

RESOLUTION NO. 221538

R.79-1375

HILLSIDE REVIEW PERMIT NO. 115

AUG 1 1978

WHEREAS, FLETCHER HILLS REALTY, a California corporation, Owner, hereafter referred to as "Permittee," filed an application under Hillside Review Permit No. 115, for grading in the Hillside Review Overlay Zone to allow development under the regulations of the A-1-10 (proposed R-1-5) Zone on property located on the north side of Navajo Road between Cowles Mountain Boulevard and Golfcrest Drive, more particularly described as a portion of Lot 70, Rancho Mission of San Diego, C.C. No. 15191; and

WHEREAS, on May 18, 1978, the Planning Commission of The City of San Diego made its findings of fact, granted said Hillside Review Permit No. 115, and filed said decision in the office of the City Clerk on November 22, 1978; and

WHEREAS, on May 24 and May 30, 1978, NAVAJO COMMUNITY PLANNERS, INC. and MEL DAVID, respectively, appealed the decision of the Planning Commission; and

WHEREAS, said appeal was set for public hearing on July 11, 1978, continued to July 18 and August 1, 1978, and testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, the City Council in considering said appeal is empowered by the provisions of the Municipal Code, Section 101.0454, to affirm, reverse or modify, in whole or in part, any determination of the Planning Commission, subject to the

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limitations as are placed upon the Planning Commission by the Municipal Code; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

All of the following facts exist with respect to Hillside Review Permit No. 115:

1. That the development will result in minimum disturbance of the natural terrain commensurate with the proposed use of the lot or premises. Due to the natural topography of the site and the nature of the soil and material, a reasonable amount of grading will be required in the creation of homesites. The existing landforms will be modified to accept the design concept. However, the predominant features will change relatively insignificantly due to the alignment and grade of the proposed street pattern which has been adjusted to minimize the disturbance of underground rock fixtures.

2. That the grading and excavating proposed in connection with the development will not result in soil erosion, silting of lower slopes, slide damage, flooding problems, or severe cutting or scarring. The landscape treatment as proposed on 2 to 1 slopes will stabilize the slopes and prevent erosion.

3. That the proposed development will serve to preserve and enhance the natural environment and the aesthetic qualities of the site. The project concept of basically two levels of residential units on single-loaded and cul-de-sac streets, together with approximately 13 acres of open space with special landscaped treatment, lessens the impact of an urban area adjacent to the regional park. This development provides a buffer between the

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existing multiple-family units and higher density single-family homes to the east and the regional park.

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

BE IT FURTHER RESOLVED, that the appeals of NAVAJO COMMUNITY PLANNERS, INC. and MEL DAVID are denied, and this Council does hereby grant to FLETCHER HILLS REALTY, a California corporation, Owner and Permittee, Hillside Review Permit No. 115, in the form and with the terms and conditions as set forth in the permit attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By


Frederick C. Conrad
Chief Deputy City Attorney

FCC:clh
1/23/79
49-78-1
Or.Dept.:Clerk

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HILLSIDE REVIEW PERMIT NO. 115
CITY COUNCIL

This hillside review permit is granted by the City Council of The City of San Diego to FLETCHER HILLS REALTY, a California corporation, Owner, hereafter referred to as "Permittee," for the purposes and under the terms and conditions as set out herein, pursuant to the authority contained in Section 101.0454 of the San Diego Municipal Code:

1. Slopes shall not exceed 2:1 in grade.
2. Slopes in excess of 60 feet in height may be permitted as shown on Exhibit A, dated May 18, 1978, on file in the Planning Department.
3. No building permit shall be issued for any dwelling on the subject property until and unless:
 - a. The Planning Director shall approve the exterior design, roof material and exterior materials and color, based on drawings (submitted by Owner/Permittee) in sufficient detail to indicate the foregoing.
 - b. The Planning Director shall approve (i) the landscape plan affecting all portions of the land covered by this permit which are designated for "open-space easements" on the final subdivision map of said land, and (ii) the design of the irrigation system to be installed in said open-space easements.
4. No occupancy permit shall be issued for any dwelling on the subject property unless and until:

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a. Said dwelling shall have been constructed in substantial compliance with approval given by the Planning Director pursuant to paragraph 3a above.

b. The City Attorney shall have received a policy of title insurance, preliminary title report or other evidence, satisfactory to the City Attorney, disclosing that the subject property is encumbered by a general plan declaration which is not subject to any lien (other than nondelinquent taxes) and which contains provisions (set forth in Exhibit B attached hereto) permitting The City of San Diego, (i) to enter upon the subject property to maintain the flora and facilities set forth in the landscape plan approved by the Planning Director pursuant to paragraph 3b above, in the event the same are not, in the determination of the Planning Director, otherwise properly maintained, and (ii) to encumber the subject property with a lien in favor of said City to secure the payment to it of the reasonable costs to it of such maintenance.

5. Delete General Condition No. 4a, and in its stead substitute the following:

The effectiveness of this permit is expressly conditioned upon Owner/Permittee agreeing to each and every condition hereof by having this Permit signed within 30 days after presentation of this permit to Owner/Permittee.

6. Additional landscaping and street tree planting, as shown on Exhibit A, dated May 18, 1978, shall be provided by Permittee.

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7. The Owner/Permittee shall comply with the General Conditions for Hillside Review Permits attached hereto and made a part hereof.

ADOPTED BY THE COUNCIL OF THE CITY OF SAN DIEGO, AUGUST 1, 1978.

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GENERAL CONDITIONS FOR HILLSIDE REVIEW PERMITS

1. Prior to the issuance of any building permits, complete grading and building plans shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity with Exhibit A, dated May 18, 1978, on file in the office of the Planning Department. The property shall be developed in accordance with the approved grading and building plans except where regulations of this or other governmental agencies require deviation therefrom. Prior to and subsequent to the completion of the project, no changes, modifications or alterations shall be made unless and until appropriate applications for amendment of this permit shall have been approved and granted.

2. Prior to the issuance of any grading or building permits, a complete landscaping plan, including a permanent watering system, shall be submitted to the Planning Director for approval. Said plans shall be in substantial conformity with Exhibit A, dated May 18, 1978, on file in the office of the Planning Department and shall be in accordance with the Hillside Review Ordinance No. 11640 (New Series). Approved planting shall be installed prior to the issuance of an occupancy permit on any building. Such planting shall not be modified or altered unless and until this permit shall have been amended to permit such modification or alteration.

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3. Construction and operation of the approved permit shall comply at all times with the regulations of this or other governmental agencies.

4. The effectiveness of this hillside review permit is expressly conditioned upon, and the same shall not become effective for any purpose unless and until the following events shall have occurred:

a. The effectiveness of this permit is expressly conditioned upon Owner/Permittee agreeing to each and every condition hereof by having this Permit signed within 30 days after presentation of this permit to Owner/Permittee.

b. This hillside review permit executed as indicated shall have been recorded in the office of the County Recorder.

5. In addition to any other remedy provided by law, any breach in any of the terms or conditions of this permit or any default on the part of Permittee or its successors in interest, shall be deemed a material breach hereof and this hillside review permit may be cancelled or revoked. Cancellation or revocation of this permit may be instituted by the City or Permittee. The Planning Director shall set this matter for public hearing before the Planning Commission giving the same notice as provided in Section 101.0506. An appeal from the decision of the Planning Commission may be taken to the City Council within ten days after the decision is filed with the City Clerk. The Clerk shall set this matter for public hearing before the City Council giving the same notice as provided in Section 101.0506.

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6. This hillside review permit shall inure to the benefit of and shall constitute a covenant running with the lands, and the terms, conditions and provisions hereof shall be binding upon Permittee, and any successor or successors thereto, and the interests of any successor shall be subject to each and every condition herein set out.

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Acknowledgment

STATE OF CALIFORNIA) ss
COUNTY OF SAN DIEGO)

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____, known to me to be the _____ and _____ known to me to be the _____ of _____

the corporation that executed the within instrument and known to me to be the persons who executed the same on behalf of said corporation and acknowledged to me that said corporation executed the same, pursuant to its bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal.
(Notary Stamp)

Notary Public in and for the County
of San Diego, State of California

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ARTICLE —

Rights of The City of San Diego

1. The City of San Diego is hereby granted an easement over, under, upon and across those areas shown on the Final Subdivision Map as being encumbered by an open space easement in favor of The City of San Diego (the "Common Maintenance Area") for the purpose of repairing, maintaining and improving the same. Any failure by the Association to preserve and maintain the Common Maintenance Area in a safe condition and in a state of good repair shall be unlawful and a public nuisance endangering the health, safety and general welfare of the public and shall constitute a detriment to the surrounding community. The City of San Diego shall have, and is hereby granted, the right and power to effect any repair, maintenance or improvement of the Common Maintenance Area in the event the same are not, in the exclusive determination of the Planning Director of The City of San Diego, properly repaired, maintained and improved in accordance with landscape plans which have been approved by the Planning Director under Hillside Review Permit No. 115 approved by The City of San Diego on _____, 1978. The foregoing right and power granted to The City of San Diego shall be in addition to any other right or remedy provided by law for the abatement, removal and enjoinder of a public nuisance.

2. In the event of any failure of the Association to properly repair, maintain and improve the Common Maintenance Area as provided in the preceding paragraph, the Planning Director may, after giving notice, cause the necessary work of repair, maintenance or improvement to be done and the cost thereof shall be assessed against the Owners. Such notice shall be in writing and mailed to all persons, whose names appear on the most recent equalized assessment role as owners of the Common Maintenance Area, at the address shown on said assessment role. Such notice shall also be sent to any person known to the Planning Director to be responsible for the maintenance or repair of the Common Maintenance Area under an indenture or agreement. The Planning Director shall also cause at least one copy of such notice to be posted in a conspicuous place on the Common Maintenance Area. No assessment by The City of San Diego shall be held invalid for failure to post or mail or correctly address any such notice. Such notice shall particularly specify the work required to be done and shall state that, if such work is not commenced within five days after receipt of such notice and diligently and without interruption prosecuted to completion, The City of San Diego shall cause such work to be done, in which case the cost and expense of such work, including incidental expenses incurred by

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The City of San Diego, will be assessed against the Common Maintenance Area or against each Lot (containing such Common Maintenance Area) and shall become a lien thereupon. If upon the expiration of the five-day period provided for in the preceding sentence, the work has not been done, or having been commenced, is not prosecuted with diligence, the Planning Director shall proceed to do such work or cause such work to be done. Upon completion of such work, the Planning Director shall file a written report with the City Council setting forth the fact that the work has been completed and the cost thereof, together with a legal description of the property against which the cost is to be assessed. The City Council shall thereupon fix the time and place for hearing protests against the assessment of the cost of such work. The Planning Director, if so directed by the Council, shall thereafter give notice in writing to the Owners in the manner hereinabove provided of the hour and place that the City Council will pass upon the Planning Director's report and will hear protests against said assessment. Such notice shall also set forth the amount of the proposed assessment. Upon the date and hour set for the hearing of the protest, the City Council shall hear and consider the Planning Director's report and all protests (if there be any) and then proceed to confirm, modify or reject the assessment. A list of assessments as finally confirmed by the City Council shall be sent to the City Treasurer for collection. If any assessment is not paid within ten days after its confirmation by the City Council, the City Clerk shall cause to be filed in the Office of the County Recorder of the County of San Diego a Notice of Lien substantially in the form provided in Chapter 10, Article 1, Division 9, of the San Diego Municipal Code with respect to Planned Residential Development Permits.

.3 From and after the date of the recordation of any such Notice of Lien, the amount of the unpaid assessments shall be a lien on the property against which the assessment is made, and such assessment shall bear interest at the rate of 6% per annum until paid in full. Said lien shall continue until the amount of the assessment and all interest thereon shall have been fully paid. The lien shall be subordinate to tax liens and all fixed special assessment items previously imposed upon said property, but shall have priority over all contractual liens and all fixed special assessment liens which may thereafter be created against property. From and after the date of recordation of such Notice of Lien, all persons shall be deemed to have notice of the contents thereof.

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Passed and adopted by the Council of The City of San Diego on _____,
by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Bill Mitchell	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Lowery	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Larry Stirling	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jess D. Haro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By E. J. Cook, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Resolution Number **221538** Adopted **AUG 1 1978**

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