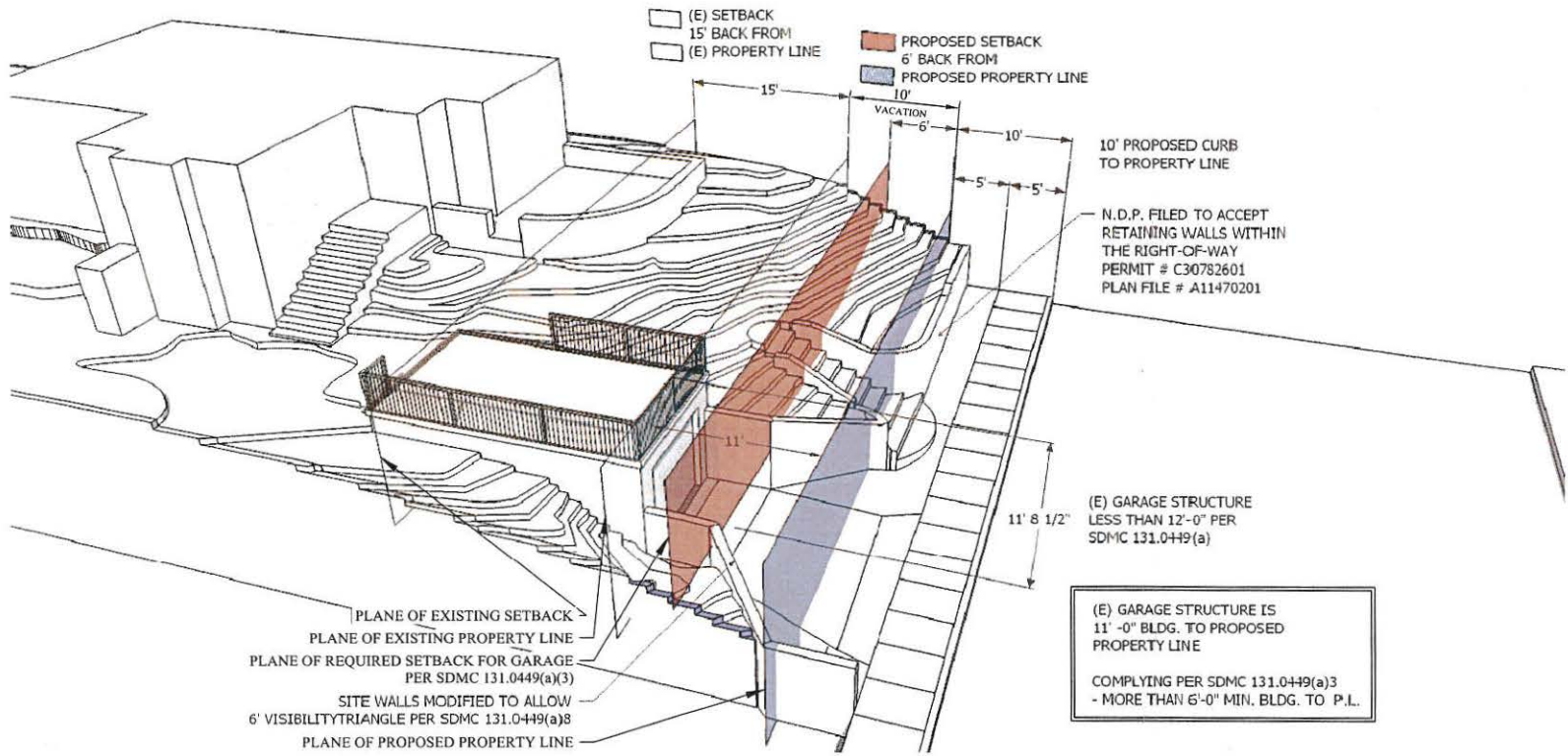
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DRAWN BY: JK

DATE: 03-20-2013

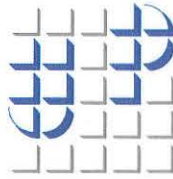
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SHEET TITLE: COMPARISON EXISTING & PROPOSED
A-1.4
 SHEET 4 OF 4



A PARTIAL SITE AND GARAGE PERSPECTIVE - EXISTING & PROPOSED COMPARISON

03-20-2013 10:58 AM 131.0+H9(a)3 - MORE THAN 6'-0" MIN. BLDG. TO P.I.



UPTOWN PLANNERS
Uptown Community Planning Group
May 1, 2012
MEETING MINUTES
Meeting Place: Joyce Beers Community Center

Meeting called to order at 6:00 p.m. by Vice Chair Jaworski.

Present: Jennifer Pesqueira, Matt Winter, Joe Naskar, Tom Fox, Bob Grinchuk, Ernie Bonn, Gary Bonner, Rhett Butler (6:10), Chris Ward, Ken Tablang, Neil Ferrier, Tony Winney, Beth Jaworski, Janet O'Dea (6:25)

Absent: Kim Adler, Don Liddell, Jim Mellos,

Approximately 100 people were in attendance.

I. Board Meeting: Parliamentary Items/ Reports:

During introductions, Acting Secretary Wilson pointed out this was likely the first Uptown Planners meeting chaired by a woman since Joyce Beers, the first chair of Uptown Planners, presided.

No board member agreed to be Secretary, so former board member Wilson agreed to continue to serve as Acting Secretary.

Approval of Agenda:

Motion by Ferrier, seconded by Winney, to approve the agenda as presented; passed by a unanimous vote of 12-0-1.

Approval of Minutes:

Motion by Bonn, seconded by Ferrier, to approve the draft minutes for the February 7, 2012 meeting; approved by a 12-0-1 vote; Ward, Jaworski abstaining.

Motion by Bonn, seconded by Ferrier, to approve the draft minutes for the February 16, 2012 special meeting; approved by a 11-0-3 vote; Ward, Grinchuk, Jaworski abstaining.

Motion by Ferrier, seconded by Bonner, to approve the draft minutes for the March 6, 2012 meeting; approved by a 11-0-3 vote; Ward, Grinchuk, Jaworski abstaining.

Motion by Bonn, seconded by Ferrier, to approve the draft minutes for the April 3, 2012 meeting; approved by a 13-0-1 vote; Jaworski abstaining.

Treasurer's Report:

Fox reported there was a total of \$375.00 in the bank account; Fox and former Treasurer Dahl will change the bank account into Fox's name over the next month.

Website Report:

Winney reported he is working with O'Dea on learning how to operate the website.

Chair/ CPC Report:

None

II. Non-Agenda Public Comment:

Aaron Byzak from UCSD provided an update on the traffic circulation study that his organization is sponsoring in the Hospital District. He announced a public workshop would take place on June 27, 2012 to discuss the study. Byzak also announced that Paul Viviano will be the new CEO of UCSD Hospital beginning in June 2012.

III. Representatives of Elected Officials:

Anthony Bernal, representing City Councilmember Todd Gloria, passed out the latest "District Three Dialogue"; he spoke about the increase in street repaving from prior years because of the improved financial status of the city; and announced a bike corral would be placed in Hillcrest.

Ian Clampett, representing City Councilmember Kevin Faulconer, also spoke about the improved finances of the city, and indicated more police officers would be on the streets as a result. He also indicated Councilmember Faulconer had personally participated in the repair of pot holes; and that 100 miles of streets had been repaved compared with seven miles last year. Faulconer had participated in the centennial celebration for the Spruce Street Bridge; and the Mike Gotch Bridge dedication as well.

Jason Weisz, now representing California Assemblymember Toni Atkins, announced a school scholarship program the state enacted that would be paid for through a new tax on corporations.

IV. Consent Agenda:

None

V. Potential Action Items: Projects:

2121 SAN DIEGO AVENUE ("OLD TOWN TRANSITIONAL HOUSING") – Process Five –
Five Points/ Middletown -- Conditional Use Permit for Transitional Military Housing in an existing; 46,926 sq. ft. acre site at 2121 San Diego Avenue in the MCCPD CL-6 Zone; AAOZ; FAA Part 77, North Bay Redevelopment Area.

The Old Town Transitional Housing project had been continued from the April 3, 2012 meeting of Uptown Planners; and in the interim the board requested: (1.) a determination by the City Attorney whether the project is transitional housing or a treatment facility; and (2.) the completion of environmental review which required the submittal of a geotechnical report showing whether there is an active fault under the project site.

Subsequently, the City Attorney, in a letter dated April 18, 2012, declined to make the determination requested by the board, and further indicated the issue may not be resolved prior to the City Council hearing that will decide whether to grant the CUP.

A Notice of Environmental Determination, dated April 30, 2012, indicated the project was exempt from CEQA because it was infill; this determination was made upon submittal of the geotechnical report sometime in April.

Public Comment:

Dr. Robert Smith and Debbie Dominick gave an update on the project; and Jessica Poole from Congresswoman Susan Davis' Office spoke about whether the federal funds designated for the Old Town Transitional Housing site could be used at a different location in San Diego. Poole indicated there was no guarantee they could be transferred, and that they must be used by the end of the year. If the federal funds were withdrawn, it would deprive 600-900 veterans of the program's benefits. Dr. Smith indicated the CUP could be made subject to a five year mandatory review. Jim Bartell, a consultant for the project, stated the applicant was willing to place conditions on the project, such as restricting smoking and an earlier curfew. Bartell also indicated the applicant was offering to tint both the project's east windows and the west windows of the Old Town Academy, and that there would also be 24/7 security.

Attorney Cynthia Morgan, representing the Old Town Academy, submitted a letter dated April 30, 2012 in response to the City Attorney's letter; the letter had been distributed to the board by E-mail prior to the meeting. Morgan also distributed a letter from the Foley & Lardner law firm dated May 1, 2012 at the meeting, which argued that the Veterans Administration had the discretion to find an alternate site in San Diego and retain the federal funding. Morgan requested the board reject the CUP for the specific reasons stated in the letters. Tom Donohue of the Old Town Academy also spoke, and expressed a fear that the Old Town Academy would be forced to close if the CUP was approved.

The Chair requested that comment from those in attendance be limited to the new information provided the board since the April meeting, and that those who spoke at the April meeting defer from speaking again.

Public comment was made by both supporters and opponents of the project: Among those speaking in favor were Tess Banko, Robin Williams, Gary Rossio, Ian Epley, Christine Hamel, Steve ---, from the project's advisory committee, Elsa Olesen; Simon P-----; among those speaking against were Michael Rosenbaum, Bob Daniels, Lisa Mortensen, Tom Gabrielli. Cindy Abair, of the VA, pointed out that federal contract regulations prevented the VA from finding an alternative location unless the CUP was rejected by the City Council; Jessica Poole, from Congressman Davis' Office, questioned if there would be enough time to process an RFP for a new site should that happen.

Board members made brief comments; those against indicated concerns regarding proximity of the proposed project to the charter school, land use incompatibility and opposition from the neighborhood; those in favor believed the use was compatible with both the school and neighborhood.

Motion by Butler, seconded by O'Dea, that: "Uptown Planners oppose the application for the Old Town Transitional Housing project CUP as presented." The motion passed by a vote of 9-4-1; voting in favor Butler, O'Dea, Pesqueira, Fox, Naskar, Grinchuk, Ward, Bonn, Tablang; voting against Winter, Winney, Bonner, Ferrier; non-voting Chair Jaworski abstained.

3232 GOLDFINCH STREET PUBLIC ROW VACATION – Process Five – Mission Hills – Public Right of Way Vacation to vacate a portion of Goldfinch Street at 3232 Goldfinch Street in the RS-1-7 Zone; FAA Part 77, AAOZ, AEOZ; NCCD #137941

Claude-Anthony Marengo presented the project on behalf of Morton Architects. It would partially vacate the southernmost portion of Goldfinch Street, which currently has a 20-foot curb to property line; the northern portion of Goldfinch Street has a five-foot curb to property line. Street vacation would bring a garage at 3232 Goldfinch Street into conformance with code.

City transportation planning staff does not support the partial street vacation; they want a full street vacation supported by all the property owners along the block. Marengo indicated that all the properties along that block of Goldfinch Street were also in violation of code, and was seeking to file a master permit that other non-conforming property owners may use in the future to obtain a similar street vacation. Some property owners along the street are hesitant to support the partial street vacation now because it might result in increased property taxes.

The owner of the property also spoke in favor of the vacation, and explained the original plans for a larger street along this section of Goldfinch Street have been abandoned.

During public comment, Ian Epley supported the proposed street vacation. Marlon Pangilinan, of long-range city planning, stated he did not oppose it.

Motion by Ferrier to approve the street vacation as presented; seconded by Winter; the motion passed 13-0-1; Butler, O'Dea, Pesqueira, Fox, Naskar, Grinchuk, Ward, Bonn, Tablang, Winter, Winney, Bonner, Ferrier; non-voting Chair Jaworski abstained.

3930 FIFTH AVENUE ("DBAR DESSERTS SIDWALK CAFÉ") – Process Two – Hillcrest --
Neighborhood Use Permit for a 409 sq. ft. sidewalk café at 3930 Fifth Avenue in the CN-1A Zone;
FAA Part 77, Transit Area.

Nick Fotias, of Awbrey, Cook, McGill Architects, presented the project on behalf of the applicant. The only issue that planning staff raised in the assessment letter for the project was the requirement for a "clear path" of travel of 8 feet between the outdoor café railing and any above ground obstruction on the sidewalk. There was only a 7.6 feet clear path indicated from possible obstructions in the site plans. Fotias, and the applicant, Keegan Gerhard, indicated that some of the obstructions in question were not above the ground, and in one case involved measuring the clear path from the beginning of a tree grate, instead of the tree.

During board discussion, it was pointed out that the proposed railing extended further out than that of the other existing outdoor cafes along the west side of the 3900 block of Fifth Avenue. Several board members stated the alignment should be the same as the other existing outdoor cafes along the block. The applicant indicated he was favorable to having his railing match the existing alignment of other outdoor cafes, even though it might remove two seats from his cafe.

Motion by Butler, seconded by Grinchuk, to approve the project subject to the following condition: that the outdoor cafe railing be aligned with the existing outdoor café railing of the adjacent Snooze outdoor café and the other outdoor cafe railings along the west side of the 3900 block of Fifth Avenue. This would maintain the existing symmetry of the railing along the block. The motion passed by a 13-0-1 vote; Butler, O'Dea, Pesqueira, Fox, Naskar, Grinchuk, Ward, Bonn, Tablang, Winter, Winney, Bonner, Ferrier; non-voting Chair Jaworski abstained.

VI. Adjournment:

Meeting adjourned at approximately 8:00 p.m.

Respectfully submitted,
Leo Wilson, Acting Secretary

WHEREAS, Claudio Canive and Leyla Larijani, husband and wife as joint tenants, Owner/Permittee, filed an application with the City of San Diego for a Neighborhood Development Permit to retain existing and modified retaining walls and improvements within the public right of way known as the 3232 Goldfinch Street project, located at 3232 Goldfinch Street, and legally described as Lot 1, Block 373 of Horton's Addition, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by L.L. Lockling, filed in the Office of the County Recorder, San Diego County, in the Uptown Community Plan area, in the RS-1-7 Zone; and

WHEREAS, on May 16, 2013, the Planning Commission of the City of San Diego considered Neighborhood Development Permit [NDP] Permit No. 1063079, and pursuant to Resolution No. XXXXX-PC voted to recommend City Council approval of the Permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on _____, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Neighborhood Development Permit No. 1063079:

NEIGHBORHOOD DEVELOPMENT PERMIT - SDMC sec. 126.0404

- 1. The proposed development will not adversely affect the applicable land use plan.** The project site, located at 3232 Goldfinch Street, proposes to allow the existing and modified site retaining walls and access improvements fronting the existing single family residence to remain within the public right of way, along the west side portions of Goldfinch Street, south of West Thorn Street within the Uptown Community Plan's (UCP) Residential Element, Low-Density Residential (5-10 du/ac.) designation.

The existing single family residence with frontage improvements and retaining walls on a single 5,000 square-foot lot is consistent with UCP's low-density residential use within a "single-family protected" neighborhood, in which only one detached dwelling unit per lot is permitted. Therefore, the project will continue to not adversely affect the applicable land use plan.

- 2. The proposed development will not be detrimental to the public health, safety, and welfare.** The project proposes to allow the existing and modified site retaining walls and access improvements fronting the single family residence at 3232 Goldfinch Street to remain within the public right of way. The associated permit controlling development and

operation of the project will contain conditions addressing project compliance with applicable local, regional, state, and federal regulations to prevent detrimental impacts to health, safety, and welfare of persons residing in and around the project site, including all applicable Building Code requirements.

The project proposes a privately owned and maintained structure, approximately 39 linear feet of retaining walls and front access steps, within the right-of-way for a public street, parallel to the front property line owned by the project's Owner/Permittee. The proposed retaining wall constitutes an encroachment requiring a Neighborhood Development Permit and an Encroachment, Maintenance, and Removal Agreement (EMRA).

The existing retaining wall is necessary to retain the contours of the existing slope and the development footprint of the single family residence. Therefore, the proposed encroachment is directly related to preserving the existing single family residence and allowing continued public travel along the fronting sidewalk that benefits a public purpose, will not be detrimental to the public health, safety, welfare, and the City would provide the Owner/Permittee permission to maintain the encroachment on the City's public right-of-way with the execution and recordation of an EMRA.

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 proposes to allow the existing and modified site retaining walls and access improvements fronting the single family residence at 3232 Goldfinch Street to remain within the public right of way. The project's underlying zone is RS-1-7 (Residential Zone), which allows a mix of light industrial and office uses. The existing residential development meets the current underlying RS-1-7 zoning standards and regulations.

The project proposes a privately owned and maintained structure, approximately 39 linear feet of retaining walls and front access steps, within the right-of-way for a public street, parallel to the front property line owned by the project's Owner/Permittee. The proposed retaining wall constitutes an encroachment requiring a Neighborhood Development Permit (NDP) and an Encroachment, Maintenance, and Removal Agreement (EMRA). The proposed project does not request any deviations and therefore, with the execution of the NDP and EMRA, the proposed development would be consistent with the Land Development Code.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Neighborhood Development Permit No. 1063079 is granted to Claudio Canive and Leyla Larijani, husband and wife as joint tenants, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

DRAFT

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24002454

Neighborhood Development Permit No. 1063079
3232 GOLDFINCH STREET PROJECT NO. 270034
City Council

This Neighborhood Development Permit No. 1063079 is granted by the City Council of the City of San Diego to Claudio Canive and Leyla Larijani, husband and wife as joint tenants, Owner, and Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0401. The 0.87-acre site is located at 3232 Goldfinch Street in the RS-1-7 Zone within the Uptown Community Plan area. The project site is legally described as Lot 1, Block 373 of Horton's Addition, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by L.L. Lockling, filed in the Office of the County Recorder, San Diego County.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to retain existing and modified retaining walls and improvements within the public right of way as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated [INSERT Approval Date], on file in the Development Services Department.

The project shall include:

- a. Approximately 35 linear feet of existing and modified retaining walls, fronting the existing property and within City public right of way; and
- b. 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 *[ENTER DATE including the appeal time]*.
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. The Owner/Permittee shall obtain a public right-of-way permit for the construction of the retaining walls in the public right-of-way.

12. Prior to the issuance of any construction permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement (EMRA), for the retaining walls in the public right-of-way, satisfactory to the City Engineer.

13. The Owner/Permittee shall modify existing frontage retaining walls to allow a six (6) feet visibility triangle area pursuant to SDMC sec. 131.0449(a)(8).

PLANNING/DESIGN REQUIREMENTS:

14. 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.

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 City Council of the City of San Diego on *[INSERT Approval Date]* and *[Approved Resolution Number]*.

Permit Type/PTS Approval No.: NDP No. 1063079
Date of Approval: May XX, 2013

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Tim Daly
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.

Claudio Canive or Leyla Larijani,
Husband and Wife as joint tenants
Owner/Permittee

By _____
NAME:
TITLE:

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

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

SUMMARY VACATION OF PORTIONS OF GOLDFINCH
STREET.

WHEREAS, California Streets and Highways Code section 8330 *et seq.* and San Diego Municipal Code section 125.0901 *et seq.* provide a procedure for the summary vacation of public rights of way by City Council resolution; and

WHEREAS, it is proposed that Goldfinch Street, south of West Thorn Street, Approval No. 949135, be vacated; and

WHEREAS, The public right-of-way, or portion of the public right-of-way, is excess public right-of-way and is not required for street or highway purposes; and

WHEREAS, the public right of way to be vacated contains public utility facilities that would not be affected by the vacation; and

WHEREAS, under Charter Section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on _____, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that with respect to Goldfinch Street, south of West Thorn Street, the Council finds that:

(a) There is no present or prospective public use for the public right-of-way, either for the purpose for which originally acquired, or for any other public use of a like nature that can be anticipated.

Goldfinch Street was originally created as a major collector street with 80 feet wide public right of way. However, due to topography the Goldfinch Street blocks were modified during actual residential development and reduced to low volume residential local streets with 50 to 60 feet wide public right of way. The 3200 block area of Goldfinch Street remains an 80-foot public right of way and the proposed 20 feet of vacation from the overall 3200 block of Goldfinch Street will remove the excess right of way and continue to meet the City's standard low volume residential local street width of 50 to 60 feet. The vacation of 10 feet from each side of Goldfinch Street's public right of way would return property rights to private landowners fronting the public right of way and create lot lines that would allow the existing residential structures to comply with the applicable zoning regulations for setback requirements and would make this portion of Goldfinch to meet the City's Street Design Manual. Therefore, there is no prospective use for this portion of public right of way for which it was originally acquired, or for any other public use of a like nature that can be anticipated or changed.

(b) The public will benefit from the action through improved use of the land made available by the vacation.

The proposed partial street vacation along the fronting properties located at Goldfinch Street will have a benefit of all their properties by correcting and complying with the applicable zoning regulations for setback requirements for the existing private improvements that are

located outside of the properties and abutting the right of way.

- (c) The vacation does not adversely affect any applicable land use plan.

The proposed partial street vacation of the properties located on the 3200 block of Goldfinch Street will have no adverse affect on the adopted General Plan and Uptown Community Plan and will provide consistency to the irregular size of the public right of way along the length of the street.

- (d) The public facility for which the right-of-way was originally acquired will not be detrimentally affected by the vacation.

The proposed partial street vacation along the 3200 block of Goldfinch Street will not detrimentally affect the City's public rights and facilities within the existing right of way. Public facilities will be retained within the remaining public right of way and will continue to serve the public as originally planned and acquired for that purpose.

BE IT FURTHER RESOLVED, that Goldfinch Street, in connection with Neighborhood Development Permit No. 1063079, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 36837-B, marked as Exhibit "B," which said drawing is attached hereto and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the office of the County Recorder.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
[Attorney]
Deputy City Attorney

[Initials]:[Initials]
[Month]/[Day]/[Year]
Or.Dept:DSD
IO: 24002454
Drawing No. 36837-B
R-R-[Reso Code]
Document1

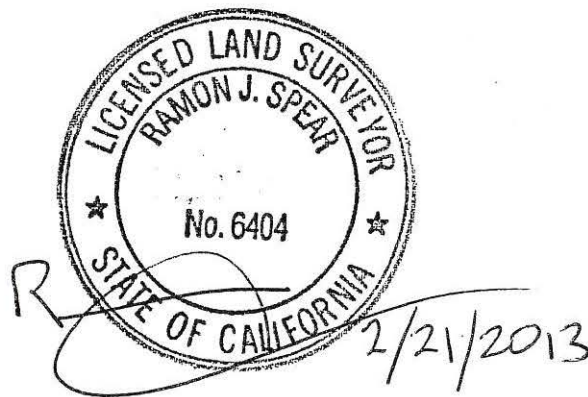
DRAFT

EXHIBIT "A"**LEGAL DESCRIPTION (STREET VACATION)****PORTIONS OF GOLDFINCH STREET**

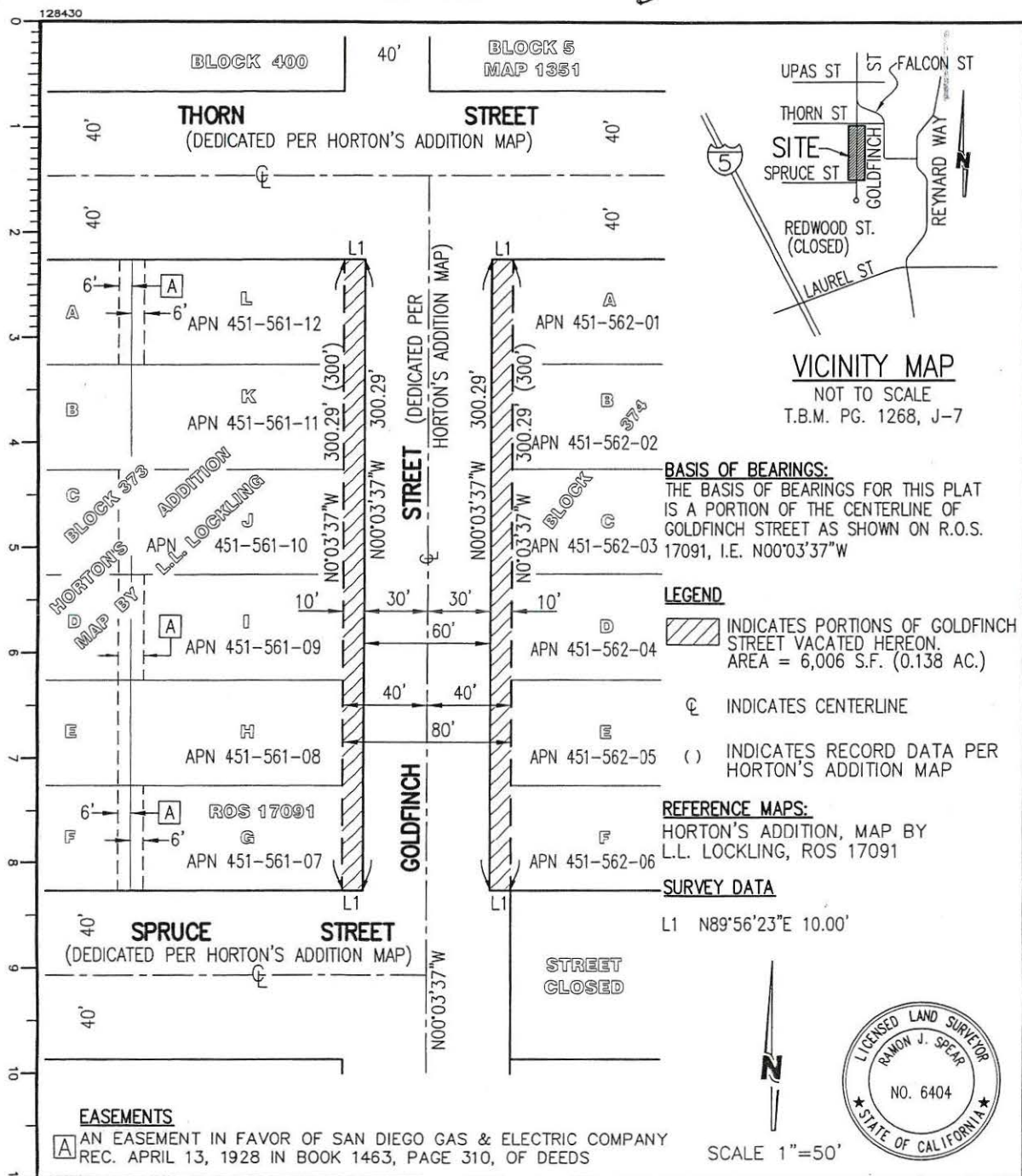
THOSE PORTIONS OF GOLDFINCH STREET (80.00 FEET WIDE) OF HORTON'S ADDITION, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY L.L. LOCKLING, RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY JULY 21, 1871, LYING BETWEEN THE SOUTHERLY RIGHT-OF-WAY LINE OF THORN STREET (80.00 FEET WIDE) AND THE NORTHERLY RIGHT-OF-WAY LINE OF SPRUCE STREET (80.00 FEET WIDE) AND SPECIFICALLY DESCRIBED AS FOLLOWS:

THE WESTERLY 10.00 FEET OF SAID GOLDFINCH STREET ADJOINING BLOICK 373 AND THE EASTERLY 10.00 FEET OF SAID GOLDFINCH STREET ADJOINING BLOCK 374, ALL AS SHOWN PER SAID HORTON'S ADDITION MAP

CONTAINING A TOTAL AREA OF 6,006 SQ. FT. (0.138 ACRES), MORE OR LESS



I.O. NO. : 24002454
P.T.S. NO.: 270034
DWG. NO. : 36837-B



PUBLIC RIGHT-OF-WAY VACATION - PORTIONS GOLDFINCH STREET BETWEEN SPRUCE STREET AND THORN STREET

| DESCRIPTION | BY | APPROVED | DATE | FILMED | CITY OF SAN DIEGO, CALIFORNIA | I.O. |
|-------------|-----|----------|------|--------|--------------------------------------|---------------------|
| ORIGINAL | S&A | | | | SHEET 1 OF 1 SHEET | 24002454 |
| | | | | | <i>[Signature]</i> FOR CITY ENGINEER | P.T.S. NO. 270034 |
| | | | | | DATE 2-1-13 | 1848-6277 |
| | | | | | | CCS 83 COORDINATES |
| | | | | | | 208-1715 |
| | | | | | | LAMBERT COORDINATES |
| | | | | | | 36837-B |



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**
 3232 GOLDFINCH

Project Address:
 3232 Goldfinch St, San Diego, CA 92103

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):
 Claudio Canive
 Owner Tenant/Lessee Redevelopment Agency
 3232 Goldfinch St
 Street Address:
 San Diego, CA 92103
 City/State/Zip:
 (619) 726-8856
 Phone No: Fax No:
 Signature : Date:
 11-25-2011

Name of Individual (type or print):
 Leyla Larijani
 Owner Tenant/Lessee Redevelopment Agency
 3232 Goldfinch St
 Street Address:
 San Diego, CA 92103
 City/State/Zip:
 (619) 454-7557
 Phone No: Fax No:
 Signature : Date:
 11-25-2011

Recorded Request Of FIDELITY NATIONAL TITLE

DOC # 2004-1095622



RECORDING REQUESTED BY:
FIDELITY NATIONAL TITLE

NOV 18, 2004 2:53 PM

AND WHEN RECORDED MAIL TO:

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER

Leyla Larjani
3232 Goldfinch
San Diego, CA 92103

FEES: 7.00
OC: OC
PAGES: 1

Order No.: 216821-9
Escrow No.: SV032717-BS
A.P.N.: 451-561-09



2004-1095622

ACCOMMODATION FILING

SPAC

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S)
DOCUMENTARY TRANSFER TAX IS \$0 *refinance*

16097

- computed on full value of property conveyed, or
- computed on full value less value of liens or encumbrances remaining at time of sale.
- unincorporated area City of San Diego

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Leyla Larjani, a married woman as her sole and separate property

hereby GRANT(S) to Claudio Canive and Leyla Larjani, husband and wife as joint tenants

the following described real property in the County of San Diego, State of California
Lot 1 in Block 373 of Horton's Addition, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by L.L. Lockling, filed in the Office of the County Recorder of said San Diego County.

Dated: November 9, 2004

STATE OF CALIFORNIA
COUNTY OF San Diego

] ss.

on Nov. 10, 2004 before me

Sheila Madigan
a Notary Public in and for said County and State, personally appeared

Leyla Larjani
Leyla Larjani

Leyla Larjani

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s), acted, executed the instrument.

WITNESS my hand and official seal.

Signature [Signature]
Signature of Notary



(This area for official notary seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

PROJECT DATA SHEET

| | | |
|---|---|--------------------------|
| PROJECT NAME: | Goldfinch Public Right of Way Vacation | |
| PROJECT DESCRIPTION: | Vacate 10 feet each side of Goldfinch St. between Thorn St. and Spruce St., and a Neighborhood Development Permit at 3232 Goldfinch St. for an existing retaining wall in the public right-of-way | |
| COMMUNITY PLAN AREA: | Uptown | |
| DISCRETIONARY ACTIONS: | Neighborhood Development Permit and Public Right of Way Vacation | |
| COMMUNITY PLAN LAND USE DESIGNATION: | Residential | |
| <u>ZONING INFORMATION:</u> | | |
| ZONE: RS-1-7 HEIGHT LIMIT: 24/30 feet LOT SIZE: Min. 5,000 s.f FLOOR AREA RATIO: Varies per SDMC sec. 131.0446(a) FRONT SETBACK: Min. 15 feet SIDE SETBACK: Actual lot width multiplied by 0.08 REAR SETBACK: Min. 15 feet | | |
| <u>ADJACENT PROPERTIES:</u> | LAND USE DESIGNATION & ZONE | EXISTING LAND USE |
| NORTH: | Residential; RS-1-7 | Residential |
| SOUTH: | Residential; RS-1-7 | Residential |
| EAST: | Residential; RS-1-7 | Residential |
| WEST: | Residential; RS-1-7 | Residential |
| DEVIATIONS OR VARIANCES REQUESTED: | None | |
| COMMUNITY PLANNING GROUP RECOMMENDATION: | On May 1, 2012, the Uptown Community Planning Group voted 13-0-1 to recommend approval of the proposed project with no additional conditions. | |

DEVELOPMENT SERVICES
Project Chronology
Goldfinch Public Right of Way Vacation – Project No. 270034

| Date | Action | Description | City Review Time | Applicant Response |
|-----------------------------------|-------------------------|---|--------------------------------|---------------------------|
| 2/3/12 | First Submittal | Project Deemed Complete. | | |
| 3/23/12 | First Assessment Letter | | 49 days | |
| 10/15/12 | Second Submittal | | | 235 days |
| 11/19/12 | Second Review Complete | | 14 days | |
| 1/15/13 | Third Submittal | | | 57 days |
| 2/12/13 | Third Review Complete | | 28 days | |
| 2/27/13 | Fourth Submittal | | | 15 days |
| 3/1/13 | Fourth Review Complete | | 2 days | |
| 5/16/13 | PC Hearing | | 76 days | |
| TOTAL STAFF TIME | | | 169 days | |
| TOTAL APPLICANT TIME | | | | 307 days |
| TOTAL PROJECT RUNNING TIME | | From Deemed Complete to Planning Commission | 1 year 3 months 13 days | |