

(R-93-817)

RESOLUTION NUMBER R-280969

ADOPTED ON OCTOBER 27, 1992

WHEREAS, Maurice and Harriet Miller appealed the decision of the Planning Commission in approving Hillside Review Permit No. 90-0122 submitted by Breashears and Ghianni Corporation, a California corporation, Owner/Permittee, to construct a single-family residence, located on Vista Street north of Adams Avenue, in the Kensington-Talmadge neighborhood of Mid-City Community Plan area, described as a consolidation of Lot 24 of the Rancho Mission according to Superior Court Case No. 238 on file in the office of the San Diego County Clerk, in the R1-5000 and R1-4000 HR zones; and

WHEREAS, the matter was set for public hearing on October 27, 1992, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Hillside Review Permit No. 90-0122:

1. The site is physically suitable for the design and siting of the proposed single-family residence and will result in the minimum disturbance of sensitive areas. The majority of the site contains slopes in excess of twenty-five percent (25%). The applicant proposes stepping the structure down the slope which brings the proposed project into conformance with the Hillside

Design and Development Guidelines. In addition the existing grade is not natural as it is fill deposited on the site from the construction of Vista Street. There is no sensitive plant nor animal life on the site.

2. The grading and excavation proposed in connection with the development will not result in soil erosion, silting of lower slopes, slide damage, flooding, severe scarring or any other geological instability which would affect health, safety and general welfare as approved by the City Engineer. Disturbed slopes are planted with native and self-sufficient vegetation. The proposed single-family residence proposes 150 cubic yards of equal cut and fill. This is well below the threshold that would require a land development permit. As a condition of this permit, the applicant is required to revegetate slopes to prevent erosion.

3. The proposed development retains the visual quality of the site, the aesthetic qualities of the area and the neighborhood characteristics by utilizing proper structural scale and character, varied architectural treatments, and appropriate plant material because the surrounding neighborhood is a mixture of one- and two-story single-family homes. The proposed single-family residence will be one-story in its appearance from the street. In addition a 23-square-foot section of the house is proposed to encroach into the front setback. None of the surrounding homes on the cul-de-sac conform with the required front setback or minimum lot size requirements. The portion of the structure encroaching into the setback is similar to the bulk

and scale of the surrounding neighborhood. The elevations of the proposed structure are varied and provide articulation with varying off-setting planes, decks, and differing roof lines so as to reduce the bulk and scale of the building.

4. The proposed development is in conformance with the Open Space Element of the General Plan, the Open Space and Sensitive Land Element of the community plan, any other adopted applicable plan, and the zone. The applicant has discussed the feasibility of open space dedications or easements with appropriate City staff. The proposed single-family residence is consistent with the Mid-City Community Plan in terms of land-use. The front setback variance request is reasonable due to the topographic conditions of the site and this right is enjoyed by all of the surrounding property owners in the neighborhood.


5. The proposed development is in conformance with the qualitative guidelines and criteria as set forth in Document No. RR-262129, "Hillside Design and Development Guidelines" because the project has been designed sensitively so that its relation to the surrounding neighborhood is compatible. The portion of the building that encroaches into the setback is the garage which is necessary so that the project provides the required two (2) parking spaces. The surrounding lots which are substandard are one-quarter to one-third the size of the subject lot, and current zoning would not allow further subdivision of the lot.

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 appeal of Maurice and Harriet Miller is denied; the decision of the Planning Commission is sustained, and Hillside Review Permit No. 90-0122 is hereby granted to Breashears and Ghianni, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By



Harold O. Valderhaug
Chief Deputy City Attorney

HOV:pev
12/14/92
Or. Dept: Clerk
R-93-817
Form=r.permit

HILLSIDE REVIEW PERMIT NO. 90-0122

GHIANNI RESIDENCE

CITY COUNCIL

This hillside review permit is granted by the Council of The City of San Diego to BREASHEARS and GHIANNI CORPORATION, a California corporation, Owner/Permittee, pursuant to conditions in Section 101.0454 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to construct a single-family residence, located on Vista Street north of Adams Avenue in the Mid-City Community Planning area, described as a consolidation of Lot 24 of the Rancho Mission according to Superior Court Case No. 238 on file in the office of the San Diego County Clerk, in the R1-5000 and R1-4000 HR zones.
2. The hillside review permit shall allow the following:
 - a. A single-family residence 3,069 square feet in size;
 - b. A five-foot setback where 15 feet is required.
3. No permit for grading shall be granted nor shall any activity authorized by this permit be conducted on the premises until:
 - a. The permittee signs and returns the permit to the Planning Department.
 - b. The hillside review permit is recorded in the office of the County Recorder.
4. Before 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 to Exhibit "A," dated October 27, 1992, on file in the office of the Planning Department. No change, modifications or alterations shall be made unless appropriate applications, findings of substantial conformance or amendment of this permit shall have been granted.
5. Before issuance of any grading or building permits, a complete landscape plan, including a permanent irrigation system, shall be submitted to the Planning Director for approval. The plans shall be in substantial conformity to Exhibit "A," dated October 27, 1992, on file in the office of the Planning Department. Approved planting shall be installed before occupancy of the premises.

6. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.
7. This permit must be utilized within thirty-six (36) months of the date of approval, failure to utilize this permit within thirty-six (36) months will automatically void the permit unless extended under the provisions of Section 101.0454(H) of the Municipal Code. Any such extension must meet all regulations, policies and Municipal Code provisions in effect at the time said time extension is considered.
8. This hillside review permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.
9. This hillside review permit is a covenant running with subject property and shall be binding upon the permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out.
10. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind per the approved plans.
11. Noise walls, street trees, decorative pavements and other public right-of-way improvements shown on Exhibit "A," dated October 27, 1992, shall be permitted by an Encroachment Permit obtained from the City Engineer.
12. The permittee/applicant shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.
13. Prior to the issuance of any building permits, the applicant shall assure by permit and bond, the installation of new curb adjacent to this property satisfactory to the City Engineer.
14. Prior to the issuance of any building permits, the applicant shall provide a drainage study, satisfactory to the City Engineer. The applicant shall provide a ten-foot wide drainage easement on the west side of the property and provide drainage facilities as recommended in the approved study, satisfactory to the City Engineer.
15. This property is subject to the payment of a park fee in accordance with the San Diego Municipal Code which specifies park fees applicable in the Mid-City plan area.

16. This community may be subject to impact fees as established by the City Council at the time of issuance of building permits.

17. 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.

Passed and adopted by the Council of the City of San Diego on October 27, 1992, by Resolution No. R-280969.

AUTHENTICATED BY:

SUSAN GOLDING, Mayor
The City of San Diego

CHARLES G. ABDELNOUR, City Clerk
The City of San Diego

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On this _____ day of _____, before me, the undersigned, a notary public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared CHARLES G. ABDELNOUR, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the person whose name is subscribed to the within instrument, as a witness thereto, who being by me duly sworn, deposes and says that he was present and saw SUSAN GOLDING known to him to be the Mayor of The City of San Diego, and known to him to be the person who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same, and that said affiant subscribed his name to the within instrument as a witness.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Diego, State of California, the day and year in this certificate first above written.

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

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

BREASHEARS and GHIANNI CORPORATION
Owner/Permittee

By _____

By _____

NOTE: Notary acknowledgments
must be attached per Civil
Code Section 1180, et seq.
Form=p.ack

R. 280969

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Passed and adopted by the Council of The City of San Diego on OCT 27 1992
by the following vote:

| Council Members | Yeas | Nays | Not Present | Ineligible |
|------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|
| Abbe Wolfsheimer | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ron Roberts | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| John Hartley | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| George Stevens | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Tom Behr | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Valerie Stallings | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Judy McCarty | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bob Filner | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Mayor Maureen O'Connor | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By Luis Legano, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R. 280969 Adopted OCT 27 1992