THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: **September 12, 2013** **REPORT NO. PC-13-102**

ATTENTION: **Planning Commission, Agenda of September 19, 2013**

SUBJECT: ROBBINS RESIDENCE- PROJECT NO. 218477. PROCESS 3

REFERENCE: Hearing Officer Report of March 6, 2013 (Attachment 4).

OWNER/ APPLICANT: James E. Robbins

SUMMARY

Issue: Should the Planning Commission grant or deny an appeal of the Hearing Officer's decision to deny a Variance to allow the elimination of access to on-site parking and a Neighborhood Development Permit (NDP) to allow a retaining wall in the public right-of-way at 475 Gravilla Street within the La Jolla Community Plan Area?

Staff Recommendation: **APPROVE** the appeal and **APPROVE** Variance No. 783451 and NDP No. 783452.

Community Planning Group Recommendation: On August 2, 2012, the La Jolla Community Planning Association voted 12-4-1 to recommend approval of the project with one permit condition (Attachment 4). Reducing on-street parking was an important issue as the La Jolla Community Planning Association considered the project, and the neighborhood shared this concern.

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on November 21, 2012 and the opportunity to appeal that determination ended December 13, 2012.

Fiscal Impact Statement: All costs associated with this project are covered by a deposit account provided by the applicant.

Code Enforcement Impact: Approval of the Variance and Neighborhood Development Permit, and subsequent building permit approvals would satisfy the Neighborhood Code Compliance Violation.

Housing Impact Statement: None with this action.

BACKGROUND

The applicant originally constructed over-height retaining walls with fencing on top across the front yard setback of 475 Gravilla Street in La Jolla, and within the public right-of-way (ROW) along the street side yard along Tyrian Street (Attachment 4). The project also includes a set of entry stairs and a ten-foot high arbor within the front yard setback where a six –foot structure is allowed. The applicant also filled in behind the retaining walls creating a flat yard space. The project also includes a brick patio in front of the garage, over a sloped driveway (Attachment 4).

On April 10, 2010, the Neighborhood Code Compliance Division of the Development Services Department issued the applicant, Mr. James E. Robbins, a Civil Penalty Notice and Order (Attachment 1) for:

1) Building a wall across the driveway blocking access to required off-street parking;

2) Constructing a fence in the driveway visibility areas and street corner visibility areas exceeding three feet;

3) Installing non-permitted electrical work in the public right-of-way (ROW) and front yard; and

4) Constructing a fence that encroaches into the public ROW.

In addition, the white picket style fence installed on top of the retaining walls exceeded a three-foot height limit allowed by the Land Development Code Section 142.0310(c)3(A).

Following the violation, the applicant submitted for a Variance to allow the driveway closure and the over height fencing in the public ROW. The applicant built the retaining wall across the driveway and filled in behind the wall to create a flat front yard space. Doing so prevents vehicular access to the off-street parking space. Regarding the fencing, staff indicated through project review that it could not support fencing over three feet in the corner visibility triangle, but could support three-foot high retaining walls built in the public ROW with approval of an NDP and an EMRA, provided they do not exceed three feet in height. Staff also indicated that open fences may be built atop these walls if the combined maximum height of wall and fence is no greater than six feet. Fences atop retaining walls must also be 75 percent open to allow visibility through the fence, avoiding a walled-off appearance. The fences and arbor as constructed were not 75 percent open. The applicant proposed changes to the project, including removing all fencing atop the retaining walls from the corner visibility triangle and reducing the height of fencing atop the retaining walls outside the visibility triangle. With these changes only

a Variance for the driveway closure and an NDP and an Encroachment Maintenance and Removal Agreement (EMRA) for the retaining walls in the public ROW along Tyrian Street were required.

On March 6, 2013, the modified project was heard by the Hearing Officer (Attachment 4). The project was denied and on March 15, 2013 the applicant appealed that decision.

DISCUSSION

Following the appeal of the Hearing Officer's decision, the applicant submitted for the required EMRA for the retaining wall in the public ROW along Tyrian Street. The EMRA was reviewed and issued, and on July 10, 2013 recorded on the property. All the fencing previously over height has been reduced in height (Attachment 3) and, as now proposed, would meet current City of San Diego requirements. The wall along Tyrian Street is below three feet in height and is allowed within the public right-of-way with the approval of the EMRA. The driveway closure requires the Variance and the appeal is asking the Planning Commission to reverse the Hearing Officer's decision on the Variance.

As discussed in the Hearing Officer report, the driveway as originally constructed is too steep for vehicles to access the off-street parking space in the garage. As a result, the applicant parks his vehicle on the street and the existing driveway has resulted in under-utilized yard space. In allowing the driveway closure the project would also close the existing curb cut and result in a net increase of one on-street parking space.

Conclusion:

The project as proposed requires a Variance for the driveway closure and over-height arbor, and an NDP and EMRA for the retaining wall built within the Tyrian Street public ROW. The EMRA has been issued. Therefore, only the Variance and NDP are requesting consideration. As described in the attached Hearing Officer report, staff believes the findings for both permits can be made. The site has special circumstances, and the project would be in harmony with the general purpose and intent of City regulations, and would not adversely affect the community plan. Variance approval would close the existing curb cut/driveway and would result in an additional on-street parking space in front of the project site. There were no speakers or written communications opposing the project at the March 6, 2013 Hearing Officer hearing, and there was one letter submitted in favor of the project (Attachment 2).

ALTERNATIVES

1. **Approve** the appeal and **Approve** Variance No. 783451 and NDP No. 783452, **with modifications.**

2. **Deny** the appeal and **Deny** Variance No. 783451 and NDP No. 783452, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,

Mike Westlake
Acting Deputy Director
Development Services Department

Morris E. Dye
Project Manager
Development Services Department

Tomlinson/MED

Attachments:

1. Appeal Application
2. Letter of Support
3. Current Project Photos
4. Hearing Officer Report

THE CITY OF SAN DIEGO

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

Development Permit/ Environmental Determination Appeal Application

FORM DS-3031
OCTOBER 2012

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

1. Type of Appeal:
- ☐ Process Two Decision - Appeal to Planning Commission
- ☑ Process Three Decision - Appeal to Planning Commission
- ☐ Process Four Decision - Appeal to City Council
- ☐ Environmental Determination - Appeal to City Council
- ☐ Appeal of a Hearing Officer Decision to revoke a permit

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

Name:		E-mail Address:		
Matthew A. Peterson		map@petersonprice.com		
Address:	**City:**	**State:**	**Zip Code:**	**Telephone:**
530 B Street, Suite 1800	San Diego	CA	92101	(619) 234-0361

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

James Robbins by Matthew A. Peterson, Applicant Agent

4. Project Information

Permit/Environmental Determination & Permit/Document No.:	Date of Decision/Determination:	City Project Manager:
Variance 783451 NDP 783452	March 6, 2013	Morris Dye

Decision (describe the permit/approval decision):
Hearing Officer denied the requested Variance and Neighborhood Development Permit

5. Grounds for Appeal *(Please check all that apply)*
- ☑ Factual Error
- ☑ Conflict with other matters
- ☐ Findings Not Supported
- ☐ New Information
- ☐ City-wide Significance (Process Four decisions only)

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

The Hearing Officer was mistaken both as to the facts of the case and the justification supporting the issuance of the Variance and Neighborhood Development Permit. There was no opposition to the project and the La Jolla Community Planning Association recommended approval stating that all of the findings could be made. The Hearing Officer should have approved the project as the findings should have been made. (See Attached Staff Report)

RECEIVED
MAR 15 2013
DEVELOPMENT SERVICES

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

Signature: _____ Date: 3/15/13

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

February 25, 2013

TO: HEARING OFFICER; PLANNING COMMISSION

FROM: JULIE GARRIE, NEIGHBOR, 6666 TYRIAN STREET, LA JOLLA CA 92037

SUBJECT: STATEMENT OF SUPPORT FOR FENCE AND NON-STANDARD DRIVEWAY AT 475 GRAVILLA STREET, LA JOLLA CA 92037

Due to my work obligations, I am unable to attend the March 6, 2013 hearing regarding the private property on 475 Gravilla, the Robbins' residence. I am a neighbor who unequivocally supports the fencing and closing of the non-standard driveway of the Robbins' residence for many reasons:

1) The fence in no way obstructs vision to or from the street and has no impact on pedestrians, bicyclists or drivers.
2) The fence is in compliance with the spirit of law: it is not a solid fence and sight through the pickets is completely unimpeded; the fence sits nearly 5 feet or more from the sidewalk/curb area and is about 3-4 feet above ground level—and is flush with the raised elevation of the Robbins' lot. There is no visual obstruction to foot or vehicle traffic.
3) The fence is a safety necessity for my neighbors and they should have full use and enjoyment of their private property that fronts on Gravilla Street.
4) To move their fence would be to chase good money after bad—no justification for any further action on the part of the Robbins.
5) The Robbins and their property are an asset to the neighborhood
6) I would be extremely alert to any safety hazards posed by the fencing at the Robbins' residence. I drive Tyrian Street (cross-street) and Gravilla on a daily/nightly basis and I walk the area with frequency. There have been no traffic issues due to the fencing, which is not relevant to the street traffic due to its placement—far from the street and above the level of sight for pedestrians or drivers.
7) There is no driveway issue, as there is only increased street parking

I implore the Commission to approve the fence and non-standard driveway at the Robbins' residence. It does not cause harm, will not cause future harm and by forcing them to change the configuration of the fence, or remove it will cause them irreparable financial hardship and will not add any improvement. There is no need to cause harm to the Robbins', conscientious citizens, to gain nothing. The law must be applied justly , and it is certainly maintaining the spirit of the law to protect our citizens with a fence that has zero impact on the public and their right of way.

Please let me know if I can be of further assistance to the Hearing Officer or the Planning Commission.

Thank you,

julie Garrie

Julie Garrie

ATTACHMENT 3


RANGE ROVER

THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: March 6, 2013 REPORT NO. HO 13-024

ATTENTION: Hearing Officer

SUBJECT: ROBBINS RESIDENCE
PTS PROJECT NUMBER: 218477

LOCATION: 475 Gravilla Street

APPLICANT: James E. Robbins

SUMMARY

Issue: Should the Hearing Officer approve a Variance to allow the elimination of access to on-site parking and a Neighborhood Development Permit to allow a retaining wall in the public right-of-way within the La Jolla Community Planning Area?

Staff Recommendations - APPROVE Variance No. 783451 and Neighborhood Development Permit No.783452.

Community Planning Group Recommendation – On the 2 August 2012, the La Jolla Community Planning Association voted 12-4-1 that the findings could be made and suggested one permit condition (Attachment 8).

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on November 21, 2012 and the opportunity to appeal that determination ended December 13, 2012.

BACKGROUND

The applicant constructed a retaining wall ranging from 28 inches to 44 inches in width with a five-foot fence on top within the public right-of-way (ROW) across the front yard setback of 475 Gravilla Street and along the street side yard on the east side of the property along Tyrian Street (Attachment 7). The project also includes a set of entry stairs and arbor ten-foot in height within the front yard setback along Gravilla Street, with earth fill behind the retaining walls creating a flat yard space. The project also includes a brick patio in front of the garage, over the driveway (Attachment 10, Photo 4).

On April 10, 2010, the Neighborhood Code Compliance Division of the Development Services Department issued the applicant, Mr. James E. Robbins, a Civil Penalty Notice and Order (Attachment 11) for:

1) Building a wall across the driveway blocking access to required off-street parking;

2) Constructing a fence in the driveway visibility areas and street corner visibility areas exceeding three feet;

3) Installing non-permitted electrical work in the public right-of-way (ROW) and front yard; and

4) Constructing a fence that encroaches into the public ROW.

In addition, the white picket style fence installed on top of the retaining walls exceeds a three-foot height limit allowed by the Land Development Code Section 142.0310(c)3(A).

Following the violation, the applicant submitted for a Variance to allow the driveway closure and the over height fencing in the public ROW. Staff indicated through project review that it could not support fencing over three feet in the corner visibility triangle, but could support retaining walls built in the public ROW with approval of a Neighborhood Development Permit provided they do not exceed three feet in height. Staff also indicated that open fences may be built atop these walls if the combined maximum height of wall and fence is no greater than six feet. Fences atop retaining walls must also be 75 percent open to allow visibility through the fence, avoiding a walled-off appearance. The fences and arbor as constructed are not 75 percent open.

The La Jolla Community Plan designates the site for Multi-Family Residential development and the site is zoned RM-1-1. The project would not modify the development beyond a single family residence and, therefore, would remain consistent with the land use designation and the under lying zone.

DISCUSSION

The applicant constructed the project in an effort to allow for reasonable use of the front yard on an irregular, constrained, re-subdivided corner lot. The applicant was not able to access the required off-street parking space within the one-car garage due to the steepness of the driveway. Therefore, the applicant has indicated that the driveway did not provide access to a parking place, and consumed usable front yard space on a lot with very restricted rear and side yards. However, as constructed, staff could not support the project. The applicant proposed modifications to the fencing that staff can support, as described above. In addition, staff has evaluated the usability of the driveway and determined that, due to the 22 percent slope of the driveway, the parking space is not accessible, and that the construction of a City standard driveway is also not feasible. The following discusses the details of the lot, the driveway, and the fences and walls.

The Lot

The lot is 40 feet deep and 50 feet wide, is a re-subdivided corner lot and is one of very few corner lots in the area with this configuration. As a result of this 2,000 square-foot lot, the existing 600 square-foot home (with 255 square-foot garage) is constructed four feet, four inches from the rear property line, four feet, eight inches from the west property line, three feet, 10 inches from the east property line while observing a 15-foot front yard setback. These circumstances result in a 570 square-foot outdoor area within a sloping front yard.

The Driveway

The residence was built in 1950. The driveway is previously conforming and constructed with a 22 percent slope. Current City standard for driveways calls for a maximum slope of 20 percent and there is not sufficient distance from the sidewalk to the garage door to allow for a current City standard driveway to be built.

The applicant has demonstrated that, due to the driveway's steepness, cars "bottom out" and are physically not able to access the required off-street parking space. As a result, occupants of the residence have historically parked on the street where there is currently only enough curb distance to provide one space available in front of the residence. Staff has reviewed the circumstances and has agreed that the driveway is not usable to access the garage parking space.

By closing the associated curb cut for the driveway as proposed by the project, an additional on-street parking space would result in front of the residence where one exists today. This is significant given the La Jolla Planning Association raised concern regarding any loss of parking in an area with small lots such as this one (Attachment 8).

The Fences and Walls

The applicant proposes to relocate the fences out of the corner visibility triangle as suggested by staff and reduce all fences such that the maximum height of retaining wall and fence is six feet. In addition, the applicant must modify the fences, including the arbor, to be 75 percent open. These changes are reflected in the permit and on the Exhibit A before the Hearing Officer and comply with current fence regulations.

The retaining wall on the eastern side of the property along Tyrian Street is two feet, eight inches in height and is constructed two feet into the public ROW for a linear distance of 10 feet. Given that this wall is less than three feet in height, it is allowed in both the corner visibility triangle and in the public ROW provided the applicant receives approval of a Neighborhood Development Permit for the wall in the public ROW (SDMC Section 126.0402(k). In addition, the applicant would be required to obtain a ministerial ROW permit and an Encroachment, Maintenance, and Removal Agreement (EMRA) for this section of wall.

CONCLUSION

The applicant proposes project modifications that now allow staff to support the proposal. Fences would be removed from the corner visibility triangle and would be lowered in all locations to comply with current height regulations. Staff has reviewed the site conditions and can support the proposed driveway closure. This is due to the peculiar lot and the inability of vehicles to access the required parking space in the garage resulting from a driveway that is not built to current City standards and that cannot be corrected due to constrained lot dimensions. Staff can also support the driveway closure in part, due to the increased curb space that would result from the required driveway curb cut closure. This will add one on-street parking space on Gravilla Street in front of the project site.

In addition, permit conditions would require the applicant to obtain all required building permits for improvements in the public right-of-way. Given the modifications the applicant has proposed to the project and the suggested permit conditions, staff recommends approval of the Variance and Neighborhood Development Permit.

ALTERNATIVES

1. Approve Variance No. 783451 and Neighborhood Development Permit No.783452, with modifications.

2. Deny Variance No. 783451 and Neighborhood Development Permit No.783452, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

Morris E. Dye, Development Project Manager

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Draft Permit Resolution with Findings
5. Draft Permit with Conditions
6. Environmental Exemption
7. Project Site Plan
8. Community Planning Group Recommendation
9. Ownership Disclosure Statement

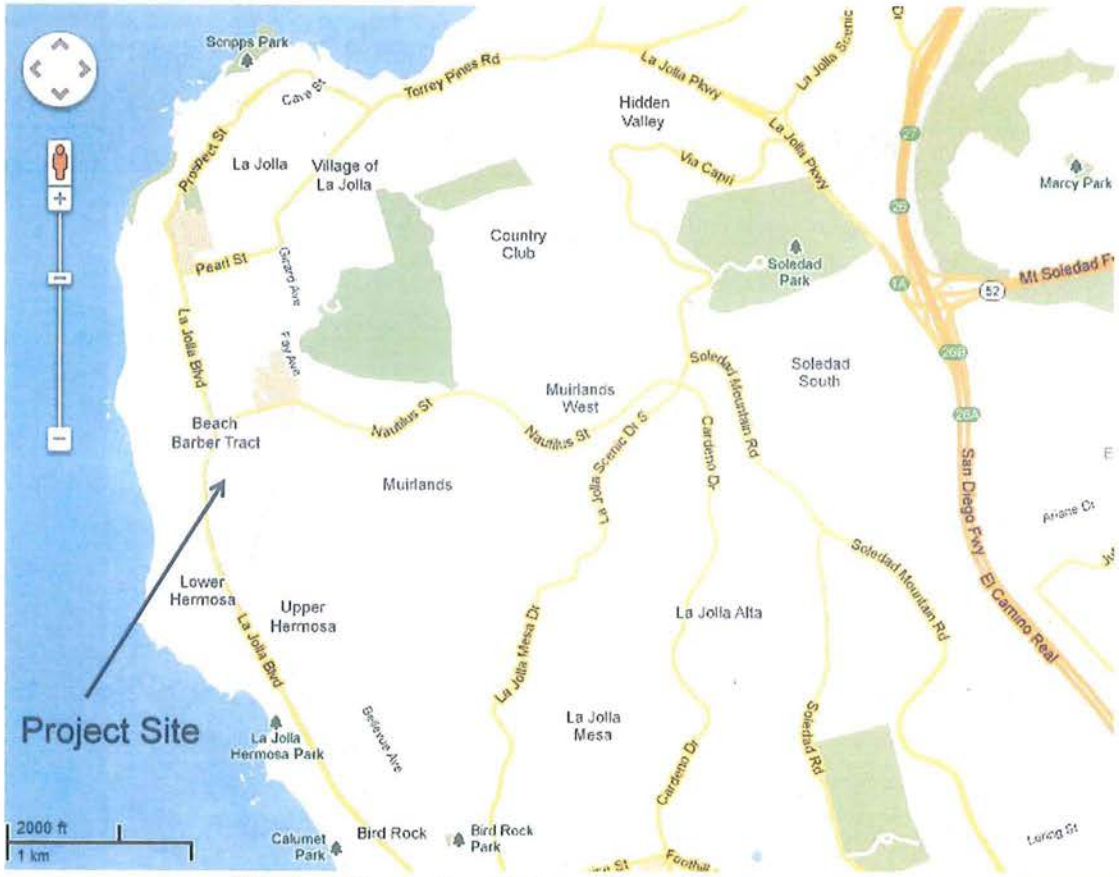
10. Prior Condition and Current Condition Photos
11. Civil Penalty Notice and Order

Location Aerial Photo

710 GARNET SIDEWALK CAFE – 710 GARNET AVENUE
PROJECT NO. 243190

North

ATTACHMENT 1

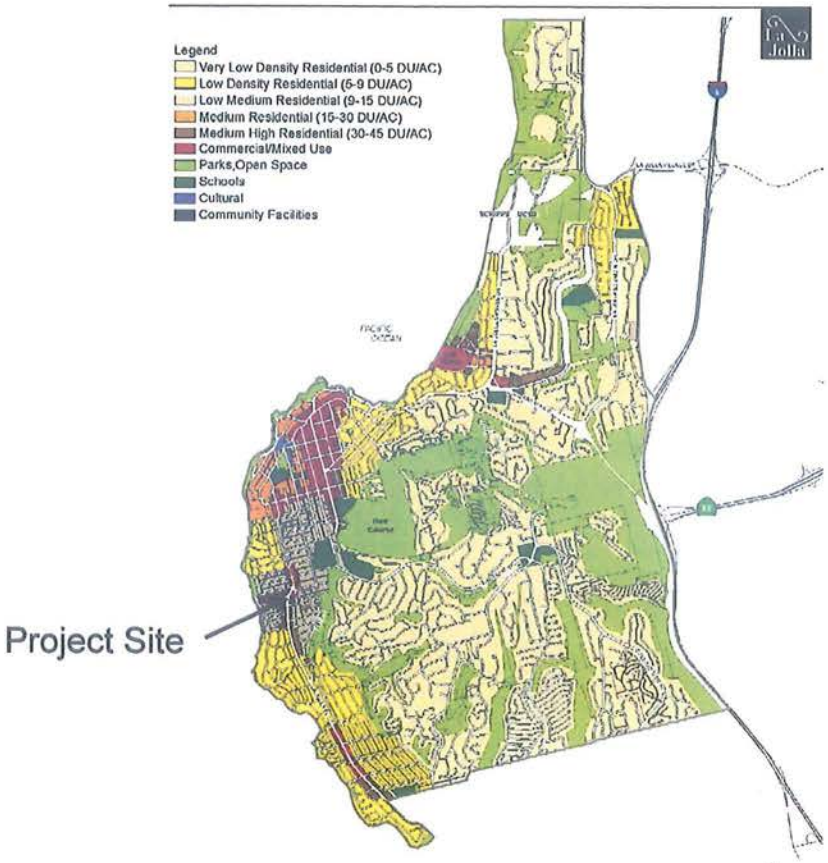


Project Location Map

Robbins Residence 475 Gravilla Street
PROJECT NO. 218477

North

ATTACHMENT 2



Project Site

Community Land Use Map

La Jolla Community Plan
City of San Diego · Planning Department

Figure 1

ATTACHMENT 3

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: 24001101

VARIANCE NO. 783451
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 783452
ROBBINS RESIDENCE PROJECT NO. 218477
HEARING OFFICER

This Variance No. 783451/Neighborhood Development Permit No. 783452 is granted by the Hearing Officer of the City of San Diego to James E. Robbins, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] Section 126.0802 and Section 126.0402(k). The 0.05-acre site is located at 475 Gravilla Street in the RM-1-1 zone of the La Jolla Community Plan Area. The project site is legally described as: that portion of Lot 7, of Hyman's Addition, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1808, filed in the Office of the County Recorder of San Diego County, November 5, 1924, lying northerly of a line described as follows: Beginning at a point on the easterly line of said Lot 7, distant thereon south 14 degrees 46 minutes east 40 feet from the northeast corner thereof; thence south 75 degrees two minutes west to the westerly line of said Lot 7.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to eliminate access to required off-street parking, close the corresponding driveway subject to the City's land use regulations and construct retaining walls and fences as described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated March 6, 2013, on file in the Development Services Department.

The project shall include:

a. Construct a retaining wall with 75 percent open fence on top with a combined retaining wall and fence not to exceed six feet in height across the front yard and driveway, and across a portion of the side yard located within the public Right-of-Way;

b. Construct a 75 percent open gate and arbor within the wall and fence on Gravilla Street not exceeding 10 feet in height and six feet in width;

c. Close access to off-street parking space, remove driveway apron from the public right-of-way and replace curb cut with full curb and gutter to current City Standard;

d. Provide zero off-street parking spaces where one is required;

e. 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 21, 2016.

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" conditions(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. Owner/Permittee shall obtain an Encroachment, Maintenance and Removal Agreement and Right-of-Way Permit for the retaining wall encroaching into the public Right-of-Way.

12. The Owner/Permittee shall obtain all required building permits for curb work, retaining walls, fences and all electrical work associated with the wall and fence installation.

PLANNING/DESIGN REQUIREMENTS:

13. 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.

14. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

15. Concurrent with the recordation of this Variance, Owner shall record a Deed Restriction that provides that "in the event that the owner proposes any expansion of Gross Floor Area to the existing home, any such expansion shall include the provision of off street parking."

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 Hearing Officer of the City of San Diego on March 6, 2013 and Approved Resolution Number

Variance No. 783451;
Neighborhood Development Permit No. 783452:
Date of Approval: March 6, 2013

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

_____
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.

James E. Robbins
Owner/Permittee

By _____
James E. Robbins

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

HEARING OFFICER
RESOLUTION NO.
VARIANCE PERMIT NO. 783451
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 783452
ROBBINS RESIDENCE PROJECT NO. 218477

WHEREAS, James E. Robbins, Owner/Permittee, filed an application with the City of San Diego for a Variance to eliminate access to a required off-street parking space and Neighborhood Development Permit to allow walls and fences in the public right-of-way (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Variance Permit No. 783451 and Neighborhood Development Permit No. 783252, on portions of a 0.05-acre site;

WHEREAS, the project site is located at 475 Gravilla Street in the RM-1-1 zone of the La Jolla Community Plan Area;

WHEREAS, the project site is legally described as that portion of Lot 7, of Hyman's Addition, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1808, filed in the Office of the County Recorder of San Diego County, November 5, 1924, lying northerly of a line described as follows: Beginning at a point on the easterly line of said Lot 7, distant thereon south 14 degrees 46 minutes east 40 feet from the northeast corner thereof; thence south 75 degrees two minutes west to the westerly line of said Lot 7.;

WHEREAS, on the 6 March 2013, the Hearing Officer of the City of San Diego considered Variance No. 783451 and Neighborhood Development Permit No. 783452 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on the 21 November 2012 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 15301 (Existing Facilities) 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 Hearing Officer of the City of San Diego as follows:

That the Hearing Office adopts the following written Findings, dated 6 March 2013.

FINDINGS:

Variance:

The decision maker may approve or conditionally approve an application for a variance only if the decision maker makes the following findings:

(a) There are special circumstances or conditions applying to the land or premises for which the variance is sought that are peculiar to the land or premises and do not apply generally to the land or premises in the neighborhood, and these conditions have not resulted from any act of the applicant after the adoption of the applicable zone regulations; and

The constrained, re-subdivided, corner lot is substandard in size. The site is 2,000 square feet, 40 feet deep and 50 feet wide. The lot is rectangular, sloping downhill from the southern portion of the property down to the sidewalk on Gravilla Street to the north. The existing 645 square-foot cottage home was constructed in 1950, with a one-car, 270 square-foot attached garage and an unusable, steep driveway that is non-conforming to current standards. The driveway is 16 feet long. The current regulations would require a 25.5-foot driveway length, with two, eight-foot-wide transitions. The driveway grade is 22 percent where the maximum currently allowed is 20 percent. The one-story cottage home is located on the flat portion of the site on the upper, south side of the lot. The driveway width is also substandard at eight feet where 12 feet is currently required the San Diego Municipal Code (SDMC). This short, narrow driveway with a 22% grade provides no vehicular access to the small, attached, one-car garage. Cars bottom out ("get beached") at the top of the driveway in the transition to the garage floor. In addition, the driveway cannot be used in lieu of the garage due to substandard driveway length. Vehicles parked in the driveway extend beyond the property line.

As originally constructed, the property provided one off-street parking space. Notwithstanding that the driveway providing access to that parking space within the garage does not meet current design standards, the project is previously conforming with regard to parking requirements. The lot is peculiar as it relates to the lack of usable required off-street parking and access to it. These conditions existed before any act of the owner and before the current zoning regulations were adopted. Prior to any act by the owner, the short steep driveway rendered both the driveway & the garage unusable to meet off-street parking requirements. These conditions predated the current municipal code regulations.

Absent either a demolition of the existing 645 square-foot cottage home, or excessive and costly grading with tall retaining walls under and through a portion of the small home, the required 25-foot length for a replacement driveway to meet the Municipal code is impossible to achieve. Compliance with the current City standards is infeasible due to the topographic and other constraints of the site. The variance to allow closure of the curb cut and the ability to utilize the garage area as a "hobby room" allows the applicant reasonable use of the property and will actually improve previously conforming conditions by increasing the available on street parking with the removal of the driveway curb cut.

The applicant's home is one of only a few that has a garage that cannot be accessed by a car. The subject site had a substandard driveway that was not long or wide enough and did not meet the maximum grade to comply with the Municipal Code to accommodate legal vehicular parking.

Nearly all of the other homes and residences on Gravilla Street have wider, flatter, and in some cases longer driveways compared to the applicant's driveway. A survey of the surrounding area reveals that many homes have "converted" their garages into habitable rooms or additions.

Of the homes within the 300-foot noticing area, the applicant's home is one of the most constrained non-conforming small lots with even smaller development pad area within which to develop a home. This limited pad area combined with the restricted usability of the driveway and inability to park a car in the garage or driveway is different from the vast majority of the homes within the neighborhood and deprives the owner of reasonable use of the land. The applicant's site is unique and different from the other homes in the area.

As such there are special circumstances or conditions applying to the land or premises for which the variance is sought that are peculiar to the land or premises and do not apply generally to the land or

premises in the neighborhood, and these conditions have not resulted from any act of the applicant after the adoption of the applicable zone regulations. (Also see findings 2 – 4 below.)

(b) The circumstances or conditions are such that the strict application of the regulations of the Land Development Code would deprive the applicant of reasonable use of the land or premises and the variance granted by the City is the minimum variance that will permit the reasonable use of the land or premises; and

The constrained corner lot is substandard in size at only 2,000 square feet and only 40 feet deep and rectangular with a gradient from the southern portion of the property down to the sidewalk on Gravilla Street. The existing 645 square-foot cottage was constructed in 1950, with a one-car 270 square-foot garage accessed by a non conforming unusable driveway. The driveway was 16 feet long compared to the required 25.5-foot length and the grade was 22% where maximum allowed is 20%. The location of the existing one-story cottage, with non-usable garage, is located on the uphill flat portion of the site.

The width of the driveway was 8 feet instead of the 12 feet required by code. This short narrow driveway with a 22% grade provided no vehicular access to the small attached one-car garage. The short steep, narrow driveway rendered both the driveway and the garage unusable. Because of this, the owners have been deprived of reasonable use of their land.

Absent either a demolition of the existing 645 square-foot cottage, or excessive and costly grading with tall retaining walls (under and thru a portion of the small home), the required 25.5-foot length for a replacement driveway with two 8-foot transitions to meet the current Municipal Code is impossible to achieve. Compliance with the current City standards is infeasible due to the topographic and other constraints of the site. The variance to allow closure of the curb cut and the ability to utilize the garage area as a "hobby room" allows the applicant reasonable use of the garage area and will actually improve previously conforming conditions by increasing the available on street parking by one space (with the removal of the driveway curb cut).

The applicant's home is one of only a few that has a garage that cannot be physically accessed by a car. The subject site had a substandard driveway that was not long or wide enough, and did not meet the maximum grade to comply with the Municipal Code to accommodate legal vehicular parking. Since it is infeasible to construct a compliant 25.5-foot driveway, not reasonable to require a demolition of the small existing home to provide vehicular access/parking at the sidewalk level, and it is not reasonable to require the owner to restore the non-compliant driveway and inaccessible garage to the previous condition, the proposed variance to the development regulations would be the minimum necessary to allow reasonable use of the garage area, the small yard and the property.

Therefore, the circumstances or conditions are such that the strict application of the regulations of the Land Development Code would deprive the applicant of reasonable use of the land or premises and the variance granted by the City is the minimum variance that will permit the reasonable use of the land or premises. (Also see findings 1 above and 3-4 below).

(c) The granting of the variance will be in harmony with the general purpose and intent of the regulations and will not be detrimental to the public health, safety, or welfare; and

The purpose and intent of the SDMC requirements is to provide off street parking, if feasible and to prevent the loss of available on-street parking and to protect pedestrian safety. In this particular case, the removal of the driveway/curb cut does not impact any existing on-street parking. In fact it will increase available on-street parking, and pedestrian safety will be enhanced as there will be no blockage of the sidewalk by cars that cannot make it over the transition into the garage.

Subject to this variance, the project has been designed and will be constructed pursuant to all applicable zoning and building codes and inspected for compliance with building standards. Therefore, the proposed development would be in harmony with the general purpose and intent of the regulations and will not be detrimental to the public health, safety, or welfare. (Also see findings 1-2 above and 4 below)

(d) The granting of the variance will not adversely affect the applicable land use plan. If the variance is being sought in conjunction with any proposed coastal development, the required finding shall specify that granting of the variance conforms with, and is adequate to carry out, the provisions of the certified land use plan;

The site is zoned RM-1-1 and is designated for residential use within the La Jolla Community Plan. The Plan recommends the retention and redevelopment of its residentially designated areas of the community at the density permitted by the existing zone. The proposed development will result in the provision of additional and usable on-street parking for the existing residence and the public. The variance would allow modification to a single family residence, and, therefore, is consistent with the land use designation and the underlying zone. The project does not require a Coastal Development Permit. The variance is not being sought in conjunction with any proposed coastal development.

The Development Project Review Committee of the La Jolla Community Planning Association ("LJCPA") unanimously recommended approval of the variance and on August 2, 2012, the full LJCPA recommended approval by a vote of 12 in favor and 4 against (1 abstention).

The project is consistent with the recommended land use, design guidelines, and development standards and the adopted La Jolla Community Plan. Therefore, the proposed development will not adversely affect the applicable land use plan. (Also see findings 1-3 above.)

Neighborhood Development Permit:

The decision maker may approve or conditionally approve an application for a variance only if the decision maker makes the following findings:

(a) The proposed development will not adversely affect the applicable land use plan;

The site is zoned RM-1-1 and is designated for residential use within the La Jolla Community Plan. The Plan recommends the retention and redevelopment of its residentially designated areas of the community at the density permitted by the existing zone. The proposed development will result in the provision of additional and usable on-street parking for the existing residence and the public. The variance would allow modification to a single family residence, and, therefore, is consistent with the land use designation and the underlying zone. Page 26 of the La Jolla Community Plan states that "All unauthorized encroachments into

the public right-of-way should be removed or an Encroachment Removal Agreement (ERA) should be obtained." Proposed permit conditions would require the applicant to obtain an Encroachment Maintenance and Removal Agreement (EMRA). As the project modifies an existing single-family residence which is consistent with the community plan land use designation, an additional on-street parking space would result from the proposal and an EMRA would be required of the project, the proposed development will not adversely affect the applicable land use plan.

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

The proposed retaining wall along Tyrian Street that is within the public right-of-way will be less than three feet in height and is, therefore, allowed with the approval of this Neighborhood Development Permit. The portion of the retaining wall within the corner visibility triangle will have no fence on top and, therefore, comply with Land Development Code regulations. As the purpose and intent of these regulations is to provide for safe driving conditions at the intersection of Gravilla Street and Tyrian Street, the proposal will not be detrimental to the public health, safety and welfare.

(c) 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 proposed retaining wall along Tyrian Street that is within the public right-of-way will be less than three feet in height. Section 126.0402(k) of the Land Development Code allows for this encroachment with the approval of a Neighborhood Development Permit. In addition, the project is required to obtain an Encroachment Maintenance and Removal Agreement and a right-of-way permit to allow the retaining wall in the public right-of-way. The portion of the retaining wall within the corner visibility triangle will have no fence on top and, therefore, comply with Land Development Code regulations. As the purpose and intent of these regulations is to provide for safe driving conditions at the intersection of Gravilla Street and Tyrian Street, the proposal will not be detrimental to the public health, safety and welfare.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer Variance Permit No. 783451/Neighborhood Development Permit No. 783452 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Variance Permit No. 783451/Neighborhood Development Permit No. 783452, a copy of which is attached hereto and made a part hereof.

_____

Morris E. Dye
Development Project Manager
Development Services

Adopted on: 6 March 2013

Job Order No. 24001101

THE CITY OF SAN DIEGO

Date of Notice: November 21, 2012

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

SAP No.: 24001101

PROJECT NAME/NUMBER: Robbins Residence /Project No. 218477
COMMUNITY PLAN AREA: La Jolla
COUNCIL DISTRICT: 1
LOCATION: 475 Gravilla Street, La Jolla, CA 92037

PROJECT DESCRIPTION: VARIANCE, NEIGHBORHOOD DEVELOPMENT PERMIT (NDP) AND ENCROACHMENT MAINTENANCE REMOVAL AGREEMENT (EMRA) for walls within the public right of way (ROW) along Tyrian Street, and for the elimination of access to on-site parking at 475 Gravilla Street. Approximately one on-street space would be created by the closure of the existing driveway. The project site is located in the RM-1-1 Zone within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Residential Tandem Parking, and Transit Area Overlay zones.

ENTITY CONSIDERING PROJECT APPROVAL: City of San Diego Hearing Officer (Process 3).

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA pursuant to CEQA State Guidelines Section 15301 (Existing Facilities).

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego Development Services Staff.

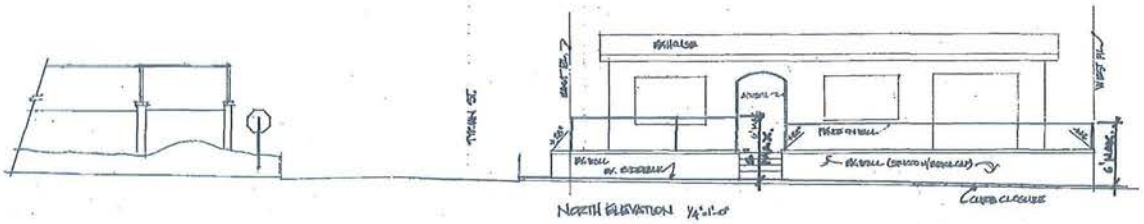
STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The project has been determined to be exempt from CEQA pursuant to Section 15301. This exemption allows for alterations to existing private or public facilities, involving negligible or no expansion of use. This project would close an existing, non-standard driveway (approximately one off-street space could be accessed by the driveway) which would create one new on-street space. Additionally, the project would allow for walls within the public right-of-way to remain. These walls do not interfere with public use of any sidewalks or streets. No expansion of use of the existing single dwelling unit would result from these permits. None of the exceptions described in Section 15300.2 apply, therefore the project qualifies for this exemption.

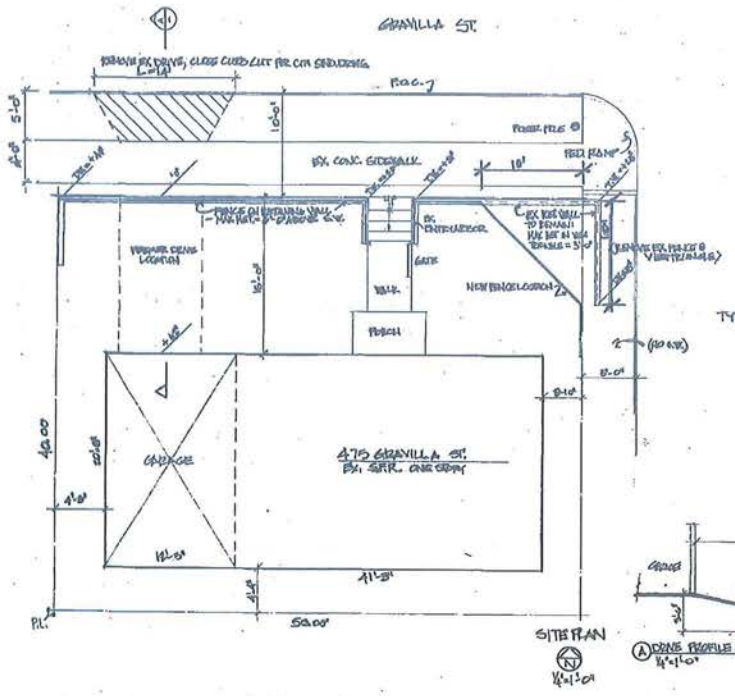
CITY CONTACT: **Morris Dye, Project Manager**
MAILING ADDRESS: **1222 First Avenue, MS 501, San Diego, CA 92101-4153**
PHONE NUMBER: **(619) 446-5201**

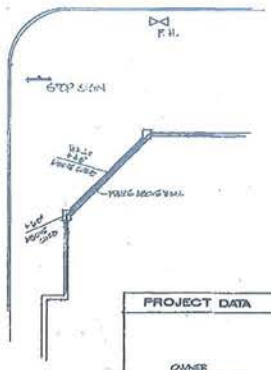
On November 21, 2012, the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City of San Diego City Council. If you have any questions about this determination, contact the Project Manager above.

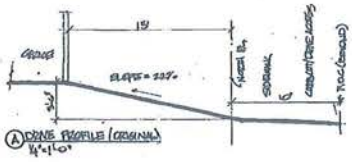
Applications to appeal CEQA determination made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 15 business days from the date of the posting of this Notice. The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

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









PROJECT DATA

OWNER
JANICE ROBBINS
475 GRANILLA STREET
LA JOLLA, CAL. 92037
858/454-6439

LEGAL DESCRIPTION: PORT. LOT 7, HYMANS ADDITION
MAP 1928
APN 351 473 03 00

LOT AREA 2000 S.F. ZONE R-1-1
BUILDING AREAS: LIVING: 600 S.F. GARAGE: 253
OVERLAYS: COASTAL, COASTAL HEIGHT LMT.
RESIDENTIAL TANDEM PARKING, TRANSIT AREA

PERMITS REQUIRED: BUILDING, ROW, NDP

PROJECT SCOPE: LEGALIZE THE EXISTING RETAINING WALL ALONG THE NORTH AND EAST PROPERTY LINES, PERMIT A FENCE ATOP THE WALL TO MAX. 6' IN HEIGHT, OBTAIN AN ENCROACHMENT REMOVAL AGREEMENT FOR THE RETAINING WALL IN THE ROW, OBTAIN A PERMIT TO CLOSE THE EXISTING CURB CUT, OBTAIN VARIANCES FOR THE ABOVE WHEN NOT ALLOWED BY RIGHT

Daniel Linn architect
5730 baltimore avenue
la jolla ca 92037
858 459-8929
fax 858 459-8929

ROBBINS RESIDENCE
VARIANCE REQUEST
475 GRANILLA STREET
LA JOLLA, CALIFORNIA 92037

sheet

A1

ATTACHMENT 7

PO Box 889, La Jolla, CA 92038
http: //www.LaJollaCPA.org
Voicemail: 858.456.7900
info@LaJollaCPA.org

La Jolla Community Planning Association

Regular Meetings: 1st Thursday of the Month
La Jolla Recreation Center, 615 Prospect Street

Thursday, 2 August 2012

FINAL MINUTES – REGULAR MEETING

Trustees Present: Dan Allen, Cynthia Bond, Tom Brady, Devin Burstein, Laura Ducharme-Conboy, Michael Costello, Dan Courtney, Tony Crisafi, Jim Fitzgerald, Orrin Gabsch, Joe LaCava, David Little, Tim Lucas, Nancy Manno, Phil Merten, Cindy Thorsen, Frances O'Neill Zimmerman.

1. Welcome and Call To Order: **Tony Crisafi**, President, at 6:05 PM

2. Adopt the Agenda

Approved Motion: Motion to adopt the Agenda, (Fitzgerald/Brady, 9-0-1).
In favor: Allen, Brady, Conboy, Costello, Fitzgerald, Gabsch, LaCava, Manno, Merten.
Abstain: Crisafi.

3. Meeting Minutes Review and Approval – 5 July Regular Meeting

Approved Motion: Motion to approve Minutes of the 5 July Meeting, (Brady/Fitzgerald, 9-0-1).
In favor: Allen, Brady, Conboy, Costello, Fitzgerald, Gabsch, LaCava, Manno, Merten.
Abstain: Crisafi.

4. Elected Officials Report - Information Only

A. San Diego City Council District 2 - Councilmember Kevin Faulconer
Rep: Katherine Miles, 619.236.6622, kmiles@sandiego.gov

Ms. Miles was not present.

B. San Diego City Council District 1 - Councilmember Sherri Lightner
Rep: Erin Demorest, 619.236.7762, edemorest@sandiego.gov

Ms. Demorest reported that the Historical Sites Board will consider changes to the historical designation process at their meeting 13 August; the Planning Commission will hear the year-round rope barrier at Children's Pool on 30 August at 8:20 AM in the City Council chamber at 202 C Street, 13th floor; there will be a career fair 25 August 8 AM to noon at Golden Hall.

5. Non-Agenda Public Comment - Issues not on the agenda and within LJCPA jurisdiction, two (2) minutes or less.

A. UCSD - Planner: Anu Delouri, adelouri@ucsd.edu, http://physicalplanning.ucsd.edu
Ms. Delouri was not present.

General Public Comment

Jane Reldan repeated Erin Demorest's announcement concerning the Children's Pool rope barrier. **Marne Foster**, candidate for San Diego Unified School District board, District E, spoke. **Michelle Fulks** announced that Tuesday, 7 August, is "National Night Out", crime/drug prevention event; she hopes La Jolla will organize activities in the community for next year. **Robert Felix**, from Walk San Diego, announced "Walk Audits" planned for the end of September; SANDAG has increased funding for pedestrian facilities. **Joe Parker**, President, Bird Rock Community Council, announced their community event/fundraiser to be held 11 August. **Michael Morton**

reported that the Gatto Residence (8368 Paseo del Ocaso) was completed, and he also spoke about seeking donations for the La Jolla Community Center, formerly the Riford Senior Center.

6. Non-Agenda Items for Trustee Discussion

Issues not on the agenda and within LJCPA jurisdiction, two (2) minutes or less.

There were no comments from Trustees.

7. Officer's Reports

A. Secretary

Trustee Allen stated LJCPA is a membership organization open to La Jolla residents, property owners and local businesspersons at least 18 years of age. By providing proof of attendance one maintains membership and becomes eligible for election as a Trustee. Eligible non-members wishing to join the LJCPA must have recorded attendance for one meeting and must submit an application. Forms are on-line at www.lajollacpa.org.

B. Treasurer

Trustee Gabsch asked assistant treasurer, **Jim Fitzgerald**, to give the Treasurer's report. **Trustee Fitzgerald** presented the results for the past month. July Beginning Balance: $589.34+ Income $156.01 – Expenses $398.02 = August Beginning Balance: $347.33. Expenses for the month included agenda printing, telephone expenses and the semi-annual rent payment for the meeting room.

Trustee Fitzgerald commented on the special generosity of the Membership and Trustees and reminded Trustees, Members and guests: LJCPA is a non-profit organization and must rely solely on the generosity of the community and the Trustees. All donations are in cash to preserve anonymity.

8. President's Report – Action Items where indicated

A. Trustee Special Election – today; polls to close at 7 PM.

B. A Committee Appointment by other community group - for ratification by Trustees – action item

Approved Motion: Motion to ratify the appointment by the other parent organization, La Jolla Town Council, of Mathew Welsh to the Development Permit Review Committee, (Costello/ Manno, 12-0-1).

In favor: Allen, Bond, Brady, Burstein, Conboy, Costello, Fitzgerald, Manno, Merten, Gabsch, LaCava, Little.
Abstain: Crisafi.

C. Confirm membership of Ad Hoc Committee on Trustees Representing Project Applicants or Project Opponents – Action item

Appointees, per May LJCPA meeting action: Phil Merten - Chair, Mike Costello - Vice Chair, Laura Ducharme-Conboy, Jim Fitzgerald, Joe LaCava, Tony Crisafi, Cindy Thorsen, Rob Whittemore.

Comments about the makeup of the committee were made with regard to appropriateness of participation by persons with professional interests in development, construction, architecture, *etc.* Speaking were **Trustees Little, LaCava, Manno, Courtney, Brady** and **Fitzgerald.** Also commenting were **Jane Reldan, Esther Viti** and **Bob Whitney.**

Approved Motion: Motion to ratify the appointments to the Ad Hoc Committee on Trustees Representing Project Applicants or Project Opponents, (Gabsch/Manno, 10-2-3).

In favor: Allen, Bond, Brady, Conboy, Costello, Courtney, Fitzgerald, Lucas, Manno, Gabsch.
Opposed: Burstein, Little.
Abstain: Merten, LaCava, Crisafi.

9. Consent Agenda – Ratify or Reconsider Committee Action

Consent Agenda allows the Trustees to ratify actions of our joint committees and boards in a single vote with no presentation or debate. The public may comment on consent items. Anyone may request that a consent item be pulled for reconsideration and full discussion. Items pulled from this Consent Agenda are automatically trailed to

the next CPA meeting.
PDO – Planned District Ordinance Committee, Chair Ione Stiegler, 2nd Mon, 4pm
DPR – Development Permit Review Committee, Chair Paul Benton, 2nd & 3rd Tues, 4pm
PRC – LJ Shores Permit Review Committee, Chair Helen Boyden, 4th Tues, 4pm
T&T – Traffic & Transportation Board, Chair Todd Lesser, 4th Thurs, 4pm

A. **SPOT Kids Sign**
PDO Action: This sign substantially conforms to the PDO. 7-0-0
7632 Herschel Ave- New signage to be positioned on the front stucco wall above trellis.

B. **Mazon EOT**
PRC ACTION: The findings can be made for an Extension of Time for the CDP No. 569852 and SDP No. 569853. 5-0-2
7921 El Paseo Grande - EOT for CDP No. 569852 and SDP No. 569853 to demolish an existing residence and construct a 4,461 SF single-family residence on a 0.14 acre site

C. **Palazzo SCR – *Pulled by Mike Costello***
PRC ACTION: The Findings can be made for Substantial Conformance of plans dated July 2, 2012 and submitted to the City against vested CDP No. 46240, SDP No. 4624, PDP No. 207962 and Map Waiver No. 219822. 6-0-1
2402 Torrey Pines Rd - SCR against PTS#19379; CDP No. 46240, SDP No. 46241, Planned Development No. 207962 & Map Waiver No. 219822. The original approval allows 30 dwelling units and SCR proposes 27 dwelling units

D. **Lai Residence EOT**
PRC ACTION: The findings can be made for an Extension of Time for CDPs 51302 and 40871, SDP 51303 and 40872 and Lot Line Adjustment 165689. 6-0-1.
2037 Torrey Pines Rd - Extension of Time for CDP 51302 and 40871, SDP 51303 and 40872 and Lot Line Adj. 165689 to construct a 6,700 SF residence on a 0.23 acre vacant site and demolish an existing two car garage and add a 677 SF three car garage and add a 1,196 SF guest quarters to an existing 1,787 SF residence

E. **Valet Permit 909 Prospect St – *Pulled by Nancy Manno***
T & T ACTION: Approved, 4-1-1.
909 Prospect St. - Request for Valet Parking permit for Barfly restaurant.

F. **9th Annual La Jolla Concours d'Elegance – *Pulled by Dan Courtney***
T&T ACTION: Approved, contingent on showing support of businesses on Wall and Prospect Streets, 5-0-2.
Friday April 6th to April 7th- Street Closures

G. **Red Curb 7205 Olivetas – *Pulled by Mathew Welsh, applicant***
T&T ACTION: Not approved, 3-3.
7205 Olivetas – red curb opposite the driveway of 7205 Olivetas

Trustee LaCava commented on the sloppy reporting of Traffic & Transportation Board minutes to the Trustees.

Approved Motion: Motion

To accept the action of the Planned District Ordinance Committee: (A) SPOT Kids Sign: The sign substantially conforms to the PDO, and forward the recommendation to the City,

To accept the action of the Development Permit Review Committee: (B) Mazon EOT: The findings can be made for an Extension of Time for the CDP No. 569852 and SDP No. 569853, and forward the recommendation to the City,

To accept the action of the La Jolla Shores Permit Review Committee: (D) Lai Residence EOT: The findings can be made for an Extension of Time for CDPs 51302 and 40871, SDP 51303 and 40872 and Lot Line Adjustment 165689, and forward the recommendation to the City,

(Gabsch/Fitzgerald, 14-0-1).
In favor: Allen, Bond, Brady, Burstein, Conboy, Courtney, Costello, Fitzgerald, Lucas, Manno, Merten, Gabsch, LaCava, Little.
Abstain: Crisafi.

10. Reports from Other Advisory Committees - Information only

A. Coastal Access and Parking Board - Meets 1st Tues, 4pm, La Jolla Recreation Center.

Did not meet in July

B. Community Planners Committee – Meets 4th Tues, 7pm, 9192 Topaz Way, San Diego

Trustee LaCava reported that the CPC is still working on the issue of utility boxes; the Mayor wants Community Planning Associations to participate in the October/November period in the development of next year's list of Capital Improvement Projects. **Trustee Manno** suggested forming a committee to work on this. **Don Schmidt** commented.

11. Robbins Residence - Action Item

475 Gravilla Street - Variance for over height walls within the required setbacks, eliminate required on site parking and walls above 3' within the required visibility areas and Neighborhood Development Permit for a 5' wall in the public right of way.

DPR MOTION (June 2012): Findings can be made for a Variance for over height walls within the required setbacks, eliminate required onsite parking and walls above 3' within the required visibility areas and Neighborhood Development Permit for a 5' wall in the public right of way at 475 Gravilla St. 5-0-0

LJCPA ACTION (July 2012): Pulled from Consent Agenda by Phil Merten.

Presenting: Matt Peterson attorney for applicant: Jim Robbins

Mr. Peterson explained the situation and provided a handout. It is a garage conversion to living space and associated wall, fence and landscape improvement. **Trustee Merten** opposes due to the loss of parking in a neighborhood where there are small lots and an apparent parking shortage. He emphasized the details of the development code which indicate that findings could not be made and provided a handout. **Jim Robbins**, the applicant, stated that the original garage and driveway were unusable for modern automobiles with lower ground clearance than those at the time of the home construction; no reasonable driveway modification would solve the problem. There were questions from **Trustees Burstein, Courtney, LaCava, Allen** and **Bond.** Questions also were asked by **Jane Reldan, Claude-Anthony Marengo** and **Bob Collins.** In addition to **Trustee Merten,** there was discussion by **Trustees Costello, Lucas, Crisafi, LaCava, Fitzgerald** and **Zimmerman.**

Approved Motion: Findings can be made for a Variance and Neighborhood Development Permit for over-height walls within the required setbacks, remove required non-conforming on-site parking and modify non-conforming walls to comply with the three-foot high SDMC visibility requirements and to allow the bottom three feet of the existing wall to remain in the public right-of-way based on the right-of-way and fence revision drawing dated 10/3/2011 and understanding that the variance will include the proposed deed restriction for Robbins Residence, 475 Gravilla Street, (Costello/Burstein, 12-4-1).

In favor: Allen, Bond, Brady, Burstein, Costello, Courtney, Fitzgerald, Gabsch, LaCava, Lucas, Manno, Thorsen.
Opposed: Conboy, Little, Merten, Zimmerman.
Abstain: Crisafi.

12. Increase speed limit from 25 MPH to 35 MPH - Nautilus Street – Action item

Nautilus St from W. Muirlands to Fay - an increase in the posted speed limit

T &T ACTION (June 2012): Motion to approve failed 2-3-1

LJCPA ACTION (July 2012): Pulled from Consent Agenda by David Little.

Applicant: City of San Diego

Trustees Little, Gabsch, Conboy, Allen, Brady, Courtney, Lucas, LaCava and **Thorsen** spoke on the issue. The problem is that San Diego Police will not use radar in areas such as this one where the posted limit is less than the 85th percentile of car speeds measured in a speed survey. A raise in the posted limit from 25 to 35 MPS would permit use of radar on Nautilus St from W. Muirlands to Fay to apprehend and cite speeders. A secondary issue was participation of neighbors in the City's process to propose this changed speed limit. **President Crisafi** read letters in opposition to changing the speed limit from **Barbara Hagey** and **Allen Brown.**

THE CITY OF SAN DIEGO
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 Variance

Project Title
Variance for Retaining Wall

Project No. *For City Use Only*
218477

Project Address:
475 Gravilla Street, La Jolla, CA 92037

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

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

Additional pages attached ☐ Yes ☒ No

Name of Individual (type or print):
James E. Robbins
☒ Owner ☐ Tenant/Lessee ☐ Redevelopment Agency
Street Address:
475 Gravilla Street
City/State/Zip:
La Jolla, CA 92037
Phone No:
(858 431 6479)
Fax No:
Signature :
Date:
8/4/10

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:

Photograph 1
Driveway before Retaining Wall
(Google)

Photograph 2
Retaining Wall and Fence

Photograph 3
Retaining Wall and Fence Cover Driveway

Photograph 4
Patio Covers Driveway

Photograph 5
Fence Has Minimal Effect on View of Gravilla Street
from
Truck at Stop Sign on Tyrian Street

Google maps

Address **6688 Tyrian Street**

Address is approximate

Google maps

Address **463 Gravilla Street**

Address is approximate

Google maps

Address **463 Gravilla Street**

Address is approximate

Google maps

Address **Gravilla Street / Tyrian Street**

Address is approximate

9-146

9-160

ATTACHMENT 11

THE CITY OF SAN DIEGO

April 15, 2010

CIVIL PENALTY NOTICE AND ORDER

Location: **475 Gravilla Street**

APN NO.: 351-473-02

Responsible Person: James E. Robbins
Address: 2952 Yellowtail Drive #P
Los Alamitos CA 90720-4955

Zone: **RM-1-1**

You are hereby notified that the property at 475 Gravilla Street 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:

1. Having built a wall across the driveway blocking access to the required off-street parking.

2. A fence has been placed in the visibility area exceeding 3 ft. in height on both sides of the driveway.

3. You have placed a fence in the visibility area exceeding 3 ft. in height at the intersection of Gravilla Street and Tyrian Street.

4. Non-permitted electrical work has been done in the public right of way and front yard.

DIVERSITY

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) 236-5920

5. The fence facing Tyrian Street is encroaching into the 5 ft. public right-of-way.
For clarification of the visibility areas see attached sheet.

On March 16, 2010 and March 31, 2010, the property was observed to be in violation of the following section(s) of the SDMC.

SDMC Sec.	Violation Description & Location
121.0302	**(a)** It is unlawful for any person to maintain or use any premises in violation of any of the provisions of the Land Development Code, without a required permit, contrary to permit conditions, or without a required variance. **(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: **(1)** To erect, place, construct, convert, establish, alter, use, enlarge, repair, move, remove, equip, maintain, improve, occupy, or demolish any structures;
129.0202	Failure to obtain the required building permit for structural work. **When a Building Permit Is Required** **(a)** No *structure* regulated by the Land Development Code shall be erected, constructed, enlarged, altered, repaired, improved, converted, permanently relocated or partially demolished unless a separate Building Permit for each *structure* has first been obtained from the Building Official, except as exempted in Sections 129.0202(b) and 129.0203.
129.0111	Failure to obtain the required building inspections and approvals.
129.0302	Failure to obtain the required electrical permit for electrical work. **When an Electrical Permit Is Required** No electrical wiring, device, appliance, or equipment shall be installed within or on any *structure* or *premises* nor shall any alteration, addition, or replacement be made in any existing wiring, device, appliance, or equipment unless an Electrical Permit has been obtained for the work, except as exempted in Section 129.0303.

129.0314	Failure to obtain the required electrical inspections and approvals.
129.0302	Failure to obtain the required electrical permit for electrical work.
129.0702	**When a Public Right-of-Way Permit Is Required** **(a)** A Public Right-of-Way Permit is required for the following unless otherwise exempt under Section 129.0703: **(1)** The private construction of *public improvements*; **(2)** The construction of privately owned *structures* or facilities in the ***public right-of-way;*** **(3)** Any construction activity within a *public right-of-way* as required by Municipal Code Sections 54.0116 and 54.0117; **(4)** The planting of any tree, shrub, or plant greater than 30 inches in height in the *public right-of-way*; where not otherwise covered by a Street Tree Permit per Chapter 6, Article 2, Division 6 (Street Planting).
62.0306	Public Right-of-Way encroachment is prohibited.
129.0715	**Encroachment Maintenance and Removal Agreement** **(4)** For *structures* encroaching over or under the *public right-of-way*, the property owner agrees to provide an alternate *right-of-way* or to relocate any existing or proposed City facility to a new alignment, all without cost or expense to the City, whenever it is determined by the City Engineer that any existing or proposed City facility cannot be economically placed, replaced, or maintained due to the presence of the encroaching *structure.*
113.0273	**Measuring Visibility Area** The *visibility area* is a triangular portion of a premises formed by drawing one line perpendicular to and one line parallel to the *property line* or *public right-of-way* for a specified length and one line diagonally joining the other two lines, as shown in Diagram 113-02RR. No *structures* may be located within a *visibility area* unless otherwise provided by the applicable zone or the regulations in Chapter 14, Article 2 (General Development Regulations).

(a) For *visibility areas* at the intersection of *streets*, two sides of the triangle extend along the intersecting *property lines* for 25 feet and the third side is a diagonal line that connects the two.

(c) For *visibility areas* at the intersection of a *street* and driveway, one side of the triangle extends from the intersection of the *street* and the driveway for 10 feet along the *property line*. The second side extends from the intersection of the *street* and driveway for 10 feet inward from the property line along the driveway edge and the third side of the triangle connects the two.

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

By June 23, 2010, you shall have restored the required access to off-street parking by removing the wall blocking the driveway, lowered the fences in the visibility areas to 3 ft. in height, remove the wall that encroaches into the public right-of-way, removed the electrical out of the public right-of-way, and obtained an electrical permit for the work done in the front yard.

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 Division. The following factors were used in determining the amount: Economic 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 **$100.00** per day and shall be an ongoing assessment of penalties at the daily rate until the violations are corrected in accordance with Municipal Code Sections 12.0801 et seq.

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

Administrative Costs

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

Waiver

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

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

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

If you have any questions concerning this Notice and Order, or to schedule a compliance inspection, please contact **Gene Mavis, Combination Inspector II at (619) 236-6831.**

Melody L. Negrete
Code Enforcement Coordinator

MLN/GM/lm

cc: File

NC# 142865

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

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