



THE CITY OF SAN DIEGO

Report to the Planning Commission

DATE ISSUED: May 2, 2024 REPORT NO. PC-24-017

HEARING DATE: May 9, 2024

SUBJECT: FISHBURN AMENDMENT, Process Four Decision

PROJECT NUMBER: [PRJ-0687641](#)

REFERENCE: Coastal Development Permit and Site Development Permit previously approved under Project No. [118907](#) (Attachment 8).
Conservation Easement previously recorded under Doc. 2010-0491312 (Attachment 9).

OWNER/APPLICANT: Fishburn Family Trust (Owner) / M. Wainwright Fishburn (Applicant)

SUMMARY

Issues: Should the Planning Commission approve an amendment to Coastal Development Permit No. 404174 and Site Development Permit No. 404177 (PTS No. 118907) to adjust the boundaries of an existing conservation easement on site containing environmentally sensitive lands, associated on-site grading and landscaping, and a new retaining wall, located on a vacant parcel (APN: 358-130-0800), one lot southwest of 1615 Clemson Circle, west of Rutgers Road, within the [La Jolla Community Plan and Local Coastal Program Land Use Plan area](#)?"

Proposed Actions:

1. APPROVE Coastal Development Permit No. PMT-2534901 and Site Development Permit No. PMT-2534902 (amendment to Coastal Development Permit No. 404174 and Site Development Permit No. 404177).

Fiscal Considerations: None. All costs associated with the processing of this application are paid from a deposit account maintained by the applicant.

Code Enforcement Impact: No actions are open on the project site.

Housing Impact Statement: None. No housing is proposed nor is any housing being eliminated with the proposed project.

Community Planning Group Recommendation: The applicant petitioned not to obtain a Community

Planning Group recommendation vote. The applicant considered that the project scope is minor, and thus would not bear any significant impacts. The La Jolla Community Planning Association concurred with the applicant's petition not to obtain a recommendation vote on February 20, 2024 (Attachment 11).

Environmental Determination: The project site was previously analyzed within the adopted Mitigated Negative Declaration (MND) No. 118907/SCH No. 2008101139. A consistency evaluation was prepared to determine if conditions specified in California Environmental Quality Act (CEQA) Statute and Guidelines, Section 15162 would require preparation of additional CEQA review for the project. As outlined in the evaluation (Attachment 6), the project is consistent with the original adopted Mitigated Negative Declaration (MND) No. 118907/SCH No. 2008101139 and would not result in new impacts. A Mitigation, Monitoring, and Reporting Program was prepared for Mitigated Negative Declaration and was implemented. Based on the CEQA Section 15162 consistency analysis, the project would not require any additional environmental review.

BACKGROUND

The project is located on a vacant parcel (APN: 358-130-0800), one lot southwest of 1615 Clemson Circle, west of Rutgers Road, approximately 1.3 miles east from the ocean within the La Jolla Community Plan and Local Coastal Program Land Use Plan (Community Plan) in Council District 1. The 0.98-acre (43,124 square-foot) is an irregularly shaped lot and is in the Residential Single-Unit (RS-1-2) Base Zone. It directly abuts single-dwelling unit developments to the east and west and natural, undeveloped, open space to the southwest. The site is constrained by the Coastal (Non-Appealable) Overlay Zone, Coastal Height Limit Overlay Zone, and Environmentally Sensitive Lands for steep hillsides and sensitive biological resources. The site is not located within the La Jolla Shores Planned District or the specified Coastal Access Subareas identified in the Community Plan (Figure 9 and Appendix G). The owner of the subject parcel also owns the adjacent lot at 1615 Clemson Circle, where the development currently includes a one-story single-dwelling unit.

The subject parcel is currently governed by Coastal Development Permit (CDP) No. 404174 and Site Development Permit (SDP) No. 404177, adopted by the Hearing Officer on December 17, 2008, Resolution No. HO-08-194, to maintain the existing grading on a vacant lot (Attachment 8). A biological survey report was prepared at that time and determined that the southwestern portion of the lot contained Environmentally Sensitive Lands including sensitive biological resources and steep hillsides within the existing open space granted to the City of San Diego on September 24, 1982. As a condition of approval, a conservation easement was required to protect the portion of the lot containing steep hillsides. The conservation easement was recorded on September 16, 2010, Doc No. 2010-0491312 (Attachment 9).

DISCUSSION

The project proposes to amend the previously adopted CDP and SDP to adjust the boundaries of an existing conservation easement on site containing environmentally sensitive lands to exchange an equal area of approximately 805-sf of conserved area, resulting in no net change to the conserved area. The conservation easement would be adjusted in a like-for-like exchange, where the area to be

added to the conservation easement is contiguous, and comparable in habitat value to the area being removed (Figure 1). The conservation easement boundary adjustment will serve to allow the appropriate future use of the developable portion of the lot, for which associated on-site grading and landscaping work, and a new City-standard retaining wall will be included as part of this development.



Figure 1- Conservation Easement Adjustment Exhibit

Pursuant to SDMC Section 143.0152(b) and Condition #12 of the recorded conservation easement an amendment of a conservation easement where sensitive biological resources are present requires written concurrence from both the California Department of Fish and Wildlife (CDFW) and the United States Fish and Wildlife Service (USFWS). A Biological Report (Proposed Conservation Easement Boundary Adjustment) prepared by Pacific Southwest Biological Services, Inc. (May 2023), was submitted to the wildlife agencies for concurrence on the proposed boundary adjustment. The CDFW issued concurrence on October 3, 2023, and the USFWS issued concurrence on October 4, 2023 (Attachment 12).

The project has been designed to comply with the Environmentally Sensitive Lands regulations, Landscape Standards and Stormwater Standards of the Land Development Code. The proposed 2:1

graded fill slope will continue to follow the original drainage pattern. No grading activities will occur within the open space easement area to the west of the property. The project is conditioned to require any increase in runoff be directed away from any steep hillside areas and any other portions containing Environmentally Sensitive Lands not part of the future allowable development area be left undeveloped and in their natural state. No increase in drainage runoff would be permitted within any portion of the premise located within the proposed adjusted conservation easement areas. The project is also conditioned to require revegetation, hydro-seeding, irrigation and maintenance of all disturbed land in order to reduce the potential disturbance of and runoff to steep hillsides and sensitive biological resources present on site.

Permits Required

- A Coastal Development Permit (CDP) pursuant to SDMC Section 126.0702(a) is required for all coastal development of a premises within the Coastal Overlay Zone, and to amend CDP No. 404174; and
- A Site Development Permit (SDP) pursuant to SDMC Section 126.0502(a)(1)(B) for development on lots greater than 15,000 square-feet containing sensitive biological resources and/or steep hillsides, and SDMC 143.0152(b) for the release of a covenant of easement, and to amend SDP No. 404177.

Community Plan Analysis:

The Land Use Map in the Community Plan designates the 0.98-acre site for Very Low Density Residential (0-5 Dwelling Units per acre) and Open Space. The Very Low Density designation is characterized by large, single dwelling unit, estate homes built on 10,000 to 40,000 square foot parcels with steep slopes and/or open space areas implemented by the RS-1-4, RS-1-2, and RS-1-1 zones to provide reasonable use while preserving open space onsite. The proposal to adjust the existing conservation easement and to maintain the site as presently vacant does not conflict with the allowed land use, and thus would be consistent with the residential designation.

The Natural Resources and Open Space System identifies the project site partially within open space that is privately owned (Figure 7, pp. 33 – Community Plan). These privately-owned open space areas are protected with easements, or other mechanisms, some of which exclude the development of structures. The proposal to adjust the conservation easement boundaries by exchanging an equal area of conservation land within the Open Space portion of the project site would be consistent with the open space designation.

Conclusion:

Staff has reviewed the proposed project to amend the previously adopted Coastal Development Permit and Site Development Permit and has found the proposal to be consistent with the governing entitlements, regulations of the Land Development Code, and the Community Plan. Staff, therefore, recommends approval of this amendment and Coastal Development Permit No. PMT-2534901 and Site Development Permit No. PMT-2534902.

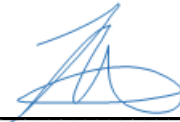
ALTERNATIVES

1. Approve Coastal Development Permit No. PMT-2534901 and Site Development Permit No. PMT-2534902 (amendment to Coastal Development Permit No. 404174 and Site Development Permit No. 404177), with modifications.
2. Deny Coastal Development Permit No. PMT-2534901 and Site Development Permit No. PMT-2534902 (amendment to Coastal Development Permit No. 404174 and Site Development Permit No. 404177), if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



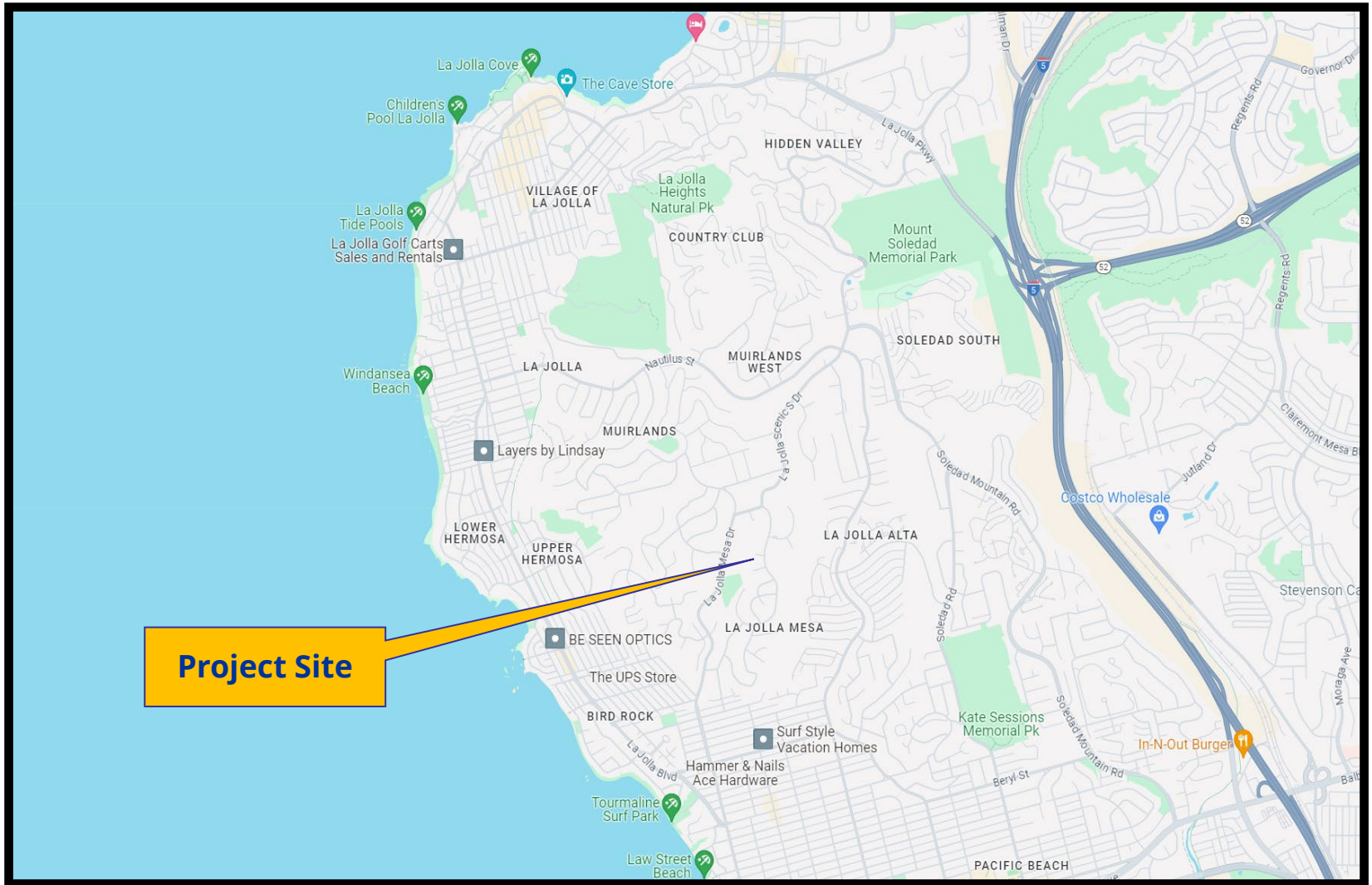
Renee Mezo
Assistant Deputy Director
Development Services Department



Mark Lopez
Development Project Manager
Development Services Department

Attachments:

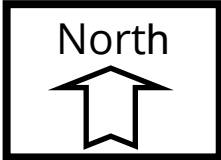
1. Project Location Map
2. Community Land Use Plan
3. Aerial Photograph
4. Draft Permit with Conditions
5. Draft Permit Resolution with Findings
6. CEQA – Section 15162 Evaluation Memo
7. Ownership Disclosure Statement
8. Copy of Existing Recorded Permits: Coastal Development Permit No. 404174; Site Development Permit No. 404177
9. Copy of Existing “Grant Deed - Conservation Easement”
10. Project Plans
11. Correspondence from La Jolla Community Planning Association
12. Correspondence from CDFW & USFWS

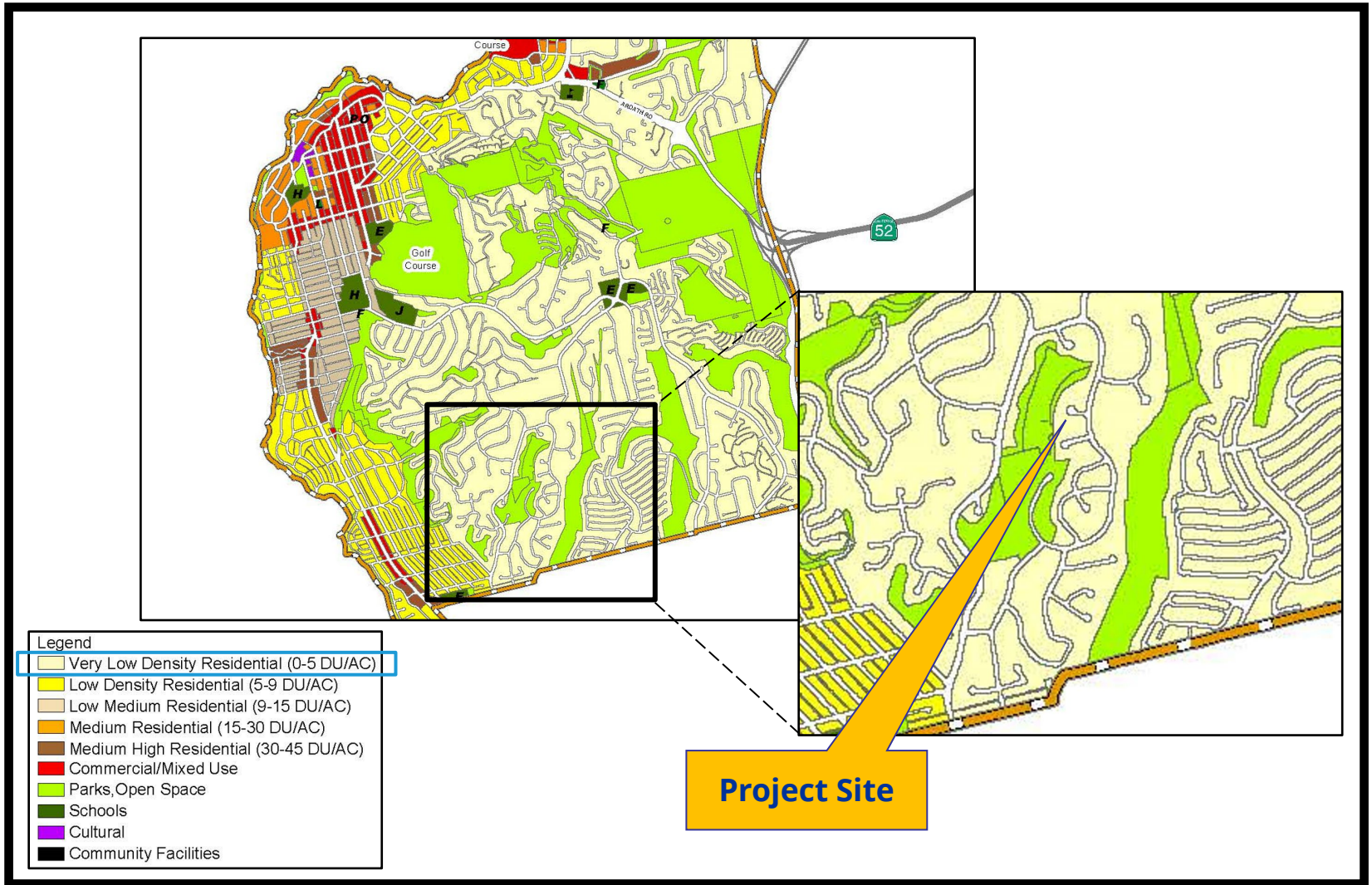


Project Site



Project Location Map
 Fishburn Amendment; Project No. 0687641
 Parcel No.: 358-130-0800, La Jolla, CA 92037

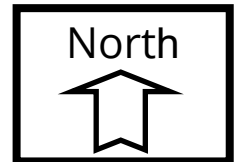




Community Plan Land Use Map

Fishburn Amendment; Project No. 0687641

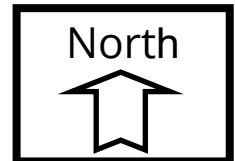
Parcel No.: 358-130-0800, La Jolla, CA 92037





Aerial Photograph

Fishburn Amendment; Project No. 0687641
Parcel No.: 358-130-0800, La Jolla, CA 92037



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

INTERNAL ORDER NUMBER: 24008891

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. PMT-2534901

SITE DEVELOPMENT PERMIT NO. PMT-2534902

FISHBURN AMENDMENT - PROJECT NO. PRJ-0687641

AMENDMENTS TO COASTAL DEVELOPMENT PERMIT NO. 404174 AND

SITE DEVELOPMENT PERMIT NO. 404177

PLANNING COMMISSION

This Coastal Development Permit No. PMT-2534901 and Site Development Permit No. PMT-2534902 (amendments to Coastal Development Permit No. 404174 and Site Development Permit No. 404177) is granted by the Planning Commission of the City of San Diego to FISHBURN FAMILY TRUST dated January 17, 2003, Owner/Permittee, pursuant to San Diego Municipal Code (SDMC) sections 126.0702, 126.0502 and 143.0152. The 0.98-acre (43,124 square-feet) site is located at an existing vacant parcel (APN: 358-130-0800), one lot southwest of 1615 Clemson Circle, west of Rutgers Road in the Residential Single Dwelling Unit (RS-1-2) Base Zone, the Coastal (Non-Appealable), Coastal Height Limit, Parking Impact (Coastal) Overlay Zones within the La Jolla Community Plan and Local Coastal Program Land Use Plan area. The project site is legally described as Parcel 2 of Parcel Map No. 12355, in the County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, October 1, 1982, as File No. 82-303560 of official records.

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owner/Permittee to amend Coastal Development Permit No. 404174 and Site Development Permit No. 404177, adopted on December 17, 2008 (Project No. PTS-118907, Resolution No. HO-08-194), to adjust the conservation easement boundary on the site that contains environmentally sensitive lands, associated on-site grading and landscaping, and a new retaining wall, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 9, 2024, on file in the Development Services Department.

The project shall include:

- a. Adjust the boundaries of an existing conservation easement on site containing environmentally sensitive lands to exchange an equal area on site of approximately 805-square-feet (sf) of conserved area;
- b. Grading (fill work);

- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Construction of a City-standard retaining wall;
- b. Associated 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 **May 23, 2027**.
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. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the Federal Endangered Species Act [ESA] and by the California Department of Fish and Wildlife [CDFW] pursuant to California Fish and Wildlife Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394.

Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFW, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third-Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, in accordance with Section 17.1D of the IA.

8. The Owner/Permittee shall secure all necessary construction 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.

9. 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.

10. 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.

11. 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.

12. Coastal Development Permit No. 404174 and Site Development Permit No. 404177 shall remain in effect, except where amended by this permit.

CLIMATE ACTION PLAN REQUIREMENTS:

13. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

ENGINEERING REQUIREMENTS:

14. Prior to the issuance of any construction permit the Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the SDMC, in a manner satisfactory to the City Engineer.

15. Prior to the issuance of any construction permit, the Owner/Permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the SDMC, into the construction plans or specifications.

16. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

LANDSCAPE REQUIREMENTS:

17. Prior to issuance of any construction permit for grading, the Owner/Permittee shall submit complete construction documents for the revegetation and hydro-seeding of all disturbed land in accordance with the City of San Diego Landscape Standards, Storm Water Design Manual, and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," on file in the Development Services Department.

18. Prior to issuance of any construction permit, the Owner/Permittee shall submit complete landscape and irrigation construction documents, which are consistent with the Landscape Standards, to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan, on file in the Development Services Department. Construction plans shall provide a 40-square-foot area around each tree that is unencumbered by hardscape and utilities unless otherwise approved per §142.0403(b)(6).

19. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including in the right-of-way, unless long-term maintenance of said landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with the Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

20. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Final Inspection.

PLANNING/DESIGN REQUIREMENTS:

21. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

22. Any increase in runoff resulting from the development of the site shall be directed away from any steep hillside areas and either into an existing or newly improved public storm drain system or onto a street developed with a gutter system or public right-of-way designated to carry surface drainage run-off.

23. Prior to issuance of any construction permits, the Owner/Permittee shall execute and record a Covenant of Easement which ensures the preservation of the Environmentally Sensitive Lands that are outside the allowable development area on the premises as shown on "Exhibit A" for Site Development Permit No. 2534902, in accordance with SDMC Section 143.0152.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on May 9, 2024, and Resolution No. PC-____.

DRAFT

Coastal Development Permit No. PMT-2534901
Site Development Permit No. PMT-2534902
Date of Approval: May 9, 2024

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Mark Lopez
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.

FISHBURN FAMILY TRUST
Owner/Permittee

By _____
M. Wainwright Fishburn
Trustee

FISHBURN FAMILY TRUST
Owner/Permittee

By _____
Deborah Thomas Fishburn
Trustee

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

PLANNING COMMISSION RESOLUTION NO. PC-____
COASTAL DEVELOPMENT PERMIT NO. PMT-2534901 AND
SITE DEVELOPMENT PERMIT NO. PMT-2534902
FISHBURN AMENDMENT - PROJECT NO. PRJ-0687641
AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 404174 AND
SITE DEVELOPMENT PERMIT NO. 404177

WHEREAS, THE FISHBURN FAMILY TRUST of January 17, 2023, Owner/Permittee, filed an application with the City of San Diego for an amendment to Coastal Development Permit No. 404174 and Site Development Permit No. 404177 to adjust the current conservation easement boundaries on site containing environmentally sensitive lands, associated on site grading and landscaping, and a new retaining wall, as described in and by reference to the approved Exhibit "A" and corresponding conditions of approval for the associated Permit Nos. PMT-2534901 and PMT-2534902, on portions of a 0.98-acre project site;

WHEREAS, the project site is located at APN No. 358-130-0800, on Clemson Circle, west of Rutgers Road, in the Residential Single-Unit (RS-1-2) Base Zone, Coastal Overlay Zone (Non-Appealable), Coastal Height Limit, Parking Impact (Coastal) Overlay Zones within the La Jolla Community Plan and Local Coastal Program Land Use Plan (Community Plan);

WHEREAS, the project site is legally described as Parcel 2 of Parcel Map No. 12355, in the County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, October 1, 1982, as File No. 82-303560 of official records;

WHEREAS, on October 19, 2023, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is consistent with Mitigated Negative Declaration (MND) No. 118907 prepared by the City of San Diego's Development Services Department (DSD) and certified by the Hearing Officer of DSD on December 18, 2008 (Resolution No. 08-194; SCH No 2008101139) per the California Environmental

Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Section 15162 (Subsequent Environmental Impact Reports and Negative Declarations);

WHEREAS, on May 9, 2024, the Planning Commission of the City of San Diego considered Coastal Development Permit No. PMT-2534901 and Site Development Permit No. PMT-2534902 pursuant to the Land Development Code of the City of San Diego; NOW THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. PMT-2534901 and Site Development Permit No. PMT-2534902, (amendment to Coastal Development Permit No. 404174 and Site Development Permit No. 4041772):

COASTAL DEVELOPMENT PERMIT [San Diego Municipal Code (SDMC) Section 126.0708]

a) Findings for all Coastal Development Permits:

- 1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.**

The project proposes to amend previously approved Coastal Development Permit No. 404174 and Site Development Permit No. 404177 to adjust the boundaries of an existing conservation easement on site containing environmentally sensitive lands to exchange an equal area of approximately 805-square-foot (sf) of conserved area, resulting in no net change to the conserved area. The area to be added to the conservation easement is contiguous, and comparable in habitat value to the area being removed. The project will also include associated grading and landscaping work, and a new City-standard retaining wall.

The 0.98-acre (43,124 square-foot) irregularly shaped parcel (APN No. 358-130-0800) is located one lot southwest of 1615 Clemson Circle, west of Rutgers Road. The subject property is generally accessed from the northern portion of the lot at Clemson Circle. The site is adjacent to existing public streets to the north and no encroachment into those accessways are proposed. The site is located approximately 1.3 miles east from the Pacific Ocean and is not located between the sea and the first public roadway paralleling the sea. The site is not located within the La Jolla Shores Planned District or the specified Coastal Access Subareas identified in the Community Plan (Figure 9 and Appendix G). Furthermore, the site does not include physical accessway or obstruct any

public views of the ocean, bluff, hillsides, open space canyons and beach areas from public vantage points.

The project also conforms to the Community Plan's Residential Land Use Goals, follows the residential policy and protects public views, observing the setbacks for the underlying zoning regulations, as well as conformance to the applicable Landscape Design Standards. The project meets the Natural Resources and Open System goals and policies to protect public views, in which the proposed slope area will provide planting and be maintained in accordance with the Landscape Design Standards. Furthermore, since the site will remain vacant and no habitable structures are being proposed, the project will comply with the Coastal Height Limit regulations. Therefore, the proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

2. The proposed coastal development will not adversely affect environmentally sensitive lands.

The project proposes to adjust the boundaries of an existing conservation easement on site containing environmentally sensitive lands to exchange an equal area of approximately 805-sf of conserved area, resulting in no net change to the conserved area. The area to be added to the conservation easement is contiguous, and comparable in habitat value to the area being removed. The project will also include associated grading and landscaping work, and a new City-standard retaining wall.

While the project site contains Environmentally Sensitive Lands in the form of sensitive biological resources and steep hillsides, no habitable structures or buildings are located within the vacant parcel. A Site Development Permit for the conservation easement area exchange is required pursuant to San Diego Municipal Code Section 126.0502 and 143.0152 and is included as part of the project. Additionally, the site is not within or adjacent to the Multiple Habitat Planning Areas (MHPA) of the City's Multiple Species Conservation Program (MSCP).

The conservation easement boundary adjustment continues to protect the environmentally sensitive resources of La Jolla's open areas including its sensitive steep hillside slopes, native plant life and wildlife habitat linkages, a goal identified in the Natural Resources and Open Space System of the Community Plan. No grading activities are proposed within the existing open space easement area to the west, granted to the City of San Diego on September 24, 1982 (Doc No. 82-296202). Steep hillsides were determined to be located on-site, but outside of the proposed conservation easement exchange area.

Pursuant to SDMC Section 143.0152(b) and Condition #12 of the existing Conservation Easement (Doc No. 2010-0491312), an amendment of a conservation easement where sensitive biological resources are present requires written concurrence from the

California Department of Fish and Wildlife (CDFW) and the United States Fish and Wildlife Service (USFWS). A Biological Report (Proposed Conservation Easement Boundary Adjustment), prepared by Pacific Southwest Biological Services, Inc. (May 2023), was submitted to the wildlife agencies for concurrence on the proposed boundary adjustment. The CDFW issued concurrence on October 3, 2023, and the USFWS issued concurrence on October 4, 2023.

The environmental analysis was reviewed against the previous Mitigated Negative Declaration (MND) No. 118907, State Clearing House Number 2008101139, adopted by the Hearing Officer on December 7, 2008. A CEQA Section 15162 consistency evaluation was made and found the project would not require any revisions to the previous MND that result in new impacts or changed circumstances. Staff also found that none of the criteria listed under CEQA Section 15162 has occurred and the evaluation determined that the previously identified certified and adopted MND adequately covers the actions being proposed.

Furthermore, the proposed project will follow all applicable standards related to emissions, drainage/water quality/storm water, refuse and recycling, and other standards deemed applicable in order to preserve the overall public health, safety and welfare. The proposed project will also be required to prepare a Water Pollution Control Plan (WPCP), as will ensure that water quality standards appropriate to the project location are met. Therefore, the proposed coastal development will not adversely affect environmentally sensitive lands.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.

The 0.98-acre (43,124-sf) site is located on an irregularly shaped parcel (APN No. 358-130-0800), one lot southwest of 1615 Clemson Circle, west of Rutgers Road. The property is in the Residential Single-Unit (RS-1-2) Base Zone, Coastal (Non-Appealable) Overlay Zone, Coastal Height Limit Overlay Zone, and is designated Very Low Density Residential (0-5 dwelling units per acre) as identified in the Community Plan.

The subject property is designated as Very Low Density Residential and is allowed to provide up to five dwelling-units (DU) per acre as identified in the Community Plan. Although site is designated for residential development; maintaining the site as vacant will not conflict with the allowed land use. The Natural Resources and Open Space System of the Community Plan identifies the project site partially within open space that is privately owned (Figure 7, pp. 33 – Community Plan). These privately owned open space areas are protected with easements, or other mechanisms, some of which exclude the development of structures. The proposal to adjust the conservation easement boundaries by exchanging an equal area of conservation land within the Open Space portion of the project site would be consistent with the open space designation. The site is not located within the La Jolla Shores Planned District or the specified Coastal Access Subareas identified in the Community Plan (Figure 9 and Appendix G). Therefore, the

proposed site is in conformity with the certified Local Coastal Program land use plan and complies with all the regulations of the certified Implementation Program.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The project site is located approximately 1.3 miles east from the Pacific Ocean and is not located between the sea and the first public roadway paralleling the sea. There are no direct public views or coastal access from the project site, as identified in the Community Plan. The project is entirely within private property and will not adversely impact any public recreation opportunities. Furthermore, the site is not located within the La Jolla Shores Planned District or the specified Coastal Access Subareas identified in the Community Plan (Figure 9 and Appendix G). Therefore, the project conforms with the public access and public recreation policies sections within Chapter 3 of the California Coastal Act.

SITE DEVELOPMENT PERMIT [SDMC Section 126.0505]

a) Findings for all Site Development Permits:

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

The project proposes to amend previously approved Coastal Development Permit No. 404174 and Site Development Permit No. 404177 to adjust the boundaries of an existing conservation easement on site containing environmentally sensitive lands to exchange an equal area of approximately 805-square-foot (sf) of conserved area, resulting in no net change to the conserved area. The area to be added to the conservation easement is contiguous, and comparable in habitat value to the area being removed. The project will also include associated grading and landscaping work, and a new City-standard retaining wall.

The 0.98-acre (43,124-sf) site is in the Residential Single-Unit (RS-1-2) Base Zone, Coastal (Non-Appealable) Overlay Zone, Coastal Height Limit Overlay Zone, and is designated as Very Low Density Residential and is allowed to provide up to five dwelling-units (DU) per acre as identified in the Community Plan. The site is designated for residential development; however, maintaining the site as presently vacant does not conflict with the allowed land use. The Natural Resources and Open Space System of the Community Plan identifies the project site partially within open space that is privately owned (Figure 7, pp. 33 – Community Plan). These privately owned open space areas are protected with easements, or other mechanisms, some of which exclude the development of structures. The proposal to adjust the conservation easement boundaries by adding additional conservation land to the open space easement portion to the west is consistent with the open space designation. Therefore, the proposed project will 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 exchange approximately 805-sf of the current conserved area to a portion of the less viable conservation easement on the site, leaving the revised, largely undisturbed conservation easement area below the 2:1 slope break line adjacent to the downslope, contiguous open space to the west of the property. As a result, the conservation easement boundary adjustment will serve to allow the appropriate future use of the developable portion of the lot. While the project site contains Environmentally Sensitive Lands in the form of sensitive biological resources and steep hillsides, no habitable structures are located within the vacant parcel. The project would ultimately reduce the potential disturbance of steep hillsides and/or sensitive biological resources, thereby protecting sensitive habitat that benefits public health and welfare.

Furthermore, the conservation easement is located outside of the MHPA and thus, was not counted towards the City's MSCP conservation goals. The exchange of conservation areas will not have any impact to the public safety or welfare. Therefore, the proposed project will not be detrimental to the public health, safety, and welfare.

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

The conservation easement boundary adjustment to exchange an equal area has been designed to comply with the Development Standards of the underlying zone, including setbacks and the Environmentally Sensitive Lands regulations of the City's Land Development Code. The proposed 2:1 graded fill slope will continue to follow the original drainage pattern. The project is designed to follow the Stormwater Standards by allowing the site drainage be conveyed directly to a catch basin that connects to a riprap dissipator located at the top of the natural drainage contour. The project is conditioned to require all disturbed land be revegetated, hydro-seeding and maintained in accordance with the Landscape Standards. The proposed landscape design will incorporate native, non-invasive plant species within the development areas to allow proper irrigation, thus reducing potential disturbance of sensitive biological resources and drainage runoff. Therefore, the proposed development will comply with the applicable regulations of the Land Development Code.

b) Supplemental Findings - Environmentally Sensitive Lands

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

The project proposes to adjust the boundaries of an existing conservation easement on site containing environmentally sensitive lands to exchange an equal area of approximately 805-square-feet (sf) of conserved area, resulting in no net change to the conserved area. The area to be added to the conservation easement is contiguous, and

comparable in habitat value to the area being removed. The project will also include associated grading and landscaping work, and a new City-standard retaining wall. As a result, the conservation easement boundary adjustment will allow the appropriate future use of the developable portion of the lot.

While the parcel contains Environmentally Sensitive Lands for sensitive biological resources and steep hillsides, no habitable structures or buildings are located on the vacant parcel. No grading activities are proposed within the existing open space easement area to the west of the property. The project has been designed to comply with the Development Standards of the underlying zone, including setbacks and the Environmentally Sensitive Lands regulations of the City's Land Development Code. Additionally, the project has been conditioned to meet the requirements of the Landscape and Stormwater Standards to reduce the potential disturbance of steep hillsides and sensitive biological resources present on site.

Condition #12 of the existing Conservation Easement (Doc No. 2010-0491312) states that an amendment of a conservation easement where sensitive biological resources are present, requires written concurrence from the California Department of Fish and Wildlife (CDFW) and the United States Fish and Wildlife Service (USFWS). A Biological Report (Proposed Conservation Easement Boundary Adjustment), prepared by Pacific Southwest Biological Services, Inc. (May 2023), was submitted to the wildlife agencies for concurrence on the proposed boundary adjustment. The CDFW issued concurrence on October 3, 2023, and the USFWS issued concurrence on October 4, 2023.

Furthermore, the environmental analysis was reviewed against the previous Mitigated Negative Declaration (MND) No. 118907, State Clearing House Number 2008101139, adopted by the Hearing Officer on December 7, 2008. A CEQA Section 15162 consistency evaluation was made and found the project would not require any revisions to the previous MND that result in new impacts or changed circumstances. Staff also found that none of the criteria listed under CEQA Section 15162 has occurred and the evaluation determined that the previously identified certified and adopted MND adequately covers the actions being proposed. Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.

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

The project proposes to adjust the boundaries of an existing conservation easement on site containing environmentally sensitive lands to exchange an equal area of approximately 805-square-feet (sf) of conserved area, resulting in no net change to the conserved area. The area to be added to the conservation easement is contiguous, and comparable in habitat value to the area being removed. The project will also include associated grading and landscaping work, and a new City-standard retaining wall.

The proposed 2:1 graded fill slope will continue to follow the original drainage pattern. No increase in drainage runoff would be permitted within any portion of the premise located within the proposed adjusted conservation easement area. The project is designed to follow the Stormwater Standards by allowing the site drainage to be conveyed directly to a catch basin that connects to a riprap dissipator located at the top of the natural drainage contour. The project is conditioned to require all disturbed land be revegetated and hydro-seeded and maintained in accordance with the Landscape Standards. The proposed landscape design will incorporate native, non-invasive plant species within the development areas to allow proper irrigation, thus reducing potential disturbance of sensitive biological resources and drainage runoff. No grading activities will occur within the existing open space easement area to the west of the property. Additionally, best management practices will be implemented during construction, such as sediment and erosion control, fugitive dust suppression, trash control, and spill prevention. Therefore, the proposed development, as conditioned, will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

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

The project proposes to adjust the boundaries of an existing conservation easement on site containing environmentally sensitive lands to exchange an equal area of approximately 805-square-feet (sf) of conserved area, resulting in no net change to the conserved area. The area to be added to the conservation easement is contiguous, and comparable in habitat value to the area being removed. The project will also include associated grading and landscaping work, and a new City-standard retaining wall.

The project is conditioned to require any increase in runoff resulting from the development be directed away from any steep hillside areas and any portions containing steep hillsides and/or sensitive biological resources not part of the allowable development area is to be left undeveloped and in their natural state. The project will also implement and comply with the Stormwater Standards to ensure that impacts to environmentally sensitive lands both on-site and off-site are minimized. Therefore, the proposed project as sited and designated will prevent adverse impacts on adjacent environmentally sensitive lands.

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

Although the project site contains Environmentally Sensitive Lands for sensitive biological resources and steep hillsides, the site is not within or adjacent to the Multiple Habitat Planning Areas (MHPA) of the City's Multiple Species Conservation Program (MSCP).

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

The project site is located approximately 1.3-miles from the shoreline of the Pacific Ocean. The proposed 2:1 graded fill slope will continue to follow the original drainage pattern. No increase in drainage runoff would be permitted within any portion of the premise located within the proposed adjusted conservation easement areas. The project is designed to follow the Stormwater Standards by allowing the site drainage to be conveyed directly to a catch basin that connects to a riprap dissipator located at the top of the natural drainage contour. The project will also be required to prepare a Water Pollution Control Plan (WPCP), as will ensure that water quality standards appropriate to the project location are met. Additionally, best management practices will be implemented during construction, such as sediment and erosion control, fugitive dust suppression, trash control, and spill prevention. Therefore, the proposed development will not contribute to the erosion of public beaches nor adversely impact local shoreline sand supply.

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

The proposed conservation boundary adjustment to exchange an equal area has been designed to comply with the Development and Environmentally Sensitive Lands regulations of the City's Land Development Code. The area to be added to the conservation easement is contiguous, and comparable in habitat value to the area being removed, resulting no net change to the conserved area.

The proposed 2:1 graded fill slope will continue to follow the original drainage pattern. No increase in drainage runoff would be permitted within any portion of the premise located within the proposed adjusted conservation easement area. No grading activities will occur within the existing open space easement area to the west of the property. The project is designed to follow the Stormwater Standards by allowing the site drainage to be conveyed directly to a catch basin that connects to a riprap dissipator located at the top of the natural drainage contour. The project is conditioned to require all disturbed land be revegetated and hydro-seeded and maintained in accordance with the Landscape Standards. The landscape design will incorporate native, non-invasive plant species within the development areas to allow proper irrigation, thus reducing potential disturbance of sensitive biological resources and drainage runoff. The project will also be required to prepare a Water Pollution Control Plan (WPCP), as will ensure that water quality standards appropriate to the project location are met. Additionally, best management practices will be implemented during construction, such as sediment and erosion control, fugitive dust suppression, trash control, and spill prevention. The environmental analysis was reviewed against the previous MND No. 118907, State Clearing House Number 2008101139, adopted by the Hearing Officer on December 7, 2008. A CEQA Section 15162 consistency evaluation was made and found the project would not require any revisions to the previous MND that result in new impacts or changed circumstances. Staff also found that none of the criteria listed under CEQA Section 15162 has occurred and the evaluation determined that the previously identified certified and adopted MND adequately covers the actions being proposed, and thus no new mitigation measures or environmental document actions are required.

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, based on the findings hereinbefore adopted by the Coastal Development Permit No. PMT-2534901 and Site Development Permit No. PMT-2534902 (amendment to Coastal Development Permit No. 404174 and Site Development Permit No. 404177) are hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. PMT-2534901 and No. PMT-2534902 (amendment to Coastal Development Permit No. 404174 and Site Development Permit No. 404177) a copy of which is attached hereto and made a part hereof.

Mark Lopez
Development Project Manager
Development Services Department

Adopted on: May 9, 2024

IO#: 24008891

rm 3.27.24



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: March 12, 2024

TO: Environmental/Project File
Development Services Department

FROM: Courtney Holowach, Senior Planner, Development Services Department

SUBJECT: Fishburn Amendment (Project No. 0687641)
California Environmental Quality Act – Section 15162 Evaluation

The Development Services Department (DSD) has completed a California Environmental Quality Act (CEQA) Section 15162 – Subsequent Environmental Impact Reports and Negative Declarations consistency evaluation for the proposed Fishburn Amendment (project). See 14 C.C.R. §15162.

This evaluation was performed to determine if conditions specified in CEQA Guidelines Section 15162 would require the preparation of additional CEQA review for the Fishburn Amendment. As outlined in the evaluation, DSD has determined that the Project are consistent with the original Mitigated Negative Declaration No. 118907 adopted by the Hearing Officer on December 17, 2008, Resolution No. HO-6111; and would not result in new impacts.

BACKGROUND**Previously Adopted Mitigated Negative Declaration**

The project site is within the plan boundaries of the La Jolla Community Plan. On December 17, 2008 the City of San Diego adopted a Mitigated Negative Declaration (MND) for the Fishburn Grading project (Project No. 118907). The Fishburn Grading MND includes a Mitigation Monitoring and Reporting Program (MMRP) that requires mitigation for biological resources. All other issue areas were determined to be less than significant.

PROJECT DESCRIPTION

The proposed project is an Amendment to Coastal Development Permit No. 404174 and Site Development Permit No. 404177 to include additional grading and to adjust the conservation easement boundary on the site that contains environmentally sensitive lands, located at parcel 358-130-0800. The conservation easement would be adjusted in a like-for-like exchange. The proposed amendment would modify the current conservation easement boundary to swap equal areas (805

square feet) on the parcel, resulting in no net change to the conserved area. The area to be added to the conservation easement is contiguous, and comparable in habitat value to the area being removed. Since the conservation area is located outside of the MHPA it was not counted towards the City's MSCP conservation goals. The 0.98-acre site is in RS-1-2 and Coastal Overlay (Non-Appealable) Zone, within the La Jolla Community Plan area, Council District 1.

CEQA 15162 CONSISTENCY EVALUATION

DSD reviewed the proposed Project and conducted a 15162 consistency evaluation with the previously adopted Mitigated Negative Declaration (Project No. 118907). The following evaluation substantiates the conclusion that supports a determination that no subsequent document is required.

BIOLOGICAL RESOURCES

Previously Adopted Mitigated Negative Declaration

The previously adopted Mitigated Negative Declaration (MND) identified impacts to biological resources. A biological resources report entitled, *Fishburn Lot, 1615 Clemson Circle, City of San Diego, California, Biological Reconnaissance Survey and MHPA Adjacency Review, and Coastal Development Permit; Project No. 118907* (May 7, 2007) was prepared by PacificSouthwest Biological Services, Inc. Subsequent revised biological reports were submitted by Pacific Southwest Biological Services, Inc. on March 20, 2008; June 18, 2008; and August 28, 2008 that showed the project site contained approximately 0.77 acre of chamise chapparal/succulent-planted chamise chaparral. Unpermitted grading activities on-site resulted in the loss of approximately 0.19-acre chamise chapparal/succulent-planted chapparal. The loss of the 0.19-acre of habitat loss was mitigated at a ration of 0.5:1 (approximately 0.095-acre) through payment in the City's Habitat Acquisition Fund. The previous MND identified no other sensitive biological resources on site. The project site is not located within or adjacent to the City's Multi-Habitat Planning Area. The conservation easement was not part of the mitigation for project impacts.

Project

A biological resources report entitled *Fishburn Lot, 1611 Clemson Circle, City of San Diego, California, APN 358 130 08 00, Lot 2 of PM 12355, Biological Reconnaissance Survey and Coastal Development Permit; PTS-0687641* (May 15, 2023) was prepared by PacificSouthwest Biological Services, Inc. for the project. The report demonstrated that the conservation easement would be adjusted in a like-for-like exchange. The proposed amendment would adjust the current conservation easement boundary to swap equal areas (805 square feet) on the parcel, resulting in no net change to the conserved area. The area to be added to the conservation easement is contiguous and comparable in habitat value to the area being removed. No new impacts to biological resources would occur.

CONCLUSION

Overall, implementation of the proposed would not result in any significant direct, indirect or cumulative impacts over and above those disclosed in the previously adopted Mitigated Negative Declaration.

Section 15162 of the CEQA Guidelines states:

When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Based upon a review of the current project, none of the situations described in Sections 15162 of the State CEQA Guidelines apply. No changes in circumstances have occurred, and no new information of substantial importance has manifested, which would result in new significant or substantially increased adverse impacts because of the project. This evaluation, therefore, supports the use of the previously adopted Mitigated Negative Declaration, under CEQA Guidelines Section 15162, in that both environmental documents adequately covers the proposed project.

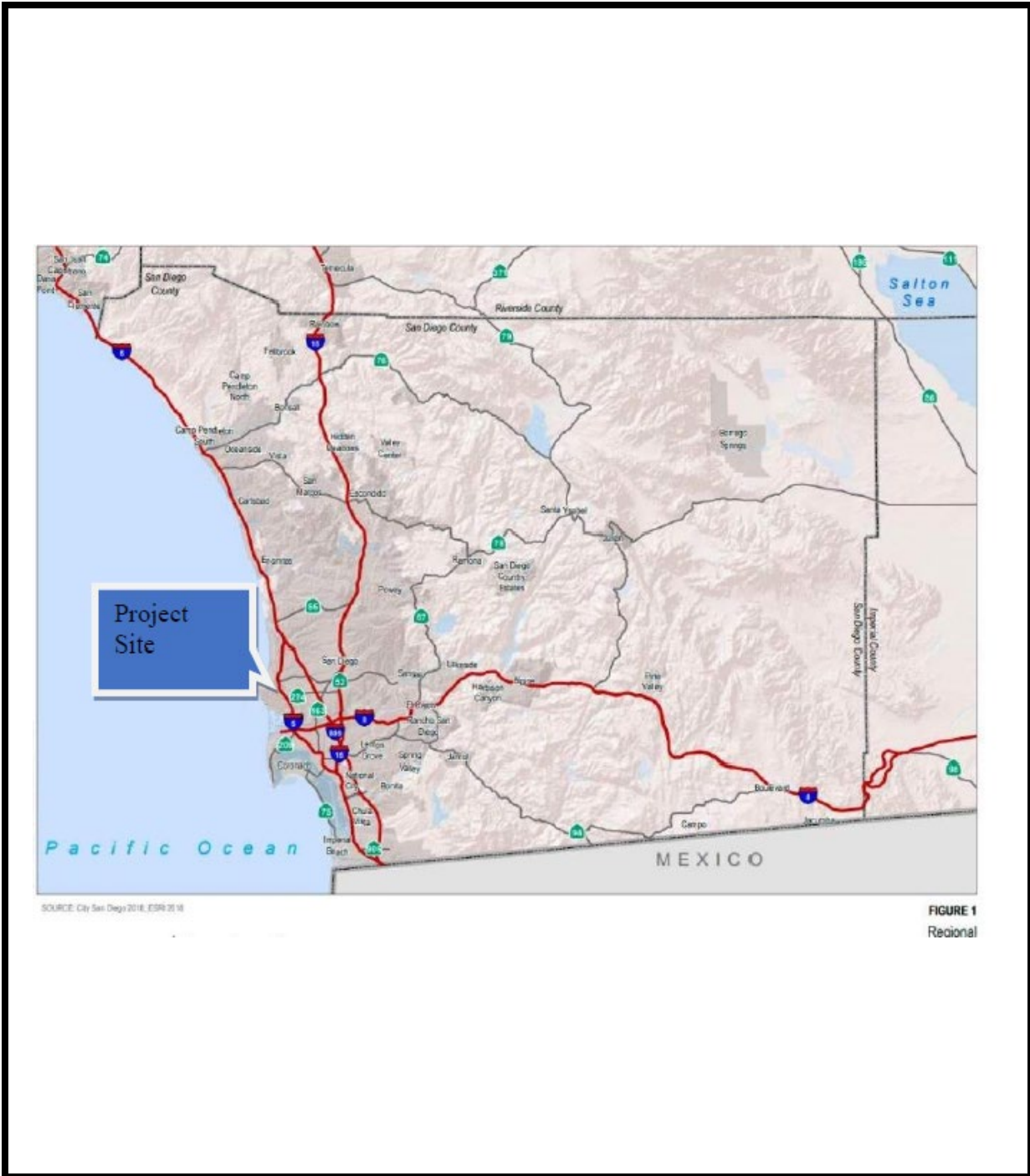
Page 4
Environmental/Project File
March 12, 2024

Courtney Holowach
Senior Planner

CH/ch

cc: Mark Lopez, Development Project Manager, Development Services Department

Attachments: Figure 1 – Project Location Map
Figure 2 – Project Site



Project Location Map
Fishburn Amendment / PRJ-0687641
Development Services Department

**FIGURE
No. 1**

	<p>City of San Diego Development Services 1222 First Ave., MS 302 San Diego, CA 92101 (619) 446-5000</p>	<p>Ownership Disclosure Statement</p>	<p>FORM DS-318</p> <p>October 2017</p>
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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 COF SDP Action Request

Project Title: Fishburn Amendment **Project No. For City Use Only:** PRJ-0687641
Project Address: parcel no. 358-130-08-00

Specify Form of Ownership/Legal Status (please check):
 Corporation Limited Liability -or- General - What State? _____ Corporate Identification No. _____
 Partnership Individual

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter 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), applicant(s), and other financially interested persons of the above referenced property. A financially interested party includes any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver or syndicate with a financial interest in the application. If the applicant includes a corporation or partnership, include the names, titles, addresses of all individuals owning more than 10% of the shares. If a publicly-owned corporation, include the names, titles, and addresses of the corporate officers. (A separate page may be attached if necessary.) If any person is a nonprofit organization or a trust, list the names and addresses of **ANY** person serving as an officer or director of the nonprofit organization or as trustee or beneficiary of the nonprofit organization. A signature is required of at least one of the property owners. Attach additional pages if needed. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Property Owner
Name of Individual: The Fishburn Family Trust dated January 17th 2003 Owner Tenant/Lessee Successor Agency
Street Address: 1615 Clemson Circle
City: La Jolla State: CA Zip: 92037
Phone No.: 858-945-8631 Fax No.: _____ Email: 500nautilus@gmail.com
Signature: [Signature] Date: 4/11/24
Additional pages Attached: Yes No

Applicant
Name of Individual: M. Wannwright Fishburn JR. Trustee Owner Tenant/Lessee Successor Agency
Street Address: 1615 Clemson Circle
City: La Jolla CA State: CA Zip: 92037
Phone No.: 858-945-8631 Fax No.: _____ Email: 500nautilus@gmail.com
Signature: [Signature] Date: 4/11/24
Additional pages Attached: Yes No

Other Financially Interested Persons
Name of Individual: _____ Owner Tenant/Lessee Successor Agency
Street Address: _____
City: _____ State: _____ Zip: _____
Phone No.: _____ Fax No.: _____ Email: _____
Signature: _____ Date: _____
Additional pages Attached: Yes No

RECORDING REQUESTED BY:

Development Services Department
City of San Diego

RETURN RECORDED DOCUMENT TO:

The City of San Diego
1222 First Avenue, M.S.501
San Diego, CA 92101

Attention: Maribel A. Martinez

THE ORIGINAL OF THIS DOCUMENT
WAS RECORDED ON APR 29, 2009
DOCUMENT NUMBER 2009-0222434
DAVID L. BUTLER, COUNTY RECORDER
SAN DIEGO COUNTY RECORDER'S OFFICE
TIME: 9:11 AM

THIS SPACE FOR RECORDER'S USE ONLY

RE-RECORD

(ADDING ADDITIONAL DOCUMENT – MITIGATION MONITORING AND REPORT PROGRAM)

**COASTAL DEVELOPMENT PERMIT NO. 404174
SITE DEVELOPMENT PERMIT NO. 404177
FISHBURN GRADING – PROJECT NO. 118907
HEARING OFFICER**

THIS PAGE ADDED TO PROVIDE ADEQUATED SPACE FOR RECORDING INFORMATION
Govt. Code 27361.6
(Additional recording fee applies)

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

THE ORIGINAL OF THIS DOCUMENT
WAS RECORDED ON MAR 27, 2009
DOCUMENT NUMBER 2009-0155279
DAVID L. BUTLER, COUNTY RECORDER
SAN DIEGO COUNTY RECORDER'S OFFICE
TIME: 10:26 AM

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-7217

COASTAL DEVELOPMENT PERMIT NO. 404174 AND
SITE DEVELOPMENT PERMIT NO. 404177
FISHBURN GRADING ~ PROJECT NO. 118907
HEARING OFFICER

This Coastal Development Permit No. 404174 and Site Development Permit No. 404177 are granted by the Hearing Officer of the City of San Diego to the FISHBURN FAMILY TRUST, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0708 and 126.0504. The 0.98-acre site is located one lot southwest of 1615 Clemson Circle (APN 358-130-08) in the RS-1-2 Zone, the Coastal Overlay Zone (Non-Appealable), the Coastal Height Limit Overlay Zone, the Coastal Parking Impact Overlay Zone, within the La Jolla Community Plan area. The project site is legally described as Parcel 2, Map No. 12355.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to permit previous grading on a vacant lot, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated December 17, 2008, on file in the Development Services Department.

The project shall include:

- a. Maintaining 50 cubic yards of cut at a maximum depth of 2 feet and 600 cubic yards of fill at a maximum depth of 6 feet on the vacant lot;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
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. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
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 permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Grading plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made 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 have been determined to be necessary in order to make the findings required for this Permit. It is the intent

of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that 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 applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, 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 applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

11. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program (MMRP). These MMRP conditions are incorporated into the permit by reference or authorization for the project

12. The mitigation measures specified in the Mitigation Monitoring and Reporting Program, and outlined in Mitigated Negative Declaration No. 118907, shall be noted on the construction plans and specifications under the heading Environmental/Mitigation Requirements.

13. The Owner/Permittee shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in Mitigate Negative Declaration No. 118907, satisfactory to the Development Services Department and the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for Biological Resources.

14. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

ENGINEERING REQUIREMENTS:

15. The Owner/Permittee shall comply with the San Diego Municipal Code Section 142.0132, Uncontrolled Embankment Regulations satisfactory to the city engineer.

16. The Owner/Permittee shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

17. The Owner/Permittee shall maintain all landscape in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.

18. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual Landscape Standards.

19. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, the Owner/Permittee is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Final Landscape Inspection.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

20. The Owner/Permittee shall implement the following requirements in accordance with the Brush Management Program shown on Exhibit 'A' Brush Management Plan on file in the Office of the Development Services Department.

21. Prior to issuance of any grading permits, Landscape Construction Documents shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit 'A.'

22. Prior to issuance of any grading permits, a complete set of Brush Management Construction Documents shall be submitted for approval to the Development Services Department and the Fire Marshall. The grading plans shall be in substantial conformance with Exhibit 'A' and shall comply with the Uniform Fire Code, M.C. 55.0101; the Land Development Manual, Landscape Standards; and the Land Development Code, Landscape Regulations Section 142.0412.

23. The Brush Management Program shall consist of one zone consistent with the Brush Management Regulations of the Land Development Code section 142.0412. The site shall have a Zone One of 50 feet from the adjacent structures located at 1605 and 1615 Clemson Circle, until such time as this permit is amended to allow for future development.

24. Within Zone One, combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc.) shall not be permitted while non-combustible accessory structures may be approved within the designated Zone One area subject to Fire Marshall and Development Services Department approval.

25. Future development shall be subject to brush management regulations in effect at the time an amendment to the permit is requested. The brush management program for an amendment may involve modified brush management if appropriate.

26. In Zone One, plant material shall be selected to visually blend with the existing hillside vegetation. No invasive plant material shall be permitted as jointly determined by the Landscape Analysis Section [LAS] and the Environmental Analysis Section [EAS].

27. The Owner/Permittee shall ensure that all proposed landscaping, especially landscaping adjacent to native habitat, shall not include exotic plant species that may be invasive to native habitats. Plant species found within the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory and the City of San Diego's Land Development Manual; Landscape Standards are prohibited.

28. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Land Development Manual, Landscape Standards.

29. Prior to issuance of any grading permits, the Owner/Permittee shall record a easement for brush management on the subject lot pursuant to SDMC 132.0407.

PLANNING/DESIGN REQUIREMENTS:

30. All portions of the premise that contain steep hillsides that are not within the existing open space easement shall be placed within a conservation easement in accordance with San Diego Municipal Code Sections 143.0140 and 143.0152. This conservation easement shall allow for brush management, if needed, for future development.

31. Disturbed slopes that are not within the new conservation easement shall be revegetated with non-invasive plants. The revegetated areas of the premises, including the slopes, that are not within the conservation easement shall not be considered sensitive as these areas are now disturbed and the environmental document for this project requires that the applicant pay a fee to mitigate for the disturbances.

32. No development is proposed per this permit. Future development will require an amendment to this permit.

33. If an amendment to this permit is processed to allow for structures, then the height of those structures shall be measured in accordance with San Diego Municipal Code Section 113.0270. Height shall be measured from existing or proposed grade, whichever is lower. Existing grade shall be consistent with San Diego Municipal Code Section 113.0228. The fill that has been allowed to remain on the premise shall not be considered existing grade.

34. Any increase in runoff resulting from the development of the site shall be directed away from any steep hillside areas and either into an existing or newly improved public storm drain system or towards a street developed with a gutter system or public right-of-way designated to carry surface drainage run-off. The proposed riprap energy dissipater shall not be located within the conservation easement. Construction drawings shall demonstrate that the riprap does not allow for any increase in runoff velocity to convey over any portion of the premise that is within the conservation easement.

35. All grading and restoration work must commence and be pursued in a diligent manner within 180 days after the effective date of final approval by the City, following all appeals. All construction and modifications permitted by the grading permit must be completed within 180 days of the effective date of the grading permit. An extension may be granted by the City Manager in accordance with provisions of the San Diego Municipal Code. Applicable penalties and/or fines may be applied if work is not completed within the required time.

36. Removal of all man-made landscaping elements and invasive plant species shall be required within the areas of the premise that are covered by the existing open space easement and new conservation easement.

INFORMATION ONLY:

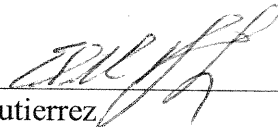
Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §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 December 17, 2008. Resolution No. HO-6111.

Coastal Development Permit No. 404174 and Site
Development Permit No. 404177
Date of Approval: December 17, 2008

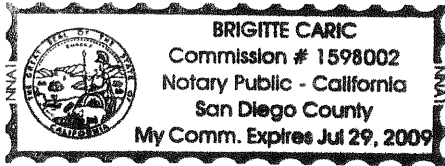
AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT



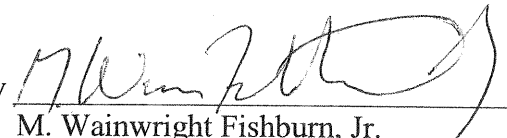
Edith Y. Gutierrez
Development Project Manager

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

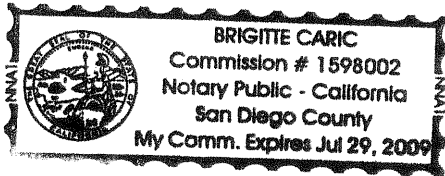
The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.



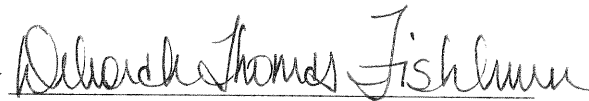
FISHBURN TRUST
Owner/Permittee

By 

M. Wainwright Fishburn, Jr.
Trustee



FISHBURN TRUST
Owner/Permittee

By 

Deborah Thomas Fishburn
Trustee

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

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SAN DIEGO }

On MARCH 24, 2009 before me, MARIBEL A. MARTINEZ, NOTARY PUBLIC
Date Here Insert Name and Title of the Officer

personally appeared EDITH Y. GUTIERREZ
Name(s) of Signer(s)

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Maribel Martinez
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: FISHBURN GRADING - PTB# 118907

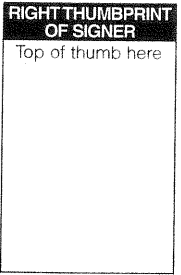
Document Date: DECEMBER 17, 2008 Number of Pages: 7

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: EDITH Y. GUTIERREZ

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

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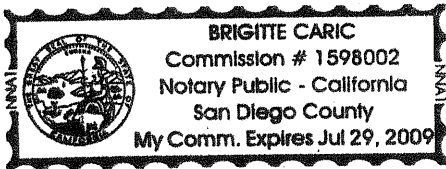
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SAN DIEGO

On Feb. 6, 2009 before me, BRIGITTE CARIC, NOTARY PUBLIC

personally appeared M. Wainwright Fishburn, Jr.



who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.
Signature Brigitte Caric

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

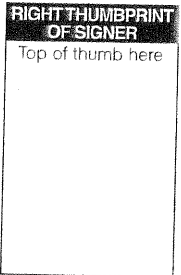
Title or Type of Document: Coastal Development Permit No. 404174

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____



Signer Is Representing: _____

- Signer's Name: _____
- Individual
 - Corporate Officer — Title(s): _____
 - Partner — Limited General
 - Attorney in Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____



Signer Is Representing: _____

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HEARING OFFICER
RESOLUTION NO. HO-6111
COASTAL DEVELOPMENT PERMIT NO. 404174 AND
SITE DEVELOPMENT PERMIT NO. 404177
FISHBURN GRADING PROJECT NO. 118907

WHEREAS, FISHBURN FAMILY TRUST, Owner/Permittee, filed an application with the City of San Diego for a permit to maintain previous grading on a vacant lot (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 404174 and 404177), on portions of a 0.98-acre site;

WHEREAS, the project site is located one lot southwest of 1615 Clemson Circle (APN 358-130-08) in the RS-1-2 Zone, the Coastal Overlay Zone (Non-Appealable), the Coastal Height Limit Overlay Zone, the Coastal Parking Impact Overlay Zone, within the La Jolla Community Plan area;

WHEREAS, the project site is legally described as Parcel 2, Map No. 12355;

WHEREAS, on December 17, 2008, the Hearing Officer of the City of San Diego considered Coastal Development Permit 404174 and Site Development Permit No. 404177 pursuant to the Land Development Code of the City of San Diego;

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated December 17, 2008.

FINDINGS:

Coastal Development Permit - Section 126.0708

A.

1. **The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan; and**

The 0.98-acre site is located one lot southwest of 1615 Clemson Circle, east of La Jolla Mesa. The project proposes to permit previous grading on the vacant site. This neighborhood is developed in its entirety, adjacent to and across from the proposed project. Since no development is proposed, there would be no encroachment upon any existing physical accessway that is legally used by the public or any proposed public accessway and will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.

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2. The proposed coastal development will not adversely affect environmentally sensitive lands; and

The project proposes to permit previous grading on a vacant site. The parcel is triangular-shaped and contains Environmentally Sensitive Lands for sensitive biological resources and steep hillsides. No structures or buildings are located on the vacant parcel. A biological resources report was prepared by Pacific Southwest Biological Services Inc., which determined that the southern portion of the site containing steep hillsides and sensitive biological resources is located within an existing open space easement granted to the City of San Diego on September 24, 1982. No grading activities occurred within the open space easement. Steep hillsides were determined to be located on-site outside of the existing open space easement. As required by the Environmentally Sensitive Lands regulations and as conditioned by the permit, portions of the site containing steep hillsides, not located within the existing open space easement, would be placed within an additional open space easement. The developed pad area within the northern portion of the site would be revegetated with turf and non-invasive plant materials. Additionally, the applicant would be required to pay into the City's Habitat Acquisition Fund to mitigate for direct on-site impacts to biological resources. Therefore, the proposed project will not adversely affect environmentally sensitive lands.

A Mitigated Negative Declaration No. 118907 has been prepared for this project in accordance with the State of California Environmental Quality Act (CEQA) Guidelines which identified potential impacts to Biological Resources. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level below significance, any potential impacts identified in the environmental review process.

3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program; and

The project proposes to permit previous grading on a vacant site. The project is located in an area identified as Very Low Density Residential (0-5 du/acre), in the La Jolla Community Plan. The site is designated to for single family residential, however, maintaining the site vacant does not conflict with the land use. Since no development is proposed and the site would comply with the Environmentally Sensitive Lands Regulations, the site is in conformity with the certified Local Coastal Program land use plan and complies with all the regulations of the certified Implementation Program.

4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

The project proposes to permit previous grading on a vacant site. The site is located approximately one mile east of the Pacific Ocean shoreline. There would be no impact to public beach parking since the site would remain undeveloped. The project conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

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Site Development Permit - Section 126.0504

A. Findings for all Site Development Permits

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

The project proposes to permit previous grading on a vacant site. The La Jolla Community Plan designates this lot for residential development. Maintaining the site vacant does not conflict with the land use. Since no development is proposed and the site would comply with the Environmentally Sensitive Lands Regulations, the proposed project will not adversely affect the land use plan.

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

The project proposes to permit previous grading on a vacant site. Prior to the site disturbance, drainage flowed across the site from north to south following a natural drainage contour extending along the western boundary line. As proposed, drainage would be directed to a newly constructed catch basin with filter insert connecting to a riprap dissipator located at the top of the natural drainage contour, and would continue to follow the original drainage pattern. No increase in drainage runoff would be permitted within any portion of the premise located within either the proposed or existing open space easement. Any increase in drainage runoff would be directed away from steep hillsides into either an existing or newly improved public storm drain system, a street developed with a gutter system, or a public right-of-way designed to carry surface drainage runoff. Therefore, the proposed project will not be detrimental to the public health, safety, and welfare.

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

The project proposes to permit previous grading on a vacant site. This project as conditioned has been designed to comply with the Environmentally Sensitive Lands regulations the Coastal Overlay Zone, and the La Jolla Community Plan Area and Local Coastal Program. Therefore, the proposed development will comply with the applicable regulations of the Land Development Code.

B. Supplemental Findings--Environmentally Sensitive Lands

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

The project proposes to permit previous grading on a vacant site. The parcel is triangular-shaped and contains Environmentally Sensitive Lands for sensitive biological resources and steep hillsides. No structures or buildings are located on the vacant parcel. A biological resources report was prepared by Pacific Southwest Biological Services Inc., which determined that the southern portion of the site containing steep hillsides and sensitive biological resources is located within an existing open space easement granted to the City of San Diego on September 24, 1982. No grading activities occurred within the open space easement. Steep hillsides were determined to

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be located on-site outside of the existing open space easement. As required by the Environmentally Sensitive Lands regulations and as conditioned by the permit, portions of the site containing steep hillsides, not located within the existing open space easement, would be placed within an additional open space easement. The developed pad area within the northern portion of the site would be revegetated with turf and non-invasive plant materials. Additionally, the applicant would be required to pay into the City's Habitat Acquisition Fund to mitigate for direct on-site impacts to biological resources. Therefore, the proposed project will not adversely affect environmentally sensitive lands.

A Mitigated Negative Declaration No. 118907 has been prepared for this project in accordance with the State of California Environmental Quality Act (CEQA) Guidelines which identified potential impacts to Biological Resources. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level below significance, any potential impacts identified in the environmental review process. Therefore, the proposed project as conditioned will result in minimum disturbance to environmentally sensitive lands

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

The project proposes to permit previous grading on a vacant site. Prior to the site disturbance, drainage flowed across the site from north to south following a natural drainage contour extending along the western boundary line. As proposed, drainage would be directed to a newly constructed catch basin with filter insert connecting to a riprap dissipator located at the top of the natural drainage contour, and would continue to follow the original drainage pattern. No increase in drainage runoff would be permitted within any portion of the premise located within either the proposed or existing open space easement. Any increase in drainage runoff would be directed away from steep hillsides into either an existing or newly improved public storm drain system, a street developed with a gutter system, or a public right-of-way designed to carry surface drainage runoff. Additionally, the project has been conditioned to provide require a Brush Management Program consisting of one zone consistent with the Brush Management Regulations of the Land Development Code. The site would have a Zone One of 50 feet from the adjacent structures located at 1605 and 1615 Clemson Circle. Therefore, the proposed project as conditioned would minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

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

The project proposes to permit previous grading on a vacant site. The parcel is triangular-shaped and contains Environmentally Sensitive Lands for sensitive biological resources and steep hillsides. No structures or buildings are located on the vacant parcel. A biological resources report was prepared by Pacific Southwest Biological Services Inc., which determined that the southern portion of the site containing steep hillsides and sensitive biological resources is located within an existing open space easement granted to the City of San Diego on September 24, 1982. No grading activities occurred within the open space easement. Steep hillsides were determined to be located on-site outside of the existing open space easement. As required by the Environmentally Sensitive Lands regulations and as conditioned by the permit, portions of the site containing steep hillsides, not located within the existing open space easement, would be placed

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within an additional open space easement. The developed pad area within the northern portion of the site would be revegetated with turf and non-invasive plant materials. Additionally, the applicant would be required to pay into the City's Habitat Acquisition Fund to mitigate for direct on-site impacts to biological resources. Therefore, the proposed project will not adversely affect environmentally sensitive lands.

A Mitigated Negative Declaration No. 118907 has been prepared for this project in accordance with the State of California Environmental Quality Act (CEQA) Guidelines which identified potential impacts to Biological Resources. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level below significance, any potential impacts identified in the environmental review process. Therefore, the proposed project as conditioned would prevent adverse impacts on any adjacent environmentally sensitive lands.

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

The project proposes to permit previous grading on a vacant site. The parcel is triangular-shaped and contains Environmentally Sensitive Lands for sensitive biological resources and steep hillsides. No structures or buildings are located on the vacant parcel. The project site is not located within or adjacent to the City of San Diego's Multiple Habitat Planning Area. Therefore, the proposed project will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.

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

The project proposes to permit previous grading on a vacant site. The project site is approximately one mile from the shoreline of the Pacific Ocean. Prior to the site disturbance, drainage flowed across the site from north to south following a natural drainage contour extending along the western boundary line. As proposed, drainage would be directed to a newly constructed catch basin with filter insert connecting to a riprap dissipator located at the top of the natural drainage contour, and would continue to follow the original drainage pattern. No increase in drainage runoff would be permitted within any portion of the premise located within either the proposed or existing open space easement. Any increase in drainage runoff would be directed away from steep hillsides into either an existing or newly improved public storm drain system, a street developed with a gutter system, or a public right-of-way designed to carry surface drainage runoff. Due to the project's drainage design, limited size and distance from the coast line, the project will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

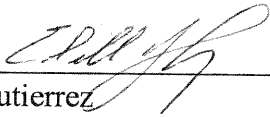
6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.

The project proposes to permit previous grading on a vacant site. The site contains Environmentally Sensitive Lands for sensitive biological resources and steep hillsides. A Mitigated Negative Declaration No. 118907 has been prepared for this project in accordance with the State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring

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and Reporting Program has been prepared and will be implemented which will reduce, to a level below significance, any potential impacts identified in the environmental review process.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Coastal Development Permit 404174 and Site Development Permit No. 404177 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos . 404174 and 404177, a copy of which is attached hereto and made a part hereof.



Edith Y. Gutierrez
Development Project Manager
Development Services

Adopted on: December 17, 2008

Job Order No. 42-7217

cc: Legislative Recorder

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RESOLUTION NUMBER HO-6111

ADOPTED ON DECEMBER 17, 2008

WHEREAS, on December 7, 2006, Wain Fishburn submitted an application to the Development Services Department for a Coastal Development Permit and Site Development Permit.

WHEREAS, the permit was set for a public hearing to be conducted by the Hearing Officer of the City of San Diego; and

WHEREAS, the issue was heard by the Hearing Officer on December 17, 2008; and

WHEREAS, the Hearing Officer of the City of San Diego considered the issues discussed in Mitigated Negative Declaration No.118907. NOW THEREFORE,

BE IT RESOLVED, by the Hearing Officer of the City of San Diego, that it is hereby certified that Mitigated Negative Declaration No.118907 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State guidelines thereto (California Administration Code Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the Hearing Officer.

BE IT FURTHER RESOLVED that the Hearing Officer finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration, a copy of which is attached hereto and incorporated by reference, is hereby approved.

BE IT FURTHER RESOLVED that pursuant to California Public Resources Code, Section 21081.6, the Hearing Officer hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference.

By: _____


Edith Gutierrez
Development Project Manager

ATTACHMENT: Exhibit A, Mitigation Monitoring and Reporting Program

ORIGINAL

EXHIBIT A

MITIGATION MONITORING AND REPORTING PROGRAM
COASTAL DEVELOPMENT PERMIT AND SITE DEVELOPMENT PERMIT
PROJECT NO. 118907

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Entitlements Division, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. All mitigation measures contained in the Mitigated Negative Declaration (Project No.118907) shall be made conditions of the Coastal Development Permit and Site Development Permit as may be further described below.

A. GENERAL

1. Prior to recordation of the Coastal Development Permit No. 404174 and/or the Site Development Permit No. 404177, the Assistant Deputy Director (ADD) Environmental Designee of the City's Development Services Department shall verify that the following Mitigation, Monitoring and Reporting Program (Fishburn Grading, Mitigated Negative Declaration No. 118907) is shown verbatim, in its entirety on ALL approved construction documents as notes under the heading **ENVIRONMENTAL MITIGATION REQUIREMENTS**.
2. Prior to the commencement of any work, or any site disturbance, the Owner/Permittee shall arrange and perform a Preconstruction Meeting (Pre-con) to ensure implementation of the MMRP. Attendees shall include the City of San Diego's Mitigation Monitoring and Coordination (MMC) Section, Resident Engineer, Building Inspector, Project Biologist, Applicant, and other parties of interest.
3. Evidence of compliance with other permitting authorities is required, if applicable. Evidence shall include either copies of permits issued, letters of resolution issued by the Responsible Agency documenting compliance, or other evidence documenting compliance and deemed acceptable by the ADD Environmental Designee.

B. BIOLOGICAL RESOURCES

1. General Construction

Prior to the recordation of Coastal Development Permit No. 404174 and/or the Site Development Permit No. 404177, the owner/permittee shall provide a letter to the Assistant Deputy Director (ADD) Environmental Designee of the City's Development Services Department verifying that a qualified biologist has been retained to implement the biological resources mitigation program as detailed below (see a thru d):

- a. The qualified biologist (project biologist) shall attend the first preconstruction meeting and discuss the biological resources mitigation program with the Construction Manager, Contractor, Resident Engineer, and Mitigation Monitoring and Coordination (MMC) staff.

ORIGINAL

- b. The project biologist shall supervise the placement of orange construction fencing or equivalent along the limits of disturbance within and surrounding sensitive habitats.
- c. The project biologist shall monitor construction activities as needed to ensure that construction activities do not encroach into biologically sensitive areas beyond the approved limits of disturbance. All construction activities (including staging areas) shall be restricted to the approved development area, as shown on the approved Exhibit A.
- d. The project biologist shall direct the placement of gravel bags, straw logs, silt fences or equivalent erosion control measures adjacent to all graded areas. The project biologist shall oversee implementation of best management practices (BMPs) as needed to prevent any significant sediment transport.

2. Sensitive Habitat

- a. Prior to recordation of Coastal Development Permit No. 404174 and/or Site Development Permit No. 404177, the Assistant Deputy Director (ADD) of the Entitlements Division shall verify that the applicant/permittee has mitigated for direct impacts to **0.095 acre** of *chamise chaparral* habitat (Tier IIIA), as defined by the City's Land Development Code Biology Guidelines, by the following measure:

The applicant shall pay into the City's Habitat Acquisition Fund the amount necessary to purchase **0.095 acre**. Said payment is currently established at \$35,000 per acre. Monetary compensation must also include an amount equal to 10% of the total for administrative costs. Therefore, it is **estimated** that the applicant shall pay **\$3,657.50** into the City's Habitat Acquisition Fund (Fund #10571) to mitigate for direct on-site impacts to biological resources. **Should the fees change prior to project approval, the applicant will be required to pay the fee in place at the time of project approval.**

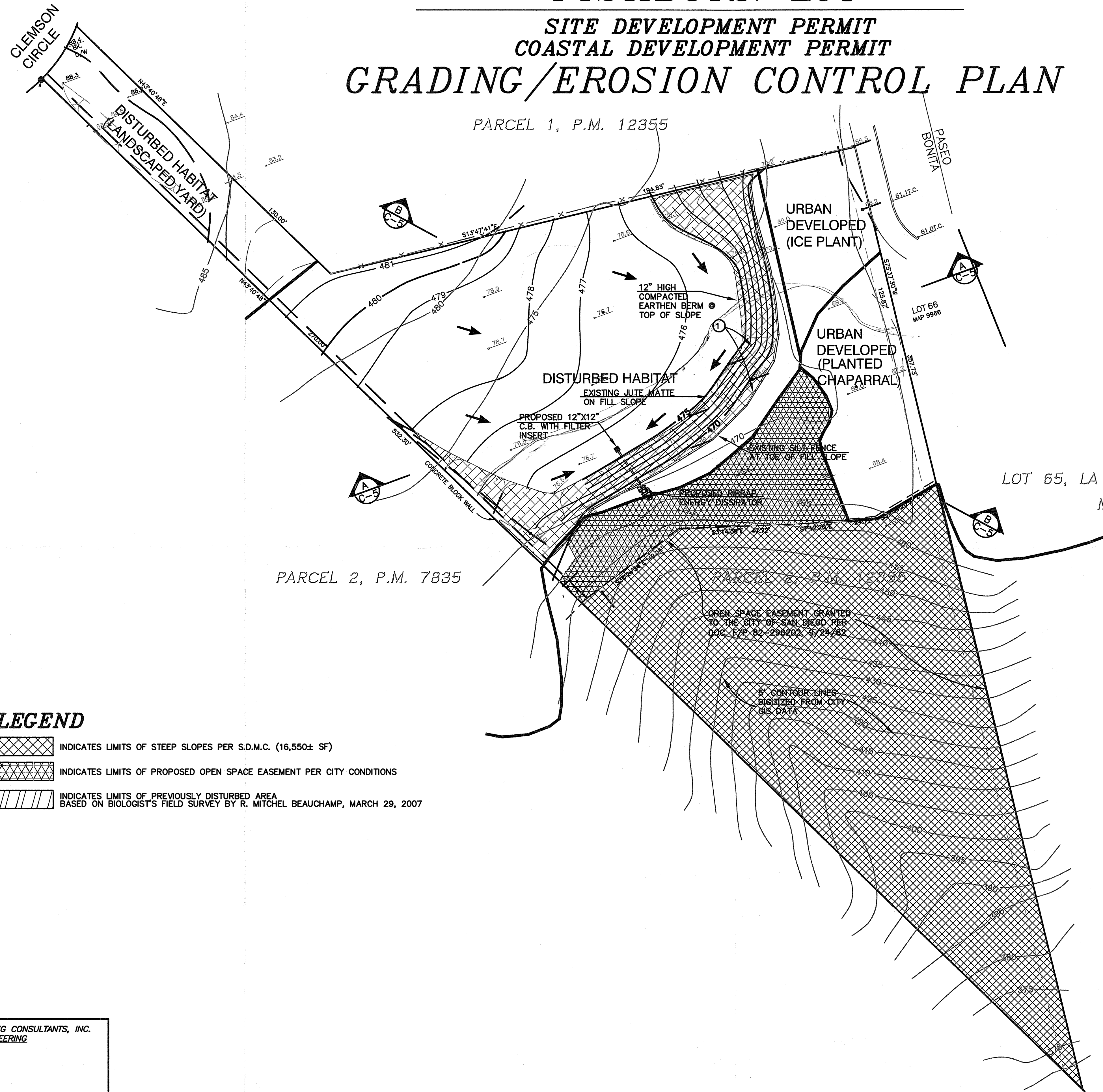
The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

ORIGINAL

FISHBURN LOT

SITE DEVELOPMENT PERMIT COASTAL DEVELOPMENT PERMIT GRADING/EROSION CONTROL PLAN

PARCEL 1, P.M. 12355



EARTHWORK DATA

AREA OF LOT: 0.97 ACRES
 DISTURBED AREA: 0.40 ACRES
 GRADED AREA: 0.40 ACRES
 % TOTAL SITE: 41.2%
 CUT QUANTITIES: 50 C.Ys.
 FILL QUANTITIES: 600 C.Ys.
 IMPORT/EXPORT: 550 C.Ys.*

MAX CUT DEPTH: 2 FEET
 MAX. CUT SLOPE RATIO (2:1 MAX.): 2:1
 MAX. FILL DEPTH: 6 FT.
 MAX. FILL SLOPE RATIO (2:1 MAX.): 2:1

*IMPORTED MATERIAL PLACED ON SITE PER AS-BUILT SURVEY

GRADING NOTES

PRIOR TO ISSUANCE OF ANY CONSTRUCTION PERMIT, THE APPLICANT SHALL INCORPORATE ANY CONSTRUCTION BEST MANAGEMENT PRACTICES NECESSARY TO COMPLY WITH CHAPTER 14, ARTICLE 2, DIVISION 1 (GRADING REGULATIONS) OF THE SAN DIEGO MUNICIPAL CODE, INTO THE CONSTRUCTION PLANS OR SPECIFICATIONS.

PRIOR TO ISSUANCE OF ANY CONSTRUCTION PERMIT THE APPLICANT SHALL SUBMIT A WATER POLLUTION CONTROL PLAN (WPCP). THE WPCP SHALL BE PREPARED IN ACCORDANCE WITH GUIDELINES IN APPENDIX E OF THE CITY'S STORM WATER STANDARDS.

LOT 65, LA JOLLA PALISADES UNIT 1
 MAP NO. 3955

➔ DENOTES SURFACE FLOW DIRECTION

PLANTING NOTE

① MANUFACTURED SLOPE BANK TO BE PLANTED WITH NON-INVASIVE NATIVE PLANT MATERIAL PER LANDSCAPE PLAN

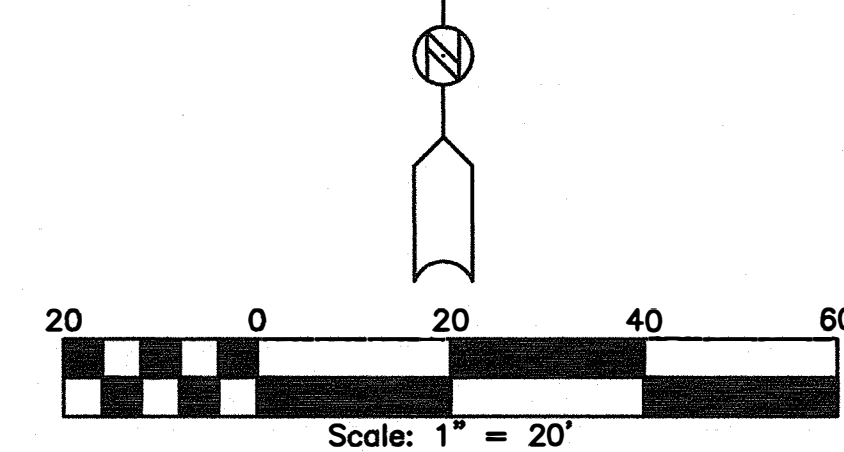
APPROVED EXHIBIT "A"

PROJECT NO. 118907

APPROVAL NO(S) CD# 404174 / SDP 404177

APPROVED BY: HEARING OFFICER, PLANNING COMMISSION, CITY COUNCIL ON 12-17-08

SIGNATURE: *[Signature]*



LEGEND

- INDICATES LIMITS OF STEEP SLOPES PER S.D.M.C. (16,550± SF)
- INDICATES LIMITS OF PROPOSED OPEN SPACE EASEMENT PER CITY CONDITIONS
- INDICATES LIMITS OF PREVIOUSLY DISTURBED AREA BASED ON BIOLOGIST'S FIELD SURVEY BY R. MITCHEL BEAUCHAMP, MARCH 29, 2007

FARRINGTON ENGINEERING CONSULTANTS, INC.
 CONSULTING CIVIL ENGINEERING
 11679 VIA FIRUL
 SAN DIEGO, CA. 92128
 (858) 675-9490

[Signature] 10308
 MARK A. FARRINGTON RC# 38114 EXP. 3/31/09 DATE

PREPARED BY: NAME: FARRINGTON ENGINEERING	REVISION 1: 8-03-07
ADDRESS: 11679 VIA FIRUL SAN DIEGO, CA 92128	REVISION 2: 9-13-08
PHONE NO.: 858-675-9490	REVISION 3: 10-02-08
PROJECT ADDRESS: 1615 CLEMSON CIRCLE LA JOLLA, CA 92037	REVISION 4: 10-06-08
PROJECT NAME: FISHBURN RESIDENCE	REVISION 5: 10-08-08
	REVISION 6: _____
	REVISION 7: _____
	REVISION 8: _____
	REVISION 9: _____
	REVISION 10: _____
SHEET TITLE: GRADING/EROSION CONTROL PLAN	ORIG. DATE: 11-27-06
	SHEET _____ OF _____
	P.T.S. NO. _____
	PERMIT NO. 118907

FARRINGTON ENGINEERING CONSULTANTS
 CONSULTING CIVIL ENGINEERING
 11679 VIA FIRUL
 SAN DIEGO, CA. 92128
 (858) 675-9490

REGISTERED PROFESSIONAL ENGINEER & SURVEYOR
 MARK A. FARRINGTON
 NO. 38114
 EXP. 03/31/09
 STATE OF CALIFORNIA

GRADING/EROSION CONTROL PLAN

ISSUE DATES
REVISION DATES

DRAWN BY
 M.F.
 PLOT SCALE
 NONE
 SHEET NUMBER
C-4
 SHEET 5 OF 6

DOC # 2010-0491312



RECORDING REQUESTED BY:

THE CITY OF SAN DIEGO

AND WHEN RECORDED MAIL TO:

CITY CLERK
CITY OF SAN DIEGO
MAIL STATION 2A

SEP 16, 2010 10:31 AM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
DAVID L. BUTLER, COUNTY RECORDERFEES: 0.00
OC: NA

PAGES: 8

Originating Dept - DSD/LDR - M.S. 501



(THIS SPACE FOR RECORDER'S USE ONLY)

GRANT DEED - CONSERVATION EASEMENTJ.O. NO: 432970ASSESSOR'S PARCEL NO: 358-130-08PTS NO: 197783DWG NO: 21088-BNO DOCUMENT TAX DUE
R & T CODE 11922NO FEE FOR GOVT. AGENCY
GOVERNMENT CODE 27383For valuable consideration, receipt of which is hereby acknowledged, M. Wainwright Fishburn Jr. and Deborah Thomas Fishburn as
Trustees of the Fishburn Family Trust dated January 17, 2003HEREBY GRANT(S) to the City of San Diego, a municipal corporation, in the County of San Diego, State of California, a permanent easement for conservation purposes, together with the right of ingress and egress, over, under, along and across all that real property situated in the City of San Diego, County of San Diego, State of California, described as follows:**See exhibit "A" attached hereto and exhibit "B" attached for illustration purposes**

THIS CONSERVATION EASEMENT DEED is made with reference to the following facts:

RECITALS

- A. Grantor is the sole owner in fee simple of certain real property in the City of San Diego, County of San Diego, State of California, which is more particularly described in exhibit "A" attached hereto and incorporates by this reference (The "Property");
- B. The Property possesses wildlife and habitat values of importance to the Grantee as well as the State of California, and the United States;
- C. Grantor has applied to the CITY OF SAN DIEGO and has been granted the right to develop a project in conformance with the following discretionary land use entitlements issued by the CITY OF SAN DIEGO: Permit No. 404774;
- D. In connection with development of the Property, Grantor desires to obtain benefits associated with utilizing permits issued to the CITY OF SAN DIEGO by the United States Fish and Wildlife Service and the California Department of Fish and Game in connection with the Multiple Species Conservation Plan (MSCP) and therefore has agreed to design and implement development of the property in conformance with the MSCP;
- E. Development of the Property requires mitigation for impacts to sensitive habitats as further described in environmental document, No. 118907. The lands within the Property provide for compensatory mitigation for these impacts.
- F. This Conservation Easement shall impart notice to all persons to the extent afforded by the recording laws of the state of California regarding the restrictions affecting use of the environmentally sensitive lands preserved by this easement;
- G. When the Property contains sensitive biological resources this Conservation Easement shall be enforceable by the City, or jointly and severally by the City, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game.

COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

11347A

In consideration of the above recitals and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to California law, including Government Code Section 65870, et seq., Grantor hereby voluntarily conveys to Grantee a Conservation Easement in perpetuity over the Property.

1. **Purpose.** The purpose of this Conservation Easement is to ensure the Property will be retained forever in a natural condition and to prevent any development of the Property deemed to be environmentally sensitive lands or containing sensitive biological resources. Grantor intends that this Conservation Easement will confine the use of the Property to such activities, including without limitation, those involving the preservation of environmentally sensitive lands in a manner consistent with the purpose of this Conservation Easement.

2. **Grantee's Rights.** To accomplish the purposes of this Conservation Easement, Grantor hereby grants and conveys the following rights to Grantee by this Conservation Easement:

- (a) To preserve and protect the environmentally sensitive lands and/or sensitive biological resources of the Property;
- (b) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and to otherwise enforce the terms of this Conservation Easement and for scientific research and interpretive purposes by Grantee or its designees, provided that Grantee shall first notify and obtain consent from Grantor, which consent is not to be unreasonably withheld, and further provided that Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property;
- (c) To prevent any activity on or use of the Property that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Property that may be damaged by any act, failure to act, or any use that is inconsistent with the purposes of this Conservation Easement at Grantor's sole expense;
- (d) All mineral, air and water rights necessary to protect and to sustain the environmentally sensitive nature and sensitive biological resources of the Property; and
- (e) All present and future development rights.

3. **Prohibited Uses.** Any activity on or use of the Property inconsistent with the purposes of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following uses by Grantor, Grantor's agents, and third parties, are expressly prohibited:

- (a) Un-seasonal watering, use of herbicides, rodenticides, or weed abatement activities, incompatible fire protection activities and any and all other uses which may adversely affect the purposes of this Conservation Easement;
- (b) Use of off-road vehicles;
- (c) Grazing or surface entry for exploration or extraction of minerals;
- (d) Erecting of any building, billboard, sign;
- (e) Depositing of soil, trash, ashes, garbage, waste, bio-solids or any other material;
- (f) Excavating, dredging or removing of loam, gravel, soil, rock, sand or other material;
- (g) Otherwise altering the general topography of the Property, including building of roads;
- (h) Removing, destroying, or cutting of trees, shrubs or other vegetation, except as required by law for (1) fire breaks, (2) maintenance of existing foot trails or roads, or (3) prevention or treatment of disease.

4. **Grantor's Duties.** Grantor shall record this Conservation Easement against title to the Property with the County of San Diego and execute the Conservation easement in favor of the City of San Diego. In addition, Grantor shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the environmentally sensitive nature of the Property.

5. **Reserved Rights.** Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Property, including the right to engage in or to permit or invite others to engage in all uses of the Property that are consistent with the purposes of this Conservation Easement.

6. **Grantee's Remedies.** If Grantee determines that Grantor is in violation of the terms of this Conservation easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand in writing the cure of such violation. If Grantor fails to cure the violation within thirty (30) calendar days after receipt of said written notice and demand from Grantee, or said cure reasonably requires more than thirty(30) calendar days to complete and Grantor fails to begin the cure within the thirty (30) calendar day period or fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce compliance by Grantor with the terms of this Conservation Easement, to recover any damages to which Grantee may be entitled for violation by Grantor of the terms of this Conservation Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, or for other equitable relief, including, but not limited to, the restoration of the Property to the condition in which it existed prior to any such violation or injury. Without limiting Grantor's liability therefore, Grantee may apply any damages recovered to the cost of undertaking any corrective action on the Property.

If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the environmentally sensitive nature of the Property, Grantee may pursue its remedies under this paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally to actual or threatened violations of the terms of this Conservation Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to, the remedies set forth in California Government Code Section 65870, et seq., inclusive.

if at any time in the future Grantor or any subsequent transferee uses or threatens to use, such lands deemed to contain sensitive biological resources or lands that have been accepted as mitigation, for purposes inconsistent with this Conservation Easement, notwithstanding Government Code Section 65876, the City, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game jointly and severally have standing as interested parties in any proceeding.

6.1 **Costs of Enforcement.** Any costs incurred by Grantee in enforcing the terms of this Conservation Easement against Grantor, including, but not limited to, costs of suit and attorneys' fees, and any costs of restoration necessitated by Grantor's violation or negligence under the terms of this Conservation easement shall be borne by Grantor.

6.2 **Grantee's Discretion.** Enforcement of the terms of this Conservation Easement by Grantee shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Conservation easement in the event of any breach of any term of this Conservation easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

6.3 **Acts Beyond Grantor's Control.** Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

6.4 **Department of Fish and Game Right of Enforcement.** All rights and remedies conveyed to Grantee under this Conservation Easement Deed shall extend to and are enforceable by the California Department of Fish and Game when the Property either (1) contains sensitive biological resources, or (2) is land that has been accepted as mitigation.

6.5 **U.S. Fish and Wildlife Service Right of Enforcement.** All rights and remedies conveyed to Grantee under this Conservation Easement Deed shall extend to and are enforceable by the U.S. Fish and Wildlife Service when the Property either (1) contains sensitive biological resources, or (2) is land that has been accepted as mitigation.

7. **Access.** This Conservation Easement does not convey a general right of access to the public.

8. **Costs and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property.

8.1 **Taxes.** Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Conservation Easement, and shall furnish Grantee with satisfactory evidence of payment upon request.

8.2 **Hold Harmless.** Grantor shall hold harmless, indemnify, and defend Grantee and its directors, officers, employees, agents, contractors, and representatives (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damages to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due to the negligence of any of the Indemnified Parties; (2) the obligations specified in Sections 4, 8, and 8.1; and (3) the existence or administration of this Conservation easement.

9. **Subsequent Transfers.** Grantor agrees to incorporate the terms of this Conservation Easement in any deed or other legal instrument by which Grantor divests itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the intent to transfer of any interest at least fifteen (15) days prior to the date of such transfer. Grantee shall have the right to prevent subsequent transfers in which prospective subsequent claimants or transferees are not given notice of the covenants, terms, conditions and restrictions of this Conservation Easement. The failure of Grantor or Grantee to perform any act provided in this section shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

10. **Notices.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor: M. Wainwright Fishburn Jr and Deborah Thomas
Fishburn as Trustees of the Fishburn Family Trust
dated January 17, 2003

To Grantee: City of San Diego
 Mayor
 202 C Street
 San Diego, CA 92101

Or to such other address as either party shall designate by written notice to the other. Notice shall be deemed effective upon delivery in the case of personal delivery or, in the case of delivery by first class mail, five (5) days after deposit into the United States mail.

11. **Release of Covenant.** A hearing shall be held to consider any formal, written request directed to the City by any person requesting the release of this Conservation Easement, whether or not that person has title to the real property involved. The City shall record the release of this Conservation easement when it is determined that the restriction ensured by the Conservation easement is no longer necessary to achieve the land use goals of the City. In any instance where the Conservation Easement concerns sensitive biological resources, a determination by the City to release the Conservation Easement may be made only with the written concurrence of the U.S. Fish and Wildlife Service and the California Department of Fish and Game.

12. **Amendment.** This Conservation Easement may be amended by Grantor and Grantee by mutual written agreement and where the Conservation Easement concerns sensitive biological resources, with the written concurrence of the U.S. Fish and Wildlife Service and the California Department of Fish and Game. Any such amendment shall be consistent with the purpose of this Conservation Easement and, except as provided in Section 11, shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of San Diego County, State of California.

13. General Provisions.

- (a) **Controlling Law.** The interpretation and performance of this Conservation Easement shall be governed by the laws of the State of California.
- (b) **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the deed to affect the purpose of this Conservation Easement and the policy and purpose of Government Code Section 65870, et seq. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
- (c) **Severability.** If a court of competent jurisdiction voids or invalidates on its face any provision of this Conservation Easement Deed, such action shall not affect the remainder of this Conservation Easement Deed. If a court of competent jurisdiction voids or invalidates the application of any provision of this Conservation Easement Deed to a person or circumstance, such action shall not affect the application of the provision to other persons or circumstances.
- (d) **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Conservation easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with Section 12.
- (e) **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- (f) **Successors.** The covenants, terms, conditions, and restrictions of this Conservation Easement Deed shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.
- (g) **Termination of Rights and Obligations.** A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
- (h) **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- (i) **Counterparts.** The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

IN WITNESS WHEREOF, Grantor and Grantee have entered into this Covenant of Easement the day and year first above written.

Date: 3-11-10

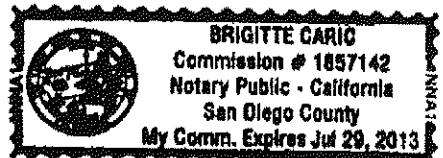
Grantor: *(type or print)* M. Wainwright Fishburn Jr., Trustee

By: *(signature)* [Handwritten Signature] *(type or print name)* Trustee

This is to certify that the interest in real property conveyed by this instrument to the City of San Diego, a municipal corporation, is hereby accepted by the undersigned officer on behalf of the City of San Diego, pursuant to authority conferred by the Municipal Code, and the grantee consents to recordation thereof by its duly authorized officer.

Date: 4-9-10

For City Engineer
By: Gregory P. Hoyle
DEPUTY



see attached acknowledgment

NOTE: NOTARY ACKNOWLEDGMENTS FOR ALL SIGNATURES MUST BE ATTACHED, PER CIVIL CODE SEC. 1180 ET. SEQ.

ACKNOWLEDGMENT

State of California
County of San Diego)

On March 11, 2010 before me, Brigitte Caric, Notary Public
(insert name and title of the officer)

personally appeared M. Wainright Fishburn
who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.



Signature *[Handwritten Signature]* (Seal)

EXHIBIT "A"
CONSERVATION EASEMENT

That portion of Parcel 2, Parcel Map 12355, in the City of San Diego, County of San Diego, State of California, according to Map thereof, filed in the Office of the County Recorder of San Diego County on October 1, 1989, described as follows:

Beginning at the most Westerly corner of said Parcel 2; thence North 75°37'30" East along the Southerly line of said Parcel 2, a distance of 231.86 feet; thence leaving said Southerly line North 31°59'20" West along the Easterly line of that Open Space Easement granted to the City of San Diego per Document recorded September 24, 1982 as file No. 82-296202 of official records a distance of 24.45 feet; thence continuing along said Easterly line North 07°12'20" West a distance of 10.86 feet to the **TRUE POINT OF BEGINNING**; thence continuing along the Easterly line of said Easement North 07°12'20" West 13.86; thence North 03°14'38" West 47.72 feet; thence North 38°26'34" West 42.35 feet to a point which is 3.00 feet Southeasterly of, measured at right angles to the Northwesterly line of said Parcel 2; thence North 43°40'48" East parallel with and 3.00 feet Southeasterly of said Northwesterly line 12.15 feet; thence leaving said parallel line South 56°05'10" East 7.38 feet; thence North 60°29'45" East 7.60 feet; thence South 49°55'17" East 10.85 feet; thence South 20°21'30" East 44.78 feet; thence South 40°34'48" East 23.79 feet; thence South 57°05'25" East 30.38 feet; thence South 36°35'25" West 7.47 feet; thence South 59°29'02" West 12.60 feet; thence South 66°18'46" East 11.69 feet; thence South 68°07'47" East 31.48 feet to the **TRUE POINT OF BEGINNING**.

This legal description was prepared by me or under my direction.

Attached hereto is drawing No. 21088-B labeled Exhibit "B" and by this reference made a part hereof.


Robert J. Bateman P.L.S. 7046

Dated: 1-15-10

Contains 0.0664 acre, more or less

P.T.S. No. 197783
J.O. No. 432970
DWG. No. 21088-B

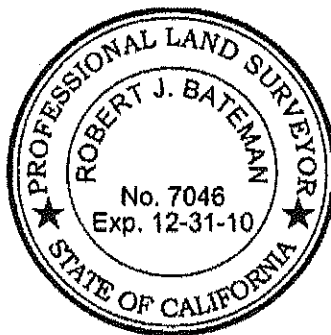
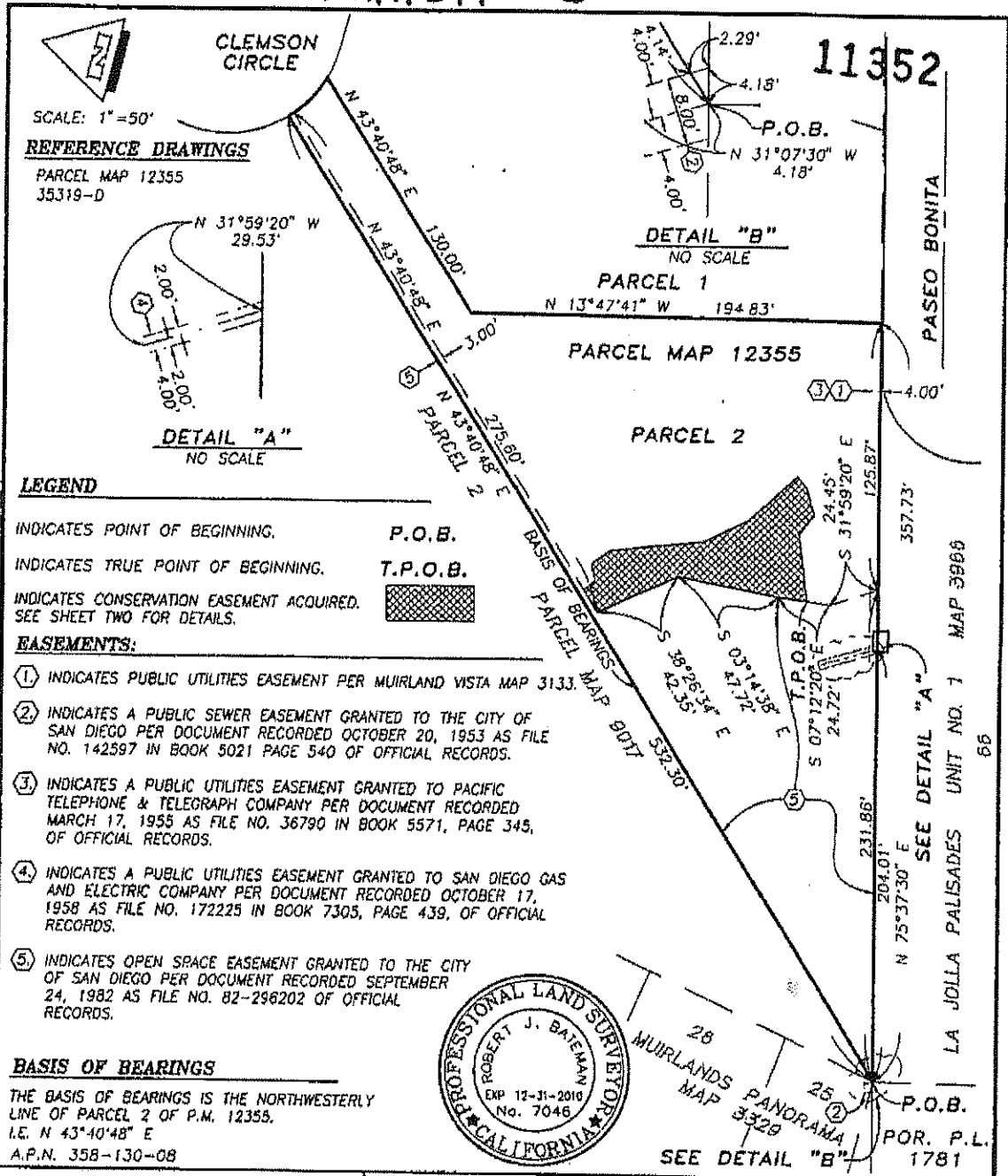


EXHIBIT "B"



REFERENCE DRAWINGS
 PARCEL MAP 12355
 35319-D

LEGEND

- INDICATES POINT OF BEGINNING. P.O.B.
- INDICATES TRUE POINT OF BEGINNING. T.P.O.B.
- INDICATES CONSERVATION EASEMENT ACQUIRED. SEE SHEET TWO FOR DETAILS.

EASEMENTS:

- ① INDICATES PUBLIC UTILITIES EASEMENT PER MUIRLAND VISTA MAP 3133.
- ② INDICATES A PUBLIC SEWER EASEMENT GRANTED TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED OCTOBER 20, 1953 AS FILE NO. 142597 IN BOOK 5021 PAGE 540 OF OFFICIAL RECORDS.
- ③ INDICATES A PUBLIC UTILITIES EASEMENT GRANTED TO PACIFIC TELEPHONE & TELEGRAPH COMPANY PER DOCUMENT RECORDED MARCH 17, 1955 AS FILE NO. 36790 IN BOOK 5571, PAGE 345, OF OFFICIAL RECORDS.
- ④ INDICATES A PUBLIC UTILITIES EASEMENT GRANTED TO SAN DIEGO GAS AND ELECTRIC COMPANY PER DOCUMENT RECORDED OCTOBER 17, 1958 AS FILE NO. 172225 IN BOOK 7305, PAGE 439, OF OFFICIAL RECORDS.
- ⑤ INDICATES OPEN SPACE EASEMENT GRANTED TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED SEPTEMBER 24, 1982 AS FILE NO. 82-296202 OF OFFICIAL RECORDS.

BASIS OF BEARINGS

THE BASIS OF BEARINGS IS THE NORTHWESTERLY LINE OF PARCEL 2 OF P.M. 12355.
 I.E. N 43°40'48" E
 A.P.N. 358-130-08

SAN DIEGO LAND SURVEYING & ENGINEERING, INC.
 9665 CHESAPEAKE DRIVE, SUITE 445
 SAN DIEGO, CA 92123 (858) 565-8362

Robert J. Bateman DATE: 4-8-10
 ROBERT J. BATEMAN L.S. 7046

CONSERVATION EASEMENT - IN PARCEL 2 OF PARCEL MAP 12355.

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA	P.T.S. NO. 197783
ORIGINAL	S.D.L.S.E.				SHEET 1 OF 2 SHEETS	J.O. NO. 432970
	✓	J.M.	4/8/10		<i>Gregory P. ...</i> 4-9-10 FOR CITY ENGINEER DATE	1878-6251 CCS 83 COORDINATES
						238-1691 LAMBERT COORDINATES
					STATUS	21088-1-B

GENERAL NOTES

- APPROVAL OF THESE PLANS BY THE CITY ENGINEER DOES NOT AUTHORIZE ANY WORK TO BE PERFORMED UNTIL A PERMIT HAS BEEN ISSUED.
- UPON ISSUANCE OF A PERMIT, NO WORK WILL BE PERMITTED ON WEEKENDS OR HOLIDAYS UNLESS APPROVED BY TRAFFIC CONTROL PERMIT FROM THE DEVELOPMENT SERVICES DEPARTMENT.
- THE APPROVAL OF THIS PLAN OR ISSUANCE OF A PERMIT BY THE CITY OF SAN DIEGO DOES NOT AUTHORIZE THE PERMIT HOLDER OR OWNER TO VIOLATE ANY FEDERAL, STATE OR CITY LAWS, ORDINANCES, REGULATIONS, OR POLICIES.
- IMPORTANT NOTICE: SECTION 4216 OF THE GOVERNMENT CODE REQUIRES A DIG ALERT IDENTIFICATION NUMBER ISSUED BEFORE A "PERMIT TO EXCAVATE" WILL BE VALID. FOR YOUR DIG ALERT I.D. NUMBER, CALL UNDERGROUND SERVICE ALERT, TOLL FREE (800) 422-4133, TWO DAYS BEFORE YOU DIG.
- CONTRACTOR SHALL BE RESPONSIBLE FOR POTHOLING AND LOCATING ALL EXISTING UTILITIES THAT CROSS THE PROPOSED TRENCH LINE WHILE MAINTAINING A 1 FOOT VERTICAL CLEARANCE.
- "PUBLIC IMPROVEMENT SUBJECT TO DESUETUDE OR DAMAGE." IF REPAIR OR REPLACEMENT OF SUCH PUBLIC IMPROVEMENTS IS REQUIRED, CONTRACTOR SHALL OBTAIN THE REQUIRED PERMITS FOR WORK IN THE PUBLIC RIGHT-OF-WAY, SATISFACTORY TO THE PERMIT ISSUING AUTHORITY.
- DEVIATIONS FROM THESE SIGNED PLANS WILL NOT BE ALLOWED UNLESS A CONSTRUCTION CHANGE IS APPROVED BY THE CITY ENGINEER OR THE CHANGE IS REQUIRED BY THE RESIDENT ENGINEER.
- CONTRACTOR SHALL REPLACE OR REPAIR ALL TRAFFIC SIGNAL LOOPS, CONDUITS, AND LANE STRIPING DAMAGED DURING CONSTRUCTION.
- PRIOR TO SITE DISTURBANCE, CONTRACTOR SHALL MAKE ARRANGEMENTS FOR A PRECONSTRUCTION MEETING WITH THE CITY OF SAN DIEGO, CONSTRUCTION MANAGEMENT AND FIELD SERVICES DIVISION (858) 627-3200.
- CONTRACTOR SHALL ONLY PERFORM SITE SURVEY AND UTILITY MARK OUT SERVICES PRIOR TO THE PRECONSTRUCTION MEETING.
- CONTRACTOR SHALL IMPLEMENT AN EROSION CONTROL PROGRAM DURING THE PROJECT CONSTRUCTION ACTIVITIES. THE PROGRAM SHALL COMPLY WITH ALL APPLICABLE REQUIREMENTS OF THE STATE WATER RESOURCE CONTROL BOARD.
- CONTRACTOR SHALL HAVE EMERGENCY MATERIAL AND EQUIPMENT ON HAND FOR UNFORESEEN SITUATIONS, SUCH AS DAMAGE TO UNDERGROUND WATER, SEWER, AND STORM DRAIN FACILITIES WHERE FLOW MAY GENERATE EROSION AND SEDIMENT POLLUTION.
- AN AS-GRADED GEOTECHNICAL REPORT AND SET OF THE REDLINE "AS-BUILT" GRADING PLANS SHALL BE SUBMITTED TO AREA 3 ON THE THIRD FLOOR OF DEVELOPMENT SERVICES WITHIN 30 CALENDAR DAYS OF THE COMPLETION OF GRADING. AN ADDITIONAL SET SHALL BE PROVIDED TO THE RESIDENT ENGINEER OF THE CONSTRUCTION MANAGEMENT & FIELD SERVICES DIVISION AT 9573 CHESAPEAKE DRIVE, SAN DIEGO, CA 92123.
- "AS-BUILT" DRAWINGS MUST BE SUBMITTED TO THE RESIDENT ENGINEER PRIOR TO ACCEPTANCE OF THIS PROJECT BY THE CITY OF SAN DIEGO.
- MANHOLES AND PULL BOX COVER SHALL BE LABELED WITH NAME OF COMPANY.
- CONTRACTOR SHALL PROVIDE RED-LINES DRAWINGS IN ACCORDANCE WITH 2-5.4 OF THE WHITEBOOK, "RED-LINES AND RECORD DOCUMENTS."
- CONTRACTOR SHALL MAINTAIN A MINIMUM OF 1 FOOT VERTICAL SEPARATION TO ALL UTILITIES UNLESS OTHERWISE SPECIFIED ON THE PLANS.
- CONTRACTOR SHALL REMOVE AND REPLACE ALL UTILITY BOXES SERVING AS HANDHOLES THAT ARE NOT IN "AS-NEW" CONDITION IN PROPOSED SIDEWALK, DAMAGED BOXES, OR THOSE THAT ARE NOT IN COMPLIANCE WITH CURRENT CODE SHALL BE REMOVED AND REPLACED WITH NEW BOXES, INCLUDING WATER, SEWER, TRAFFIC SIGNALS, STREET LIGHTS, DRY UTILITIES-SOGRE, COX, ETC. ALL NEW METAL LIDS SHALL BE SLIP RESISTANT AND INSTALLED FLUSH WITH PROPOSED SIDEWALK GRADE. IF A SLIP RESISTANT METAL LID IS NOT COMMERCIALY AVAILABLE FOR THAT USE, NEW BOXES AND LIDS SHALL BE INSTALLED.
- THE AREA WHICH IS DEFINED AS A NON GRADING AREA AND WHICH IS NOT TO BE DISTURBED SHALL BE STAKED PRIOR TO START OF THE WORK. THE PERMIT APPLICANT AND ALL OF THEIR REPRESENTATIVES OR CONTRACTORS SHALL COMPLY WITH THE REQUIREMENTS FOR PROTECTION OF THIS AREA AS REQUIRED BY ANY APPLICABLE AGENCY. ISSUANCE OF THE CITY'S GRADING PERMIT SHALL NOT RELIEVE THE APPLICANT OR ANY OF THEIR REPRESENTATIVES OR CONTRACTORS FROM COMPLYING WITH ANY STATE OR FEDERAL REQUIREMENTS BY AGENCIES INCLUDING BUT NOT LIMITED TO CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CALIFORNIA DEPARTMENT OF FISH AND GAME. COMPLIANCE MAY INCLUDE OBTAINING PERMITS, OTHER AUTHORIZATIONS, OR COMPLIANCE WITH MANDATES BY ANY APPLICABLE STATE OR FEDERAL AGENCY.
- PRIOR TO CONSTRUCTION, SURVEY MONUMENTS (HORIZONTAL AND VERTICAL) THAT ARE LOCATED IN THE CONSTRUCTION AREA SHALL BE TIED-OUT AND REFERENCED BY A LAND SURVEYOR.
- UPON COMPLETION OF CONSTRUCTION, ALL DESTROYED SURVEY MONUMENTS ARE REQUIRED TO BE REPLACED, AND A CORNER RECORD OR RECORD OF SURVEY SHALL BE PREPARED AND FILED WITH THE COUNTY SURVEYOR AS REQUIRED BY THE PROFESSIONAL LAND SURVEYOR ACT, SECTION 8771 OF THE BUSINESS AND PROFESSIONS CODE OF THE STATE OF CALIFORNIA.

MONUMENT PRESERVATION CERTIFICATION

THE PERMITEE SHALL BE RESPONSIBLE FOR THE COST OF REPLACING ALL SURVEY MONUMENTS DESTROYED BY CONSTRUCTION. IF A VERTICAL CONTROL MONUMENT IS TO BE DISTURBED OR DESTROYED, THE CITY OF SAN DIEGO FIELD SURVEY SECTION SHALL BE NOTIFIED IN WRITING AT LEAST 7 DAYS PRIOR TO DEMOLITION/CONSTRUCTION.

- THE TYPE OF CONSTRUCTION WILL NOT AFFECT ANY SURVEY MONUMENTS (THIS LINE IS FOR PROJECTS THAT ARE PROPOSING NO DEMOLITION, TRENCHING, ASSOCIATED WITH A CIP, ETC)

NAME _____ DATE _____

PRIOR TO PERMIT ISSUANCE, THE PERMITEE SHALL RETAIN THE SERVICE OF A PROFESSIONAL LAND SURVEYOR OR CIVIL ENGINEER AUTHORIZED TO PRACTICE LAND SURVEYING WHO WILL BE RESPONSIBLE FOR MONUMENT PRESERVATION AND SHALL PROVIDE A CORNER RECORD OR RECORD OF SURVEY TO THE COUNTY SURVEYOR AS REQUIRED BY THE PROFESSIONAL LAND SURVEYORS ACT, IF APPLICABLE. (SECTION 8771 OF THE BUSINESS AND PROFESSIONS CODE OF THE STATE OF CALIFORNIA)

I HAVE INSPECTED THE SITE AND DETERMINED THAT:

- NO SURVEY MONUMENTS WERE FOUND WITHIN THE LIMITS OF WORK
- SURVEY MONUMENTS EXISTING IN OR NEAR LIMITS OF WORK WILL BE PROTECTED IN PLACE
- SURVEY MONUMENTS HAVE BEEN TIED OUT AND A FINAL OR PARCEL MAP WILL BE FILED (NO CORNER RECORD OR RECORD OF SURVEY WILL BE REQUIRED)
- OTHER AGENCY SURVEY MONUMENT (CORNER RECORD OR RECORD OF SURVEY MAY NOT BE REQUIRED). AGENCY HAS BEEN NOTIFIED OF POSSIBLE MONUMENT DESTRUCTION AND A LETTER PROVIDED TO CITY
- A PRE-CONSTRUCTION CORNER RECORD (OR RECORD OF SURVEY) FOR SURVEY MONUMENTS FOUND WITHIN THE LIMITS OF WORK HAS BEEN FILED.

CORNER RECORD # _____ OR RECORD OF SURVEY # _____

JASON R. FISCHER R.C.E. NO. C78608 EXP. 09-30-2021 DATE _____

POST CONSTRUCTION CORNER RECORD (AS-BUILT ITEM)

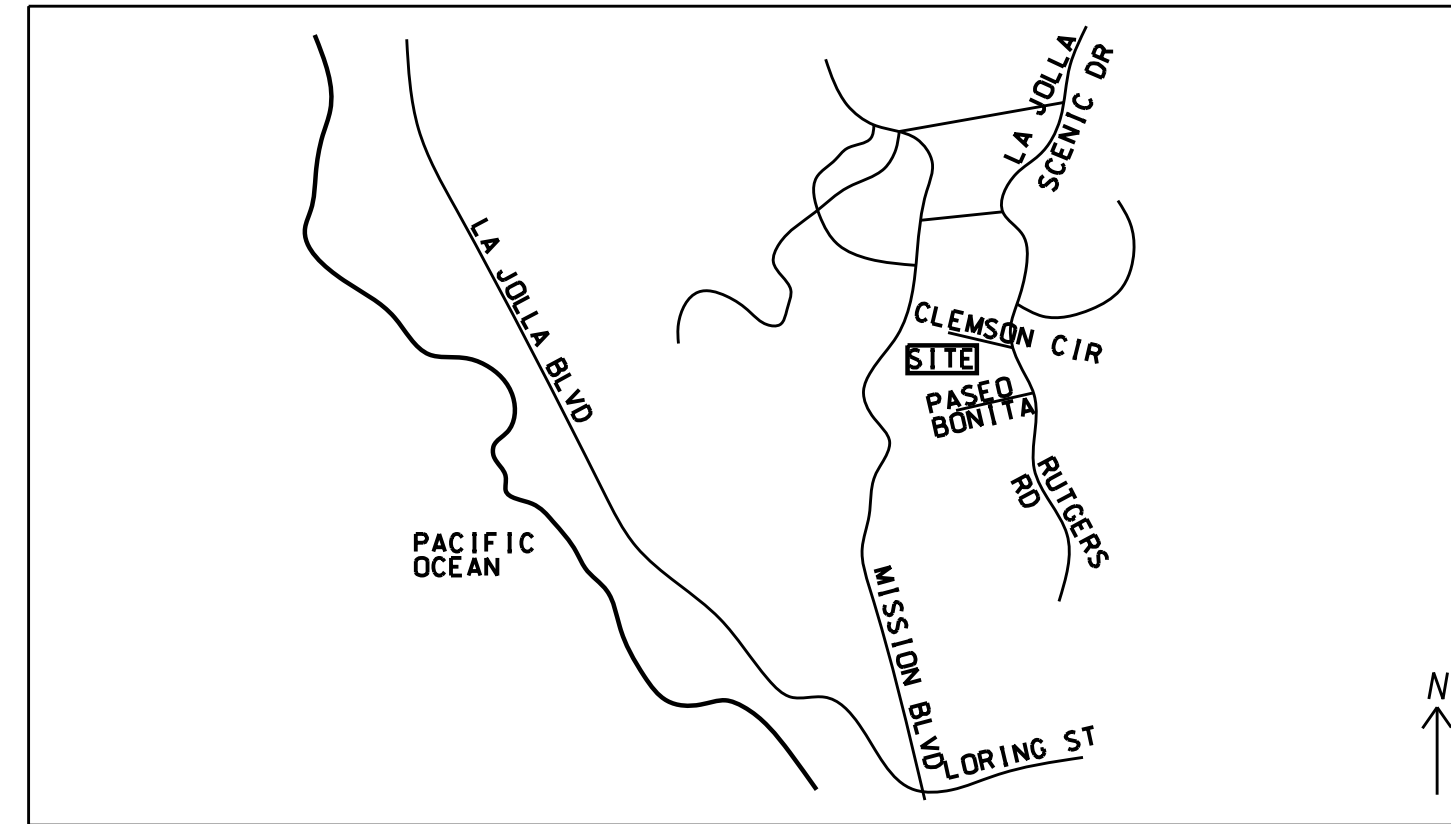
- POST CONSTRUCTION CORNER RECORD FOR SURVEY MONUMENTS DESTROYED DURING CONSTRUCTION AND REPLACED AFTER CONSTRUCTION.

CORNER RECORD # _____ OR RECORD OF SURVEY # _____

NAME _____ P.L.S. / R.C.E. NO. XXXXX EXP. XX-XX-XX DATE _____

GRADING PLANS FOR:

PROJECT NO. 687641



VICINITY MAP

NO SCALE

GRADING + GEOTECHNICAL SPECIFICATIONS

- ALL GRADING SHALL BE CONDUCTED UNDER THE OBSERVATION AND TESTING BY A QUALIFIED PROFESSIONAL ENGINEER AND, IF REQUIRED, A QUALIFIED PROFESSIONAL GEOLOGIST. ALL GRADING MUST BE PERFORMED IN ACCORDANCE WITH APPLICABLE CITY ORDINANCE AND THE RECOMMENDATIONS AND SPECIFICATIONS SET FORTH IN THE PRELIMINARY GEOTECHNICAL INVESTIGATION REPORT(S) ENTITLED:

REPORT OF PRELIMINARY GEOTECHNICAL INVESTIGATION AND GEOLOGIC RECONNAISSANCE
JOB NO.: 96-6956.2
DATED OCTOBER 27, 2021

THESE DOCUMENTS WILL BE FILED IN THE RECORDS SECTION OF DEVELOPMENT SERVICES UNDER THE PROJECT NUMBER INDICATED IN THE TITLE BLOCK OF THESE PLANS.

- ALL FILL SOIL SHALL BE COMPACTED TO A MINIMUM OF 90% OF THE MAXIMUM DRY DENSITY AS DETERMINED BY THE MOST RECENT VERSION OF A.S.T.M. D-1557 OR AN APPROVED ALTERNATIVE STANDARD.
- AT THE COMPLETION OF THE GRADING OPERATIONS FOR THE EARTHWORK SHOWN ON THIS PLAN, AN AS-GRADED GEOTECHNICAL REPORT SHALL BE PREPARED IN ACCORDANCE WITH THE MOST RECENT EDITION OF THE CITY OF SAN DIEGO GUIDELINES FOR GEOTECHNICAL REPORTS. THE FINAL "AS-GRADED" GEOTECHNICAL REPORT SHALL BE SUBMITTED IN ACCORDANCE WITH THE GENERAL NOTES ON THESE PLANS WITHIN 30 DAYS OF THE COMPLETION OF GRADING. WHERE GEOLOGIC INSPECTION IS INDICATED IN THE PERMIT, PLANS, SPECIFICATIONS, OR GEOTECHNICAL REPORT(S), THE FINAL "AS-GRADED" GEOTECHNICAL REPORT MUST ALSO BE REVIEWED AND SIGNED BY A QUALIFIED PROFESSIONAL GEOLOGIST.
- THE COMPANY OR COMPANIES REPRESENTED BY THE INDIVIDUALS SIGNING ITEM NO. 5 OF THIS CERTIFICATE IS/ARE THE GEOTECHNICAL CONSULTANT(S) OF RECORD. IF THE GEOTECHNICAL CONSULTANT OF RECORD IS CHANGED FOR THE PROJECT, THE WORK SHALL BE STOPPED UNTIL THE REPLACEMENT HAS SUBMITTED AN ACCEPTABLE TRANSFER OF GEOTECHNICAL CONSULTANT OF RECORD DECLARATION PREPARED IN ACCORDANCE WITH THE MOST RECENT EDITION OF THE CITY OF SAN DIEGO GUIDELINES FOR GEOTECHNICAL REPORTS. IT SHALL BE THE DUTY OF THE PERMITEE TO NOTIFY THE RESIDENT ENGINEER AND THE GEOLOGY SECTION OF DEVELOPMENT SERVICES IN WRITING OF SUCH CHANGE PRIOR TO THE RECOMMENCEMENT OF GRADING.
- THESE GRADING PLANS HAVE BEEN REVIEWED BY THE UNDERSIGNED AND FOUND TO BE IN CONFORMANCE WITH THE RECOMMENDATIONS AND SPECIFICATIONS CONTAINED IN THE REFERENCED GEOTECHNICAL REPORT(S) PREPARED FOR THIS PROJECT.

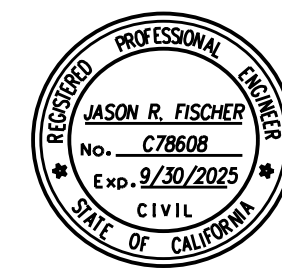
JAIME A. CERRIOS 858-549-7222	G.E.	DATE
LESLIE D. REED 858-549-7222	C.E.G.	DATE

*IF THE PROFESSIONAL ENGINEER (P.E. OR G.E.) AND PROFESSIONAL GEOLOGIST (P.G. OR C.E.G.) SIGNING THIS STATEMENT ARE NOT FROM THE SAME COMPANY, BOTH COMPANY NAMES AND PHONE NUMBERS MUST BE PROVIDED.

DECLARATION OF RESPONSIBLE CHARGE

I HEREBY DECLARE THAT I AM THE ENGINEER OF WORK FOR THIS PROJECT, THAT I HAVE EXERCISED RESPONSIBLE CHARGE OVER THE DESIGN OF THE PROJECT AS DEFINED IN SECTION 6703 OF THE BUSINESS AND PROFESSIONS CODE, AND THAT THE DESIGN IS CONSISTENT WITH CURRENT STANDARDS.

I UNDERSTAND THAT THE CHECK OF PROJECT DRAWINGS AND SPECIFICATIONS BY THE CITY OF SAN DIEGO IS CONFINED TO A REVIEW ONLY AND DOES NOT RELIEVE ME, AS ENGINEER OF WORK, OF MY RESPONSIBILITIES FOR PROJECT DESIGN.



858-652-8001
JASONR.FISCHER@GMAIL.COM
JASON R. FISCHER R.C.E. NO. C78608 EXP. 09-30-2025 DATE _____

OWNER/APPLICANT

THE FISHBURN FAMILY TRUST
DATED JANUARY 17, 2003

REFERENCE DRAWINGS

15588-B
PARCEL MAP NO. 12355

SITE ADDRESS

APN No. 358-130-0800
PARCEL 2 OF PARCEL MAP NO. 12355

TOPOGRAPHY SOURCE

TOPOGRAPHY COMPILED BY GROUND SURVEY METHODS BY MICHAEL J. CURREN, L.S.

BENCHMARK

BRASS PLUG IN TOP OF CURB AT SOUTHWEST CORNER OF CLEMSON CIRCLE & RUTGERS RD.
ELEV. 481.16 M.S.L. DATUM

ASSESSORS PARCEL NUMBER

358-130-0800

LEGAL DESCRIPTION

PARCEL 2 OF PARCEL MAP NO. 12355, RECORDED IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF OCTOBER 1, 1982 AS FILE/PAGE NO. 82-303560.

SHEET INDEX

TITLE SHEET	SHEET 1/6
CONST NOTES	SHEET 2/6
GRADING & EROSION CONTROL PLAN	SHEET 3/6
SITE CROSS SECTIONS	SHEET 4/6
LANDSCAPE PLAN	SHEET 5/6
CONSERVATION EASEMENT	SHEET 6/6

GRADING QUANTITIES

GRADED AREA	0.19 [ACRES]	
CUT QUANTITIES	0 [CYD]	
FILL QUANTITIES	830 [CYD]	MAX. FILL DEPTH: 6 [FT]
IMPORT	830 [CYD]	MAX FILL SLOPE RATIO (2:1MAX)

THIS PROJECT PROPOSES TO EXPORT 0 CUBIC YARDS OF MATERIAL FROM THIS SITE. ALL EXPORT MATERIAL SHALL BE DISCHARGED TO A LEGAL DISPOSAL SITE. THE APPROVAL OF THIS PROJECT DOES NOT ALLOW PROCESSING AND SALE OF THE MATERIAL. ALL SUCH ACTIVITIES REQUIRE A SEPARATE CONDITIONAL USE PERMIT.

CONSTRUCTION STORM WATER PROTECTION NOTES

- TOTAL SITE DISTURBANCE AREA (ACRES) 0.19
WATERSHED: 0.44
HYDRAULIC SUB AREA NAME AND NUMBER: _____
- THE PROJECT SHALL COMPLY WITH THE REQUIREMENTS OF THE
 - WPCP
THE PROJECT IS SUBJECT TO MUNICIPAL STORM WATER PERMIT NUMBER R9-2013-0001 AND SUBSEQUENT AMENDMENTS.
 - SWPPP
THE PROJECT IS SUBJECT TO MUNICIPAL STORM WATER PERMIT NUMBER R9-2013-0001 AND CONSTRUCTION GENERAL PERMIT ORDER NUMBER 2009-009-DWO AS AMENDED BY ORDER 2010-0014 DWO AND 2012-0006-DWO
- CONSTRUCTION SITE PRIORITY
 - ASBS
 - HIGH
 - MEDIUM
 - LOW

FOR STORMWATER BMP TABLES, SEE SHEET 2

WORK TO BE DONE

THE PUBLIC IMPROVEMENTS SHOWN ON THESE PLANS SHALL BE CONSTRUCTED ACCORDING TO THE FOLLOWING STANDARD SPECIFICATIONS AND STANDARD DRAWINGS OF THE CITY OF SAN DIEGO.

STANDARD SPECIFICATIONS:

DOCUMENT NO.	DESCRIPTION
PWPI010119-01	STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION (GREENBOOK), 2018 EDITION
PWPI010119-02	CITY OF SAN DIEGO STANDARD SPECIFICATIONS FOR PUBLICWORKS CONSTRUCTION (WHITEBOOK), 2018 EDITION
PWPI010119-04	CITYWIDE COMPUTER AIDED DESIGN AND DRAFTING (CADD) STANDARDS, 2018 EDITION
PWPI030119-07	CALIFORNIA DEPARTMENT OF TRANSPORTATION MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (REVISION 3), 2014 EDITION
PWPI030119-05	CALIFORNIA DEPARTMENT OF TRANSPORTATION U.S. CUSTOMARY STANDARD SPECIFICATIONS, 2018 EDITION
STANDARD DRAWINGS:	
DOCUMENT NO.	DESCRIPTION
PWPI010119-03	CITY OF SAN DIEGO STANDARD DRAWINGS FOR PUBLIC WORKS CONSTRUCTION, 2018 EDITION
PWPI030119-06	CALIFORNIA DEPARTMENT OF TRANSPORTATION U.S. CUSTOMARY STANDARD PLANS, 2018 EDITION

PROPOSED IMPROVEMENTS

COASTAL DEVELOPMENT PERMIT AND SITE DEVELOPMENT PERMIT TO AMEND COASTAL DEVELOPMENT PERMIT NO. 404174 AND SITE DEVELOPMENT PERMIT NO. 404177 TO ADJUST THE CONSERVATION EASEMENT BOUNDARY ON THE SITE THAT CONTAINS ENVIRONMENTALLY SENSITIVE LANDS. ASSOCIATED WORK TO INCLUDE GRADING AND LANDSCAPING IMPROVEMENTS, AND A NEW CITY-STANDARD RETAINING WALL.

IMPROVEMENT

- LANDSCAPING AND PLANTING WORK
- CONSERVATION EASEMENT BOUNDARY ADJUSTMENT
- 830 CUBIC YARDS OF GRADING WORK (FILL MATERIAL)
- 3 FT TALL BY 40 FT LONG RETAINING WALL

ESL AREA SUMMARY

- EXISTING 46 PERCENT OF PROPERTY IS DESIGNATED AS ESL
- PROPOSED 46 PERCENT OF PROPERTY TO BE DESIGNATED AS ESL
- EXISTING 54 PERCENT OF PROPERTY IS DESIGNATED FOR DEVELOPMENT
- PROPOSED 54 PERCENT OF PROPERTY TO BE DESIGNATED FOR DEVELOPMENT

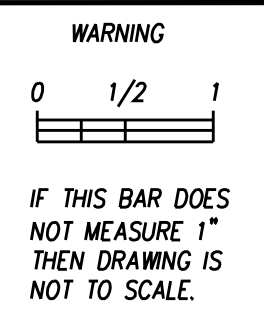
IMPERVIOUS AREA SUMMARY

- EXISTING IMPERVIOUS AREA: 2,100 SQ FT
- PROPOSED IMPERVIOUS AREA: 2,100 SQ FT
- EXISTING PERVIOUS AREA: 43,100 SQ FT
- PROPOSED PERVIOUS AREA: 43,100 SQ FT

ENGINEERING PERMIT NO: _____
DISCRETIONARY PERMIT NO: _____ RETAINING WALL PROJECT NO: _____
PRIVATE CONTRACT

TITLE SHEET FOR:					V.T.M.	
FISHBURN AMENDMENT						
PARCEL 2, PARCEL MAP 12355						
CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT SHEET 1 OF 5 SHEETS					PROJECT NO. 687641	
FOR CITY ENGINEER					DATE	
DESCRIPTION	BY	APPROVED	DATE	FILMED		
ORIGINAL	JRF					
					1878-6251 NAD83 COORDINATES	
					238-1689 LAMBERT COORDINATES	
AS-BUILTS						
CONTRACTOR INSPECTOR			DATE STARTED		XXXXX-1-D	
			DATE COMPLETED			

CONSTRUCTION CHANGE TABLE				
CHANGE	DATE	EFFECTED OR ADDED SHEET NUMBERS	APPROVAL NO.	PROJECT NO.



STREET DATA TABLE				
STREET NAME	CLASSIFICATION	SPEED (MPH)	ADT (VEHICLES)	R/W (FT)
CLEMSON CIRCLE	LOCAL RESIDENTIAL	25	<3,000	43

(REV. 5/13/2019)

CONSTRUCTION BMP GENERAL NOTES

PRIOR TO ANY SOIL DISTURBANCE, TEMPORARY EROSION AND SEDIMENT CONTROL SHALL BE INSTALLED BY THE CONTRACTOR OR QUALIFIED PERSON(S) AS INDICATED BELOW:

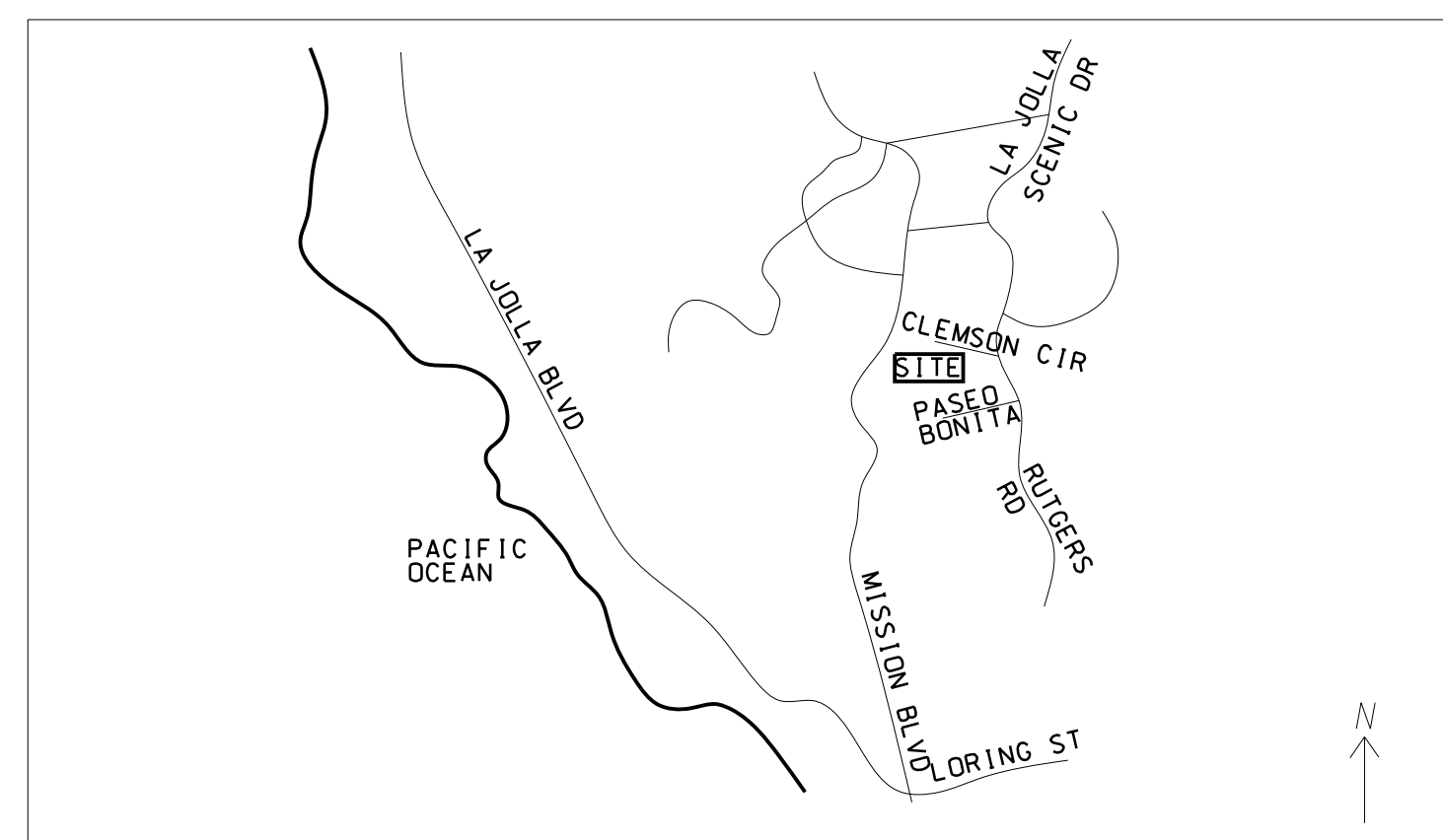
1. ALL REQUIREMENTS OF THE CITY OF SAN DIEGO "LAND DEVELOPMENT MANUAL, STORM WATER STANDARDS" MUST BE INCORPORATED INTO THE DESIGN AND CONSTRUCTION OF THE PROPOSED GRADING/IMPROVEMENTS CONSISTENT WITH THE APPROVED STORM WATER POLLUTION PREVENTION PLAN (SWPPP) AND/OR WATER POLLUTION CONTROL PLAN (WPCC) FOR CONSTRUCTION LEVEL BMP'S AND, IF APPLICABLE, THE STORM WATER QUALITY MANAGEMENT PLAN (SWQMP) FOR POST CONSTRUCTION TREATMENT CONTROL BMP'S.
2. THE CONTRACTOR SHALL INSTALL AND MAINTAIN ALL STORM DRAIN INLETS. INLET PROTECTION IN THE PUBLIC RIGHT OF WAY MAY BE TEMPORARILY REMOVED WHERE IT IS PRONE TO FLOODING PRIOR TO A RAIN EVENT AND REINSTALLED AFTER RAIN IS OVER.
3. ALL CONSTRUCTION BMP'S SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WHEN RAIN IS IMMINENT.
4. THE CONTRACTOR SHALL ONLY GRADE, INCLUDING CLEARING AND GRUBBING, AREAS FOR WHICH THE CONTRACTOR OR QUALIFIED PERSON CAN PROVIDE EROSION AND SEDIMENT CONTROL MEASURES.
5. THE CONTRACTOR IS RESPONSIBLE FOR ENSURING THAT ALL SUB-CONTRACTORS AND SUPPLIERS ARE AWARE OF ALL STORM WATER QUALITY MEASURES AND IMPLEMENT SUCH MEASURES. FAILURE TO COMPLY WITH THE APPROVED SWPPP/WPCC WILL RESULT IN THE ISSUANCE OF CORRECTION NOTICES, CITATIONS, CIVIL PENALTIES AND/OR STOP WORK NOTICES.
6. THE CONTRACTOR OR QUALIFIED PERSON SHALL BE RESPONSIBLE FOR CLEANUP OF ALL SILT, DEBRIS AND MUD ON AFFECTED AND ADJACENT STREET(S) AND WITHIN STORM DRAIN SYSTEM DUE TO CONSTRUCTION VEHICLES/EQUIPMENT AND CONSTRUCTION ACTIVITY AT THE END OF EACH WORK DAY.
7. THE CONTRACTOR SHALL PROTECT NEW AND EXISTING STORM WATER CONVEYANCE SYSTEMS FROM SEDIMENTATION, CONCRETE RINSE, OR OTHER CONSTRUCTION RELATED DEBRIS AND DISCHARGES WITH THE APPROPRIATE BMP'S THAT ARE ACCEPTABLE TO THE ENGINEER AND AS INDICATED IN THE SWPPP/WPCC.
8. THE CONTRACTOR OR QUALIFIED PERSON SHALL CLEAR DEBRIS, SILT AND MUD FROM ALL DITCHES AND SWALES PRIOR TO AND AFTER EACH RAIN EVENT.
9. IF A NON-STORM WATER DISCHARGE LEAVES THE SITE, THE CONTRACTOR SHALL IMMEDIATELY STOP THE ACTIVITY AND REPAIR THE DAMAGES. THE CONTRACTOR SHALL IMMEDIATELY NOTIFY THE ENGINEER OF THE DISCHARGE. AS SOON AS PRACTICAL, ANY AND ALL WASTE MATERIAL, SEDIMENT AND DEBRIS FROM EACH NON STORM WATER DISCHARGE SHALL BE REMOVED FROM THE STORM DRAIN CONVEYANCE SYSTEM AND PROPERLY DISPOSED OF BY THE CONTRACTOR.
10. EQUIPMENT AND WORKERS FOR EMERGENCY WORK SHALL BE MADE AVAILABLE AT ALL TIMES. ALL NECESSARY MATERIALS SHALL BE STOCKPILED ON SITE AT CONVENIENT LOCATIONS TO FACILITATE RAPID DEPLOYMENT OF CONSTRUCTION BMP'S WHEN RAIN IS IMMINENT.
11. THE CONTRACTOR SHALL RESTORE AND MAINTAIN ALL EROSION AND SEDIMENT CONTROL BMP'S TO WORKING ORDER YEAR ROUND.
12. THE CONTRACTOR SHALL INSTALL ADDITIONAL EROSION AND SEDIMENT CONTROL MEASURES DUE TO GRADING INACTIVITY OR UNFORESEEN CIRCUMSTANCES TO PREVENT NON-STORM WATER AND SEDIMENT-LADEN DISCHARGES.
13. THE CONTRACTOR SHALL BE RESPONSIBLE AND SHALL TAKE NECESSARY PRECAUTIONS TO PREVENT PUBLIC TRESPASS ONTO AREAS WHERE IMPOUNDED WATERS CREATE A HAZARDOUS CONDITION.
14. ALL EROSION AND SEDIMENT CONTROL MEASURES PROVIDED PER THE APPROVED SWPPP/WPCC SHALL BE INSTALLED AND MAINTAINED. ALL EROSION AND SEDIMENT CONTROL FOR INTERIM CONDITIONS SHALL BE PROPERLY DOCUMENTED AND INSTALLED TO THE SATISFACTION OF THE RESIDENT ENGINEER.
15. UPON NOTIFICATION BY THE RESIDENT ENGINEER, THE CONTRACTOR SHALL ARRANGE FOR MEETINGS DURING OCTOBER 1ST TO APRIL 30TH FOR PROJECT TEAM (GENERAL CONTRACTOR, QUALIFIED PERSON, EROSION CONTROL SUBCONTRACTOR IF ANY, ENGINEER OF WORK, OWNER/DEVELOPER AND THE RESIDENT ENGINEER) TO EVALUATE THE ADEQUACY OF THE EROSION AND SEDIMENT CONTROL MEASURES AND OTHER BMP'S RELATIVE TO ANTICIPATED CONSTRUCTION ACTIVITIES.
16. THE CONTRACTOR SHALL CONDUCT VISUAL INSPECTIONS DAILY AND MAINTAIN ALL BMP'S AS NEEDED. VISUAL INSPECTIONS AND MAINTENANCE OF ALL BMP'S SHALL BE CONDUCTED BEFORE, DURING AND AFTER EVERY RAIN EVENT AND EVERY 24 HOURS DURING ANY PROLONGED RAIN EVENT. THE CONTRACTOR SHALL MAINTAIN AND REPAIR ALL BMP'S AS SOON AS POSSIBLE AS SAFETY ALLOWS.
17. CONSTRUCTION ENTRANCE AND EXIT AREA. TEMPORARY CONSTRUCTION ENTRANCE AND EXIT AREA SHALL BE ON LEVEL, STABILIZED GROUND. THE ENTRANCE AND EXIT AREA SHALL BE CONSTRUCTED BY OVERLAYING THE STABILIZED ACCESS AREA WITH 3 TO 6" DIAMETER STONES. THE AREA SHALL BE MINIMUM 50' LONG X 30' WIDE. IN LIEU OF STONE COVERED AREA, THE CONTRACTOR MAY CONSTRUCT RUMBLE RACKS OF STEEL PANELS WITH RIDGES MINIMUM 20' LONG X 30' WIDE CAPABLE OF PREVENTING THE MIGRATION OF CONSTRUCTION MATERIALS INTO THE TRAVELED WAYS.
18. PERFORMANCE STANDARDS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR IMPLEMENTING WATER POLLUTION CONTROL MEASURES BASED ON PERFORMANCE STANDARDS. PERFORMANCE STANDARDS SHALL INCLUDE:

- A. NON-STORM WATER DISCHARGES FROM THE SITE SHALL NOT OCCUR TO THE MEP3. STORM WATER DISCHARGES SHALL BE FREE OF POLLUTANTS INCLUDING SEDIMENT TO THE MEP.
- B. EROSION SHALL BE CONTROLLED BY ACCEPTABLE BMP'S TO THE MEP. IF RILLS AND GULLIES APPEAR THEY SHALL BE REPAIRED AND ADDITIONAL BMP'S INSTALLED TO PREVENT A REOCCURRENCE OF EROSION.
- C. AN INACTIVE AREA SHALL BE PROTECTED TO PREVENT POLLUTANT DISCHARGES. A SITE OR PORTIONS OF A SITE SHALL BE CONSIDERED INACTIVE WHEN CONSTRUCTION ACTIVITIES HAVE CEASED FOR A PERIOD OF 14 OR MORE CONSECUTIVE DAYS.

GRADING NOTES

1. GRADING AS SHOWN ON THESE PLANS SHALL BE IN CONFORMANCE WITH CURRENT STANDARD SPECIFICATIONS AND CHAPTER 14, ARTICLE 2, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE.
2. PLANT AND IRRIGATE ALL CUT AND FILL SLOPES AS REQUIRED BY ARTICLE 2, DIVISION 4, SECTION 142.0411 OF THE SAN DIEGO LAND DEVELOPMENT CODE AND ACCORDING TO SECTION IV OR THE LAND DEVELOPMENT MANUAL LANDSCAPE STANDARDS.
3. GRADED, DISTURBED, OR ERODED AREAS THAT WILL NOT BE PERMANENTLY PAVED, COVERED BY STRUCTURE, OR PLANTED FOR A PERIOD OVER 90 DAYS SHALL BE TEMPORARILY RE-VEGETATED WITH A NON-IRRIGATED HYDROSEED MIX, GROUND COVER, OR EQUIVALENT MATERIAL. SEE SHEET 5 FOR MIX AND SPECIFICATIONS.

KEY MAP (1"=X')



GROUND WATER DISCHARGE NOTES

1. ALL GROUND WATER EXTRACTION AND SIMILAR WASTE DISCHARGES TO SURFACE WATERS NOT TRIBUTARY TO THE SAN DIEGO BAY ARE PROHIBITED UNTIL IT CAN BE DEMONSTRATED THAT THE OWNER HAS APPLIED AND OBTAINED AUTHORIZATION FROM THE STATE OF CALIFORNIA VIA AN OFFICIAL "ENROLLMENT LETTER" FROM THE REGIONAL WATER QUALITY CONTROL BOARD IN ACCORDANCE WITH THE TERMS, PROVISIONS AND CONDITIONS OF STATE ORDER NO R9-2015-0013 NPDES CAG919003.
2. THE ESTIMATED MAXIMUM DISCHARGE RATES MUST NOT EXCEED THE LIMITS SET IN THE OFFICIAL "ENROLLMENT LETTER" FROM THE REGIONAL BOARD UNLESS PRIOR NOTIFICATION AND SUBSEQUENT AUTHORIZATION HAS BEEN OBTAINED, AND DISCHARGE OPERATIONS MODIFIED TO ACCOMMODATE THE INCREASED RATES.
3. ALL GROUND WATER EXTRACTIONS AND SIMILAR WASTE DISCHARGES TO SURFACE WATERS TRIBUTARY TO THE SAN DIEGO BAY ARE PROHIBITED UNTIL IT CAN BE DEMONSTRATED THAT THE OWNER HAS APPLIED AND OBTAINED AUTHORIZATION FROM THE STATE OF CALIFORNIA VIA AN OFFICIAL "ENROLLMENT LETTER" FROM THE REGIONAL WATER QUALITY CONTROL BOARD IN ACCORDANCE WITH THE TERMS, PROVISIONS AND CONDITIONS OF STATE ORDER NO R9-2015-0013 NPDES NO. CAG919003.

MINIMUM POST-CONSTRUCTION MAINTENANCE PLAN

AT THE COMPLETION OF THE WORK SHOWN, THE FOLLOWING PLAN SHALL BE FOLLOWED TO ENSURE WATER QUALITY CONTROL IS MAINTAINED FOR THE LIFE OF THE PROJECT:

1. STABILIZATION: ALL PLANTED SLOPES AND OTHER VEGETATED AREAS SHALL BE INSPECTED PRIOR TO OCTOBER 1 OF EACH YEAR AND AFTER MAJOR RAINFALL EVENTS (MORE THAN 1/2 INCH) AND REPAIRED AND REPLANTED AS NEEDED UNTIL A NOTICE OF TERMINATION (NOT) IS FILLED.
2. STRUCTURAL PRACTICES: DESILTING BASINS, DIVERSION DITCHES, DOWNDRAINS, INLETS, OUTLET PROTECTION MEASURES, AND OTHER PERMANENT WATER QUALITY AND SEDIMENT AND EROSION CONTROLS SHALL BE INSPECTED PRIOR TO OCTOBER 1ST OF EACH YEAR AND AFTER MAJOR RAINFALL EVENTS (MORE THAN 1/2 INCH). REPAIRS AND REPLACEMENTS SHALL BE MADE AS NEEDED AND RECORDED IN THE MAINTENANCE LOG IN PERPETUITY.
3. OPERATION AND MAINTENANCE, FUNDING: POST-CONSTRUCTION MANAGEMENT MEASURES ARE THE RESPONSIBILITY OF THE DEVELOPER UNTIL THE TRANSFER OF RESPECTIVE SITES TO HOME BUILDERS, INDIVIDUAL OWNERS, HOMEOWNERS ASSOCIATIONS, SCHOOL DISTRICTS, OR LOCAL AGENCIES AND/OR GOVERNMENTS AT THAT TIME. THE NEW OWNERS SHALL ASSUME RESPONSIBILITY FOR THEIR RESPECTIVE PORTIONS OF THE DEVELOPMENT.

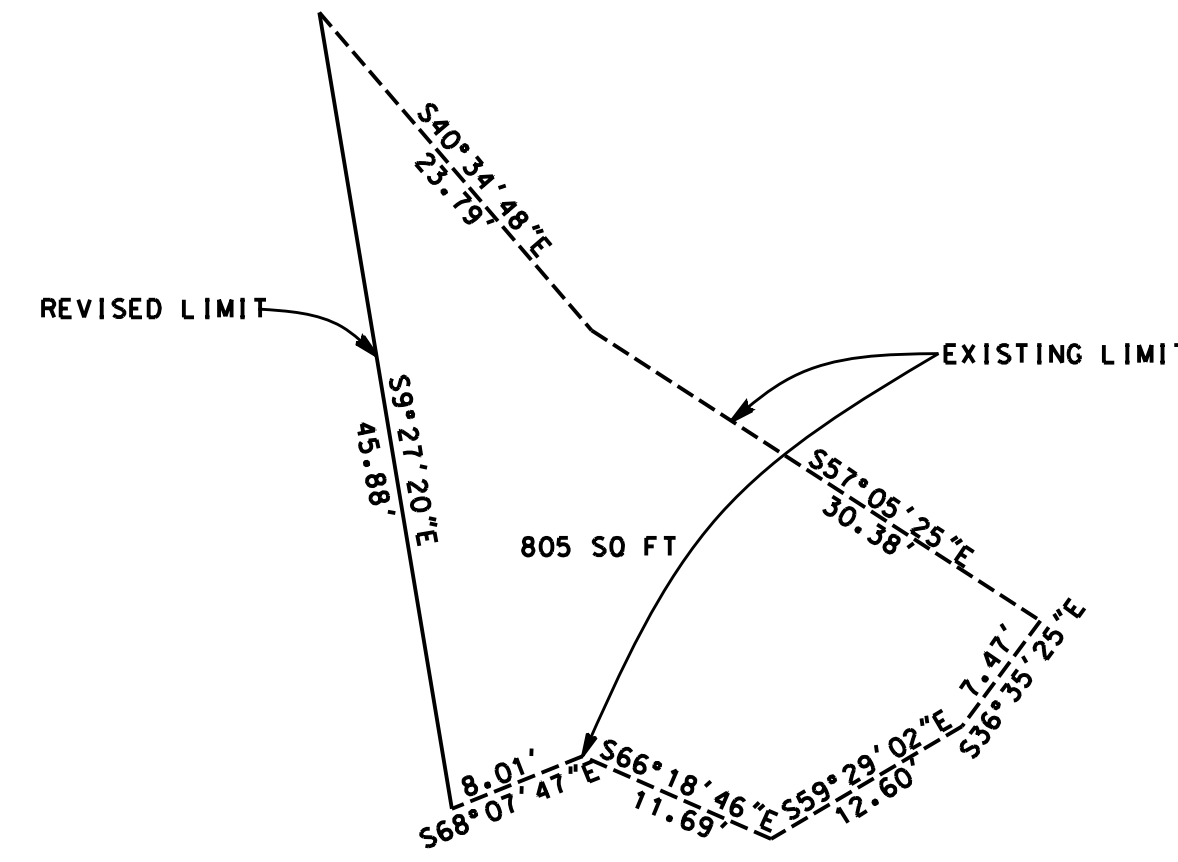
TRAFFIC CONTROL NOTE

(DELETE IF GREATER THAN 5000 ADT)

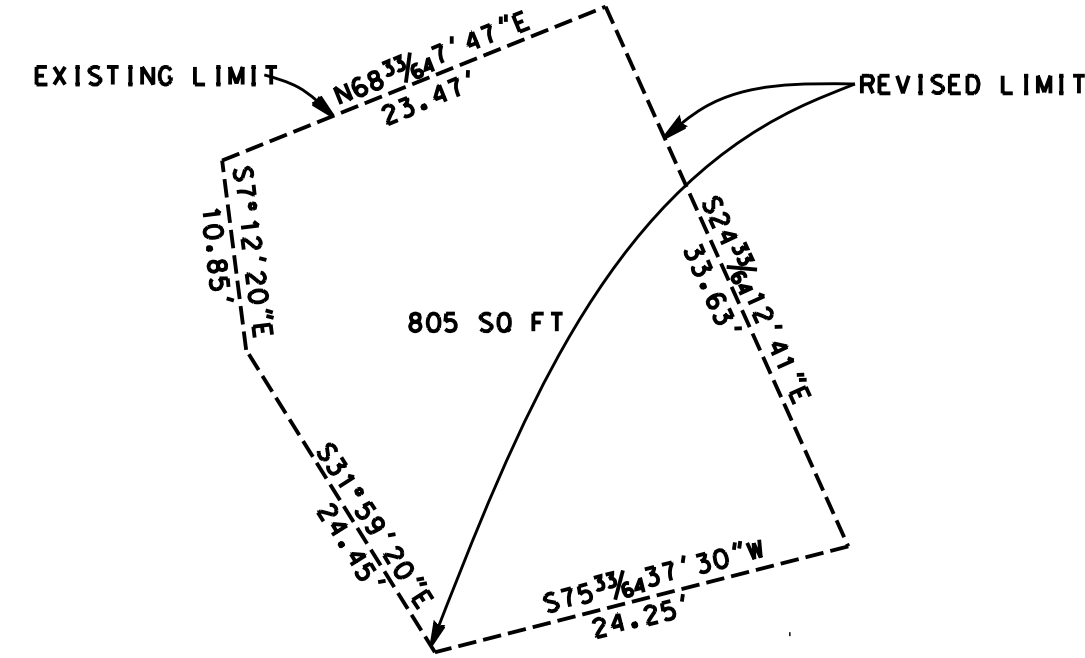
THE CONTRACTOR SHALL SUBMIT A TRAFFIC CONTROL PLAN (11"x17") FOR APPROVAL PRIOR TO STARTING WORK. THE PLAN SHOULD BE SUBMITTED TO THE TRAFFIC CONTROL PERMIT COUNTER, 3RD FLOOR, BOOTH 22, BUILDING, SAFETY & CONSTRUCTION DIVISION, DEVELOPMENT SERVICES CENTER, 1222 FIRST AVENUE, SAN DIEGO (619-446-5150). CONTRACTOR SHALL OBTAIN A TRAFFIC CONTROL PERMIT A MINIMUM OF TWO (2) WORKING DAYS PRIOR TO STARTING WORK, AND A MINIMUM OF FIVE (5) DAYS IF WORK WILL AFFECT A BUS STOP OR AN EXISTING TRAFFIC SIGNAL, OR IF WORK WILL REQUIRE A ROAD OR ALLEY CLOSURE.

(REV. 5/13/2019)

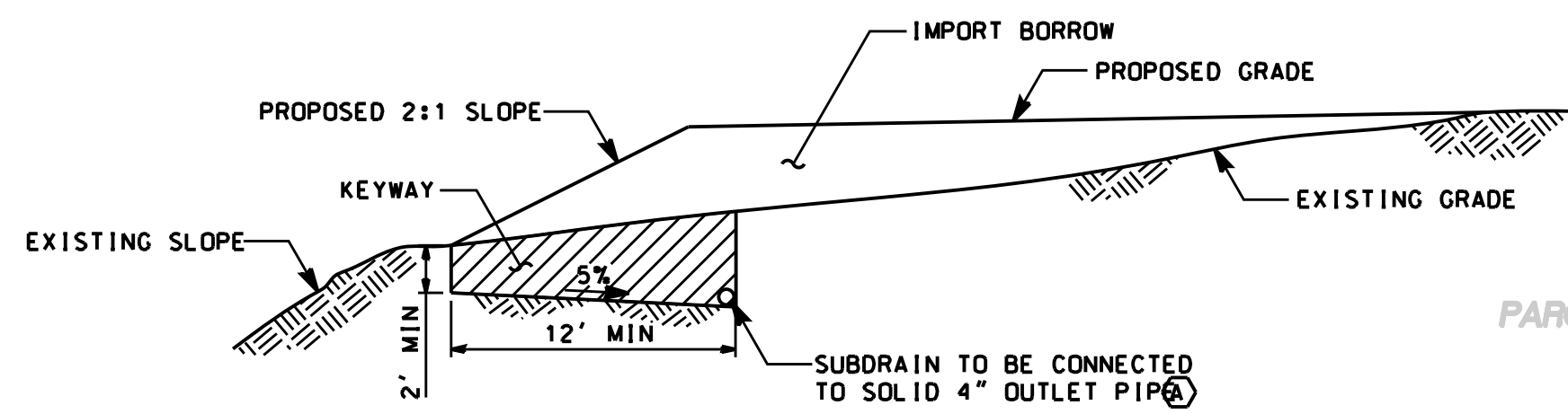
PRIVATE CONTRACT				
NOTES FOR:				
FISHBURN AMENDMENT				
PARCEL 2, PARCEL MAP 12355				
CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT SHEET 2 OF 5 SHEETS				PROJECT NO. 687641
FOR CITY ENGINEER				DATE
DESCRIPTION	BY	APPROVED	DATE	FILMED
ORIGINAL	JRF			
AS-BUILTS				V.T.M.
CONTRACTOR				DATE STARTED
INSPECTOR				DATE COMPLETED
				1878-6251 NAD83 COORDINATES
				238-1689 LAMBERT COORDINATES
				XXXXXX-2-D



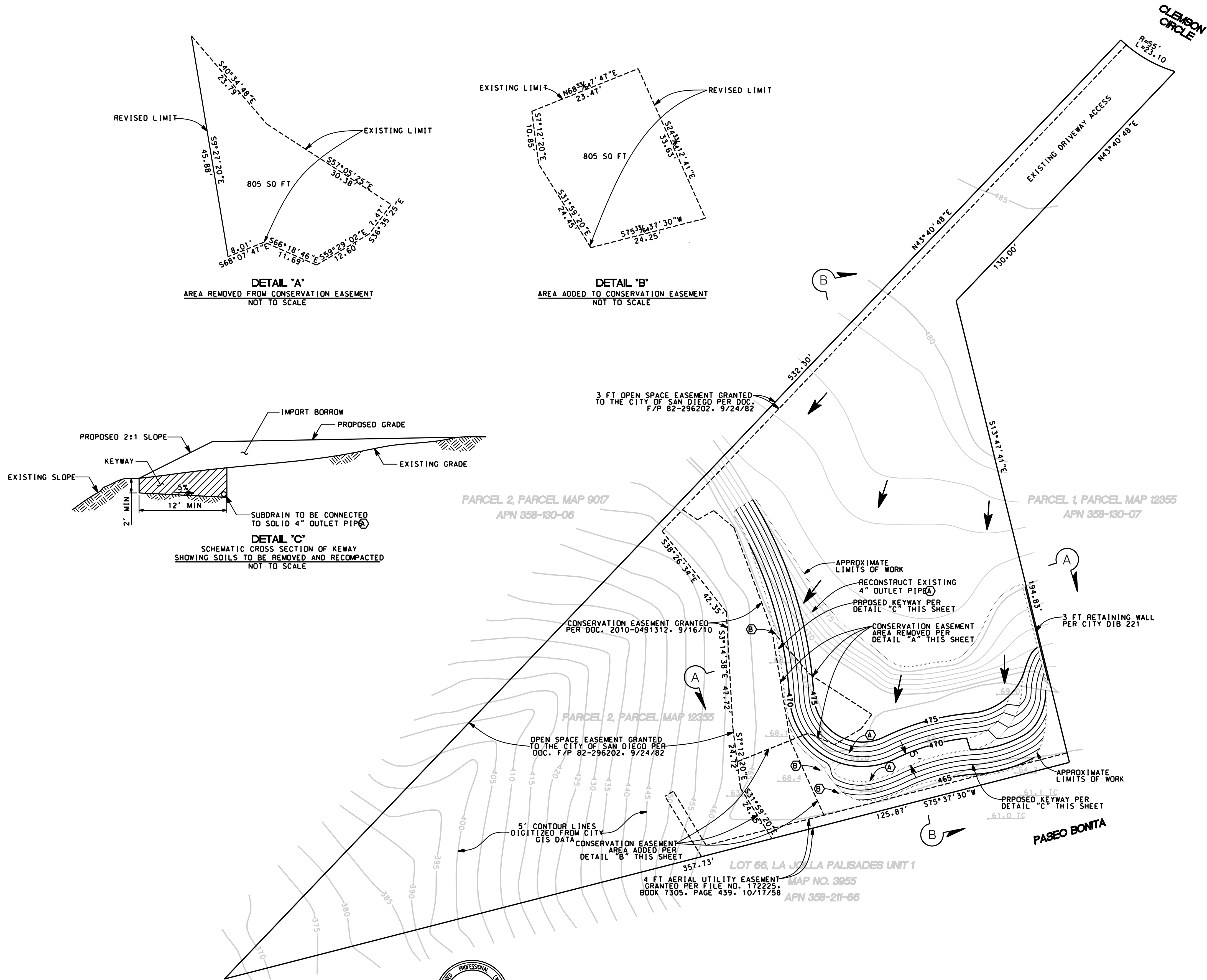
DETAIL 'A'
AREA REMOVED FROM CONSERVATION EASEMENT
NOT TO SCALE



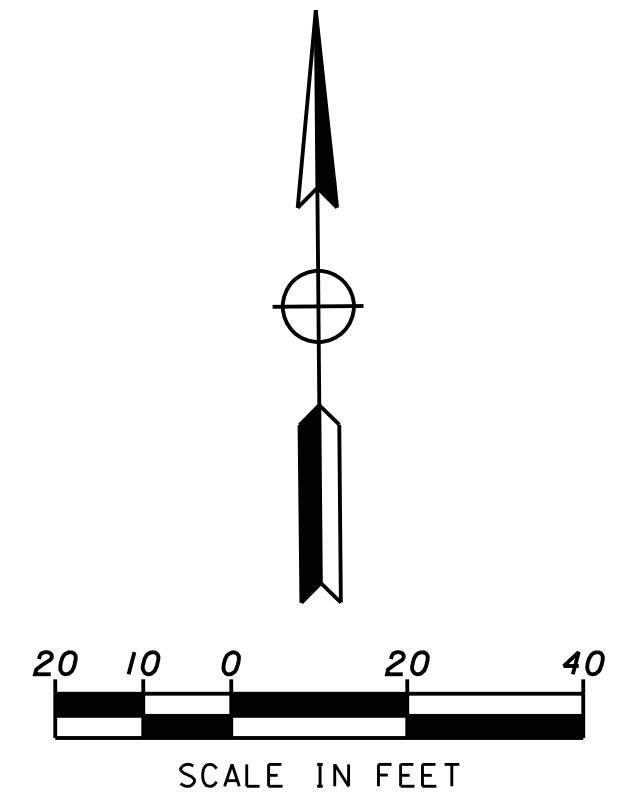
DETAIL 'B'
AREA ADDED TO CONSERVATION EASEMENT
NOT TO SCALE



DETAIL 'C'
SCHEMATIC CROSS SECTION OF KEWAY
SHOWING SOILS TO BE REMOVED AND RECOMPACTED
NOT TO SCALE



- Ⓐ 4" OUTLET PIPE SEE DETAIL "C" THIS SHEET
- Ⓑ NO. 3 BACKING RIPRAP PER D-40 (TYPE 2)
- ← DENOTES SURFACE FLOW DIRECTION



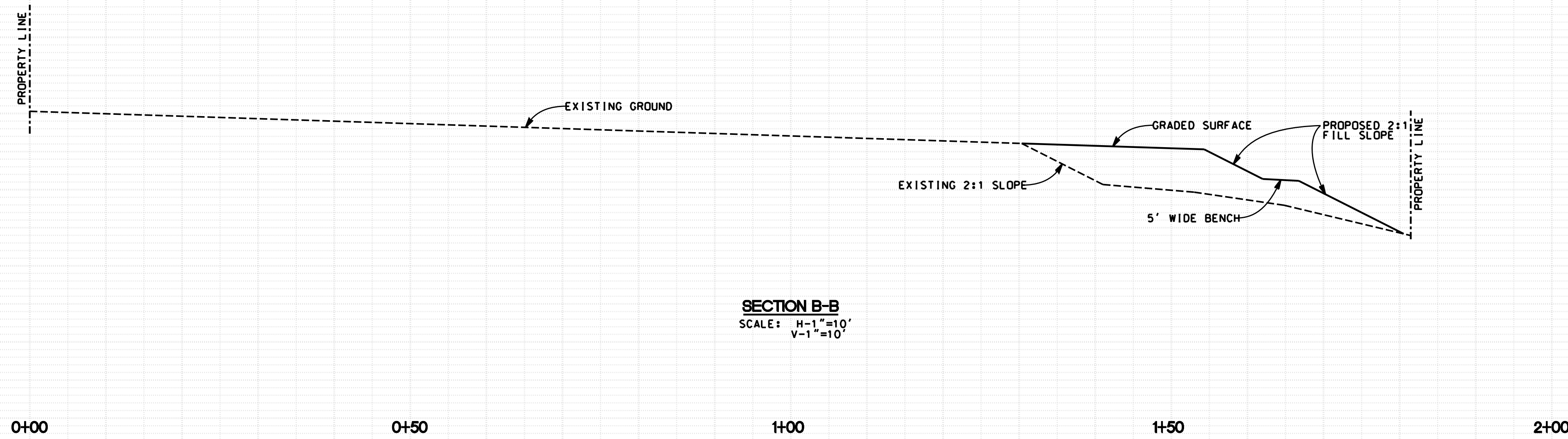
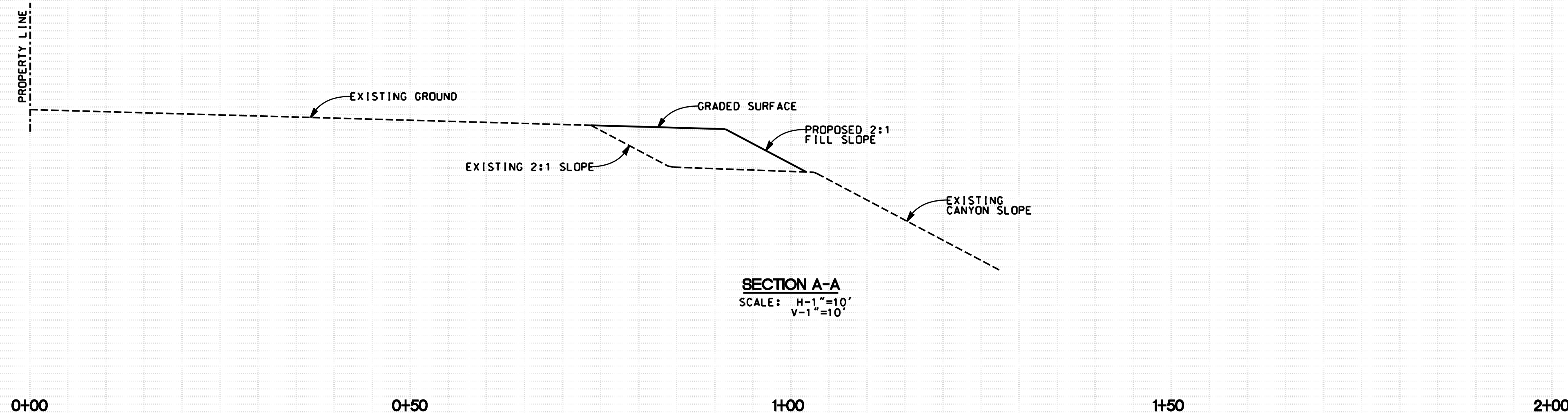
JASON R. FISCHER R.C.E. NO. C78608 EXP. 09-30-2025

858-652-8001
JASONRFISCHER@GMAIL.COM

DATE _____

PRIVATE CONTRACT				
GRADING PLANS FOR:				
FISHBURN AMENDMENT				
PARCEL 2, PARCEL MAP 12355				
CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT SHEET 3 OF 5 SHEETS				PROJECT NO. 687641
FOR CITY ENGINEER	DATE	V.T.M.		
DESCRIPTION	BY	APPROVED	DATE	FILMED
ORIGINAL	JRF			
AS-BUILTS				
CONTRACTOR	DATE STARTED	1878-6251		
INSPECTOR	DATE COMPLETED	NAD83 COORDINATES		
		238-1689		
		LAMBERT COORDINATES		
		XXXXXX-3-D		

SITE CROSS SECTIONS



JASON R. FISCHER R.C.E. NO. C78608 EXP. 09-30-2025

858-652-8001
JASONRFISCHER@GMAIL.COM

DATE

PRIVATE CONTRACT				
SITE CROSS SECTIONS FOR:				
FISHBURN AMENDMENT				
PARCEL 2, PARCEL MAP 12355				
CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT SHEET 4 OF 5 SHEETS				PROJECT NO. 687641
FOR CITY ENGINEER				V.T.M.
DESCRIPTION	BY	APPROVED	DATE	FILMED
ORIGINAL	JRF			
AS-BUILTS				
CONTRACTOR				DATE STARTED
INSPECTOR				DATE COMPLETED
				XXXXXX-4-D

HYDROSEED NOTES

1.1 HYDROSEEDING PROCEDURES

- 1.1-1 SEED MIXES SHALL BE SPECIFIED BY THE PURE LIVE SEED OF EACH SPECIES.
- 1.1-2 FIBER MULCH SHALL BE APPLIED AT A MINIMUM RATE OF 2,000 POUNDS PER ACRE EXCEPT WHEN USED IN CONJUNCTION WITH STRAW MULCH, WHEN IT SHALL BE APPLIED AT A MINIMUM RATE OF 400 POUNDS PER ACRE.
- 1.1-3 A WETTING AGENT CONSISTING OF 95 PERCENT ALKYL POLYETHYLENE GLYCOL ETHER SHALL BE APPLIED AS PER MANUFACTURERS' RECOMMENDATIONS.
- 1.1-4 EQUIPMENT USED FOR THE APPLICATION OF SLURRY SHALL HAVE A BUILT-IN AGITATION SYSTEM TO SUSPEND AND HOMOGENEOUSLY MIX THE SLURRY. THE SLURRY MIX SHALL BE DYED GREEN. THE EQUIPMENT MUST HAVE A PUMP CAPABLE OF APPLYING SLURRY UNIFORMLY.

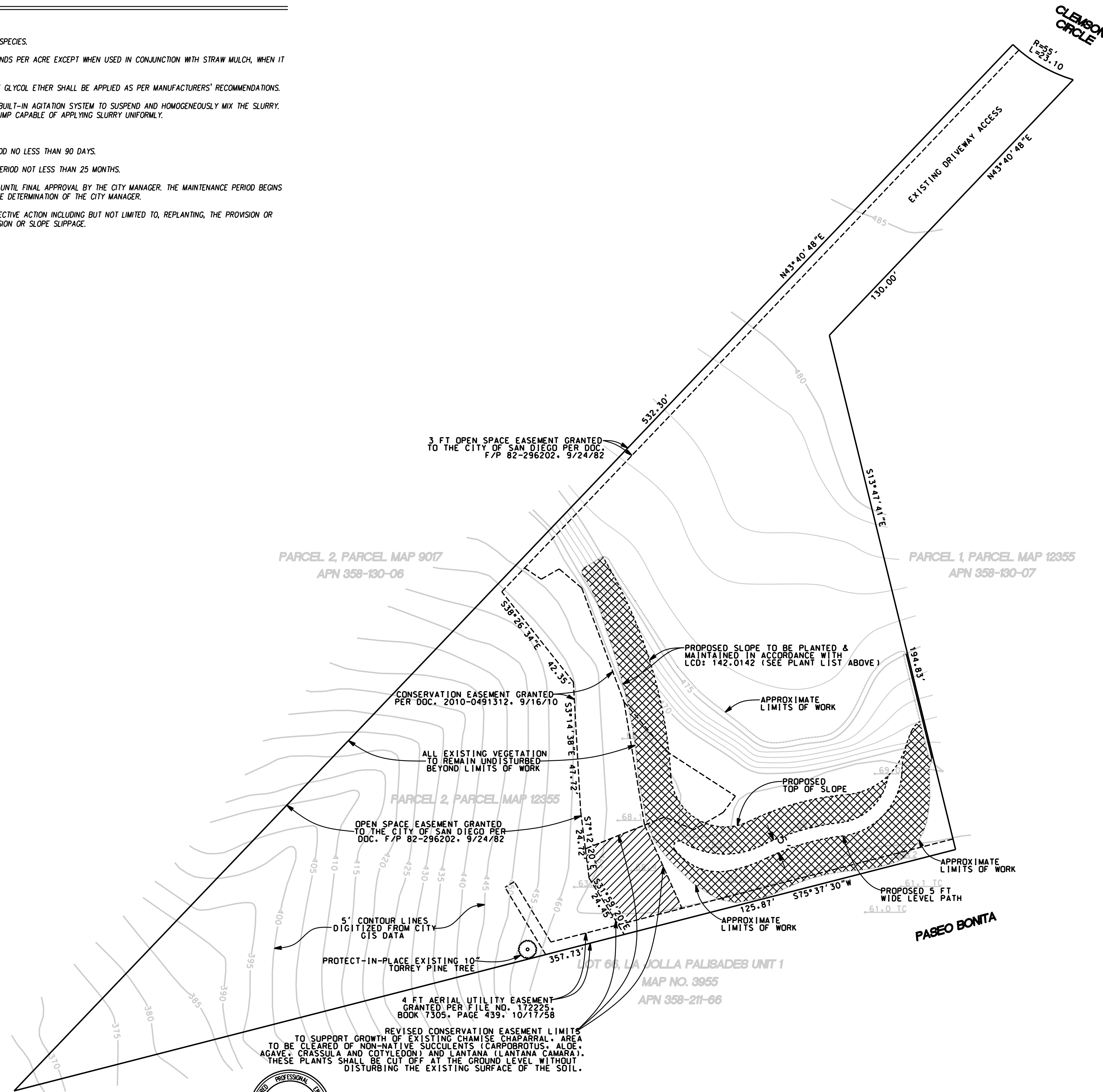
1.2 MAINTENANCE REQUIREMENTS

- 1.2-1 PERMANENTLY IRRIGATED SLOPES SHALL BE MAINTAINED FOR A PERIOD NO LESS THAN 90 DAYS.
- 1.2-2 NONPERMANENTLY IRRIGATED AREAS SHALL BE MAINTAINED FOR A PERIOD NOT LESS THAN 25 MONTHS.
- 1.2-3 ALL REVEGETATED AREAS SHALL BE MAINTAINED BY THE PERMITTEE UNTIL FINAL APPROVAL BY THE CITY MANAGER. THE MAINTENANCE PERIOD BEGINS ON THE FIRST DAY FOLLOWING ACCEPTANCE AND MAY BE EXTENDED AT THE DETERMINATION OF THE CITY MANAGER.
- 1.2-4 PRIOR TO FINAL APPROVAL, THE CITY MANAGER MAY REQUIRE CORRECTIVE ACTION INCLUDING BUT NOT LIMITED TO, REPLANTING, THE PROVISION OR MODIFICATION OF IRRIGATION SYSTEMS, AND THE REPAIR OF ANY SOIL EROSION OR SLOPE SLIPPAGE.

1.3 PLANT SPECIES

1.3-1 PLANT SPECIES SHALL BE SELECTED FROM THE FOLLOWING LIST:

- ACMISPON GLABER VAR. GLABER (LOTUS SCOPARIUS)
- ALLIUM HAEMATOCITON
- BLOOMERIA CROCEA
- CALOCHORTUS WEEDII
- CORETHRACNE FILAGINIFOLIA
- CROCANTHEMUM (HELIANTHEMUM) SCOPARIUM
- DICHELOSTEMA PULCHELLUM
- DIPLACUS PUNICEUS
- ENCELIA CALIFORNICA
- ERIOGONUM FASCICULATUM VAR. FASCICULATUM
- ERIOPHYLLUM CONFERTIFLORUM
- HAZARDIA SOUARROSA SPP. GRINDELIOIDES
- ISOCOMA MENZIESII SPP. VERNONOIDES
- NASSELLA (STIPA) LEPIDA
- SALVIA APIANA
- SALVIA MELLIFERA
- SANICULA ARGUTA
- SISYRINCHUM BELLUM

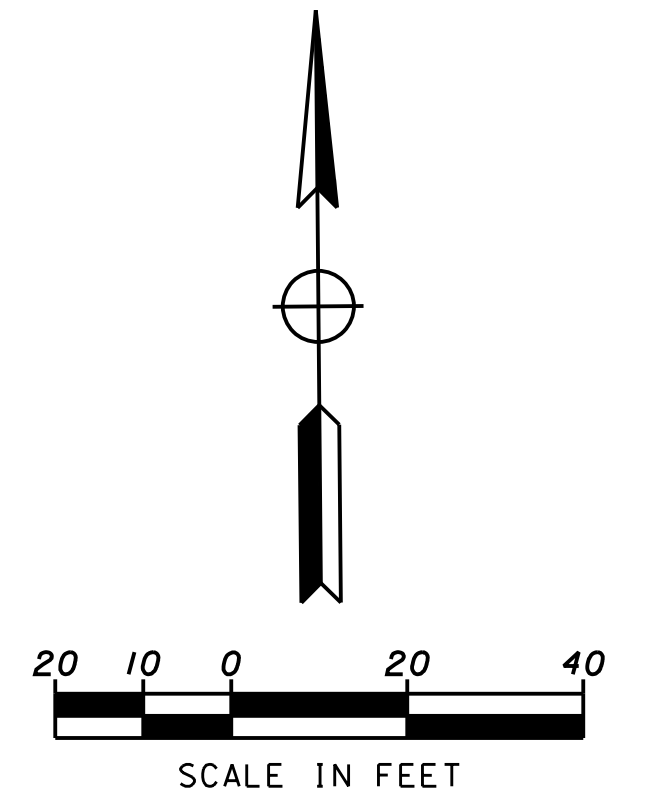


JASON R. FISCHER R.C.E. NO. C78608 EXP. 09-30-2025

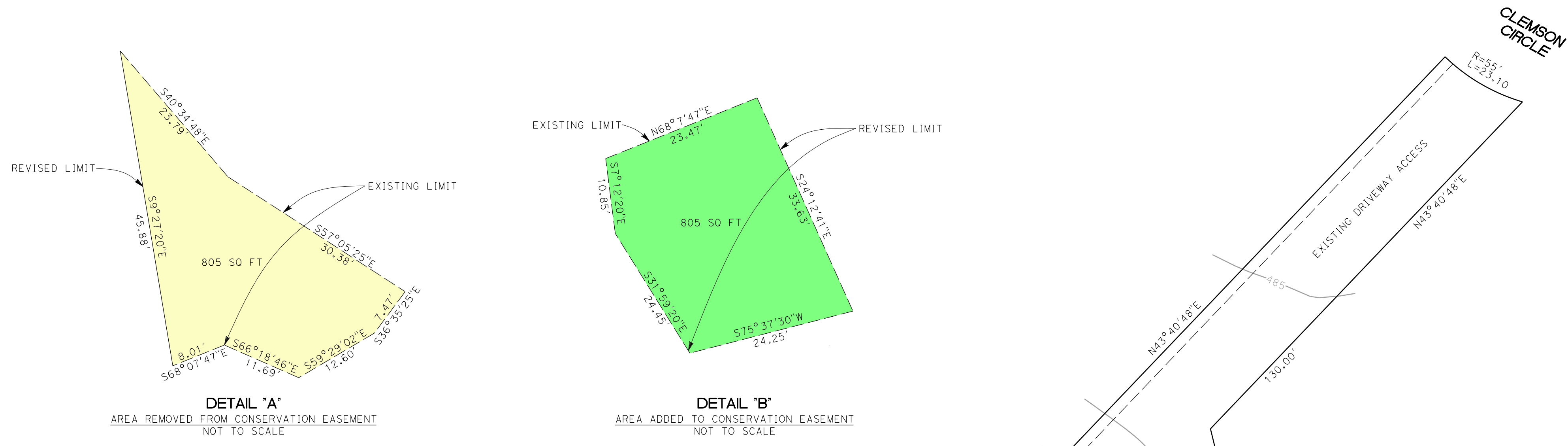
858-652-8001
JASONRFISCHER@GMAIL.COM

DATE _____

- BRUSH MANAGEMENT ZONE 1 PLANTING
- MAINTAIN EXISTING CHAMISE CHAPARRAL

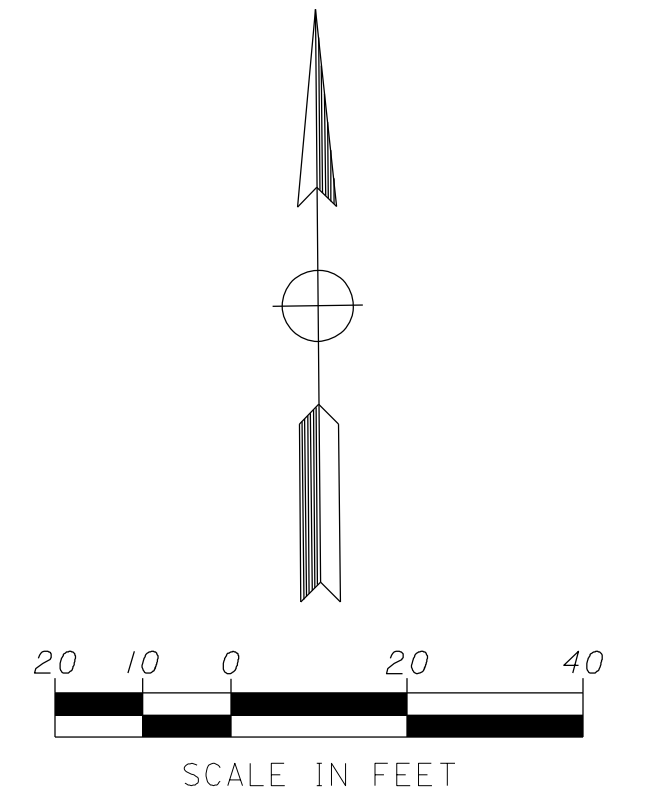


PRIVATE CONTRACT				PROJECT NO. 687641	
LANDSCAPE PLAN FOR:					
FISHBURN AMENDMENT					
PARCEL 2, PARCEL MAP 12355					
CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT SHEET 5 OF 5 SHEETS				V.T.M.	
FOR CITY ENGINEER		DATE			
DESCRIPTION	BY	APPROVED	DATE	FILMED	
ORIGINAL	JRF				1878-6251 NAD83 COORDINATES
AS-BUILTS					238-1689 LAMBERT COORDINATES
CONTRACTOR	DATE STARTED				
INSPECTOR	DATE COMPLETED		XXXXXX-5-D		



DETAIL 'A'
AREA REMOVED FROM CONSERVATION EASEMENT
NOT TO SCALE

DETAIL 'B'
AREA ADDED TO CONSERVATION EASEMENT
NOT TO SCALE



PRIVATE CONTRACT			
GRADING PLANS FOR:			
FISHBURN AMENDMENT			
PARCEL 2, PARCEL MAP 12355			
CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT SHEET 3 OF 5 SHEETS			PROJECT NO. 687641
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ORIGINAL	JRF		
AS-BUILTS			V.T.M.
			1878-6251 NAD83 COORDINATES
			238-1689 LAMBERT COORDINATES
CONTRACTOR	DATE STARTED		XXXXXX-6-D
INSPECTOR	DATE COMPLETED		

Re: 687641 Fishburn Vacant lot west of 1615 Clemson Circle

Brian Will <brian@willandfotsch.com>

Tue 20-Feb-24 11:18

To:Matthew A. Peterson <map@petersonprice.com>

Cc:brianljcpa@gmail.com <brianljcpa@gmail.com>;Wain Fishburn <500nautilus@gmail.com>

You don't often get email from brian@willandfotsch.com. [Learn why this is important](#)

Makes sense to me.

Brian Alan Will

Will & Fotsch Architects

1298 Prospect St, Suite 2S

La Jolla, CA 92037

brian@willandfotsch.com

858-224-2486 office

619-204-3739 mobile

On Fri, Feb 16, 2024 at 3:00 PM Matthew A. Peterson <map@petersonprice.com> wrote:

Hi Will, This is a very small project involving an open space “equal” swap of 805 sq ft. The green is the replacement for the yellow. The green is more functional habitat and contiguous to the rest of the OS. As you can see City staff is okay with it, as is Calif, Dept Fish & Game, & the USFWS. There will be some fill and a very short 3 ft retaining wall. There is no other improvements or project proposed. It is used as a yard for 1615 Clemson. I felt that the project is so minor that I did not want to waste the time of DPR. Do you concur? Thanks and have a lovely 3 day weekend ! Matt

Figure 5. Easement Boundary Adjustment

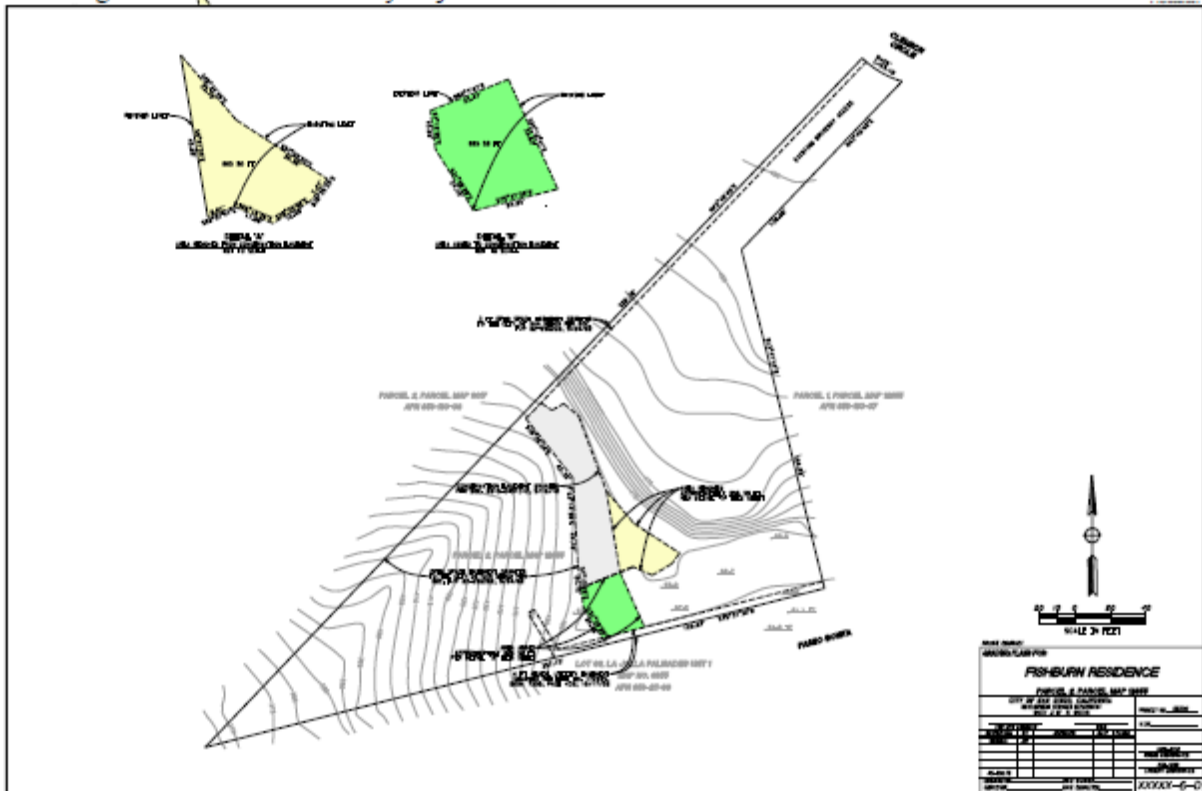
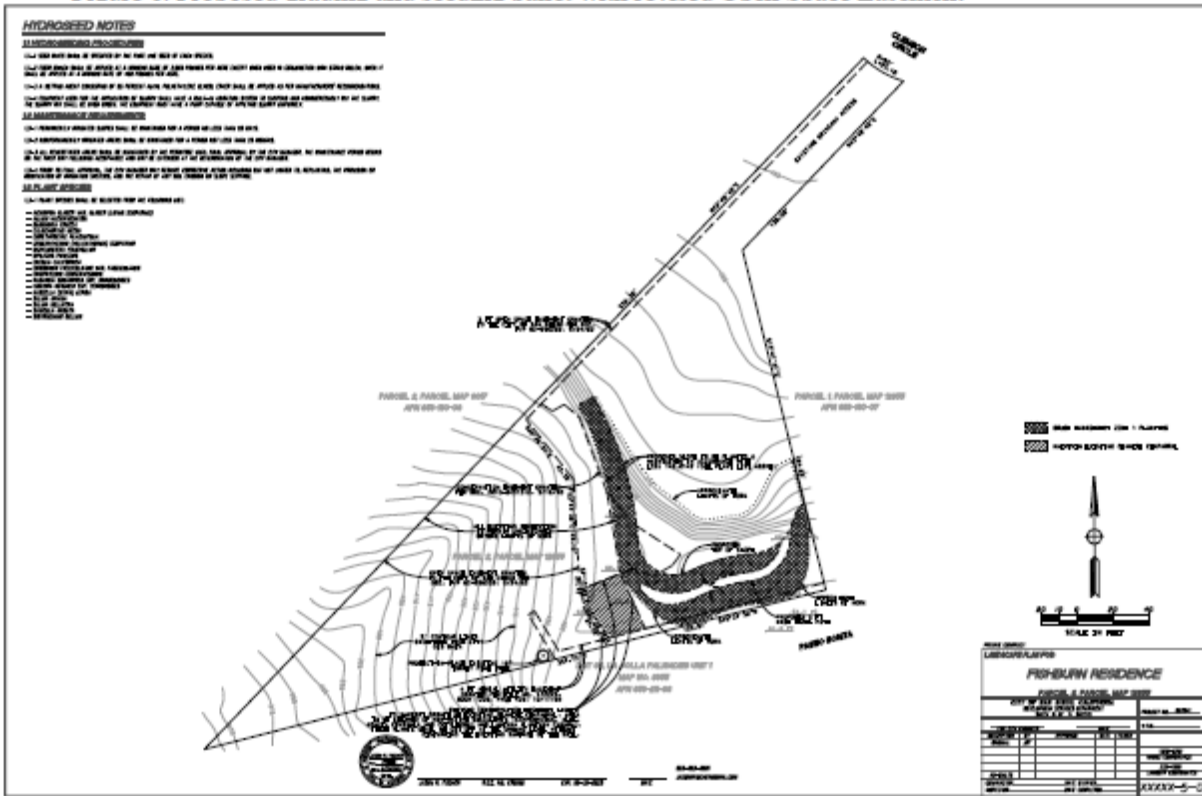


Figure 6. Proposed grading and seeding pallet with revised Open Space Easement



**402 W. Broadway, Suite 1815
San Diego, CA 92101-3576
(619) 234-0361
(619) 234-4786 fax**

www.petersonprice.com

We have moved. Please note our new suite number.

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From: Eng, Anita
Sent: Wednesday, October 4, 2023 7:28 AM
To: Schmalbach, Heather; Holowach, Courtney
Cc: Zoutendyk, David; Forburger, Kristen; Burlaza, Melanie
Subject: Re: [EXTERNAL] Conservation Easement Amendment Concurrence

Courtney,

The Service also has reviewed the information provided and concurs with the proposed conservation easement amendment on the Fishburn property at 1611 Clemson Circle, San Diego.

Thank you,

Anita Eng

Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
(571)547-3203 anita_eng@fws.gov

From: Heather Schmalbach <Heather.Schmalbach@Wildlife.ca.gov>

Sent: Tuesday, October 3, 2023 4:45 PM

To: Holowach, Courtney; Eng, Anita <anita_eng@fws.gov>

Cc: David Zoutendyk <David_Zoutendyk@fws.gov>; Forburger, Kristen; Melanie Burlaza <Melanie.Burlaza@Wildlife.ca.gov>

Subject: RE: [EXTERNAL] Conservation Easement Amendment Concurrence

To Courtney,

CDFW has reviewed the request for agency concurrence on an amendment to a recorded conservation easement (Fishburn CE) located at 1611 Clemson Circle, San Diego, received via email July 11, 2023. As stated in the documents provided by the City, the proposed amendment would adjust the current conservation easement boundary to swap equal areas (805 square feet) on the parcel, resulting in no net change to the conserved area. The area to be added to the conservation easement is contiguous, and comparable in habitat value to the area being removed. The City has also confirmed (via email August 16, 2023) that while the conservation easement was entered into HabiTrak, that since the area is located outside of the MHPA it was not counted towards the City's MSCP conservation goals.

Based on the information provided, CDFW concurs with the proposed amendment to the Fishburn CE.

Respectfully,

Heather

Heather Schmalbach | Senior Environmental Scientist (Specialist)

California Department of Fish and Wildlife

3883 Ruffin Road, San Diego, CA 92123

Work cell: (858) 775-7399

Heather.Schmalbach@wildlife.ca.gov