

(R-95-1267)

RESOLUTION NUMBER R-285359

ADOPTED ON FEBRUARY 14, 1995

A RESOLUTION APPROVING PLANNED INFILL RESIDENTIAL DEVELOPMENT/HILLSIDE REVIEW/RESOURCE PROTECTION ORDINANCE AND EXCEPTION TO THE CLAIREMONT MESA HEIGHT LIMITATION ZONE PERMIT NO. 89-0956.

WHEREAS, JAMES R. TOONE, an individual, Owner/Permittee, filed an application for a Planned Infill Residential Development/Hillside Review/Resource Protection Ordinance and Clairemont Mesa Height Limitation Zone to develop eight (8) legal lots, located between Ticonderoga and Bunker Hill Streets and at the southeasterly side of the alley located between Trenton and Moultrie Avenues, also described as Lots 29-36 of Block 5 of Map No. 983, in the R1-5000 Zone of the Clairemont Mesa Community; and

WHEREAS, on February 14, 1995, the Council of The City of San Diego reconsidered Planned Infill Residential Development/Hillside Review/Resource Protection Ordinance and an Exception to the Clairemont Mesa Height Limitation Zone No. 89-0956 pursuant to Sections 101.0462, 101.0930, 101.0454, and 101.0452.5, of the Municipal Code of The City of San Diego; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following written Findings, dated February 14, 1995, with respect to Permit No. 89-0956:

RESOURCE PROTECTION ORDINANCE FINDINGS - MUNICIPAL CODE SECTION 101.0462

- A. THE PROPOSED DEVELOPMENT WILL BE SITED, DESIGNED, AND CONSTRUCTED TO MINIMIZE, IF NOT PRECLUDE, ADVERSE IMPACTS UPON SENSITIVE NATURAL RESOURCES AND ENVIRONMENTALLY SENSITIVE AREAS.

The approved site design will disturb less than 20 percent of the project site, an amount which is allowed by the Resource Protection Ordinance (No. 17956).

- B. THE PROPOSED DEVELOPMENT WILL CONFORM TO THE COMMUNITY PLAN FOR THE AREA AND ANY OTHER APPLICABLE PLANS, POLICIES AND ORDINANCES.

The community plan identifies this area as a single-family zone. The project proposed for three single-family homes is in conformance with the community plan.

- C. THE PROPOSED DEVELOPMENT WILL BE SITED, DESIGNED, CONSTRUCTED AND MAINTAINED TO MINIMIZE, IF NOT PRECLUDE, ADVERSE IMPACTS ON ENVIRONMENTALLY SENSITIVE LANDS.

The structures are designed with a series of internal retaining walls to minimize the amount of grading required to site the homes on the hillside. The negative declaration identified no undue risks from geological and erosional forces and/or flood and fire hazards.

- D. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS ON ANY ENVIRONMENTALLY SENSITIVE LANDS AND RESOURCES LOCATED IN ADJACENT PARKS AND PUBLIC OPEN-SPACE AREAS AND WILL PROVIDE ADEQUATE BUFFER AREAS TO PROTECT SUCH RESOURCES.

The project is not sited adjacent to public parks or open space. Pursuant to the Planned Infill Residential Development requirements the project has to be sited and designed to be compatible with the surrounding development.

- E. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATIONS OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGICAL AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS.

The structures are designed to minimize the amount of grading required to site the homes on the hillside. The

environmental review of the project did not identify any existing geological, erosional, flood or fire hazards.

HILLSIDE REVIEW PERMIT FINDINGS - MUNICIPAL CODE SECTION 101.0454

- A. THE SITE IS PHYSICALLY SUITABLE FOR THE DESIGN AND SITING OF THE PROPOSED STRUCTURE(S) AND WILL RESULT IN THE MINIMUM DISTURBANCE OF SENSITIVE AREAS.**

The site is physically suitable for the design and siting of the proposed structures and will result in minimal grading and disturbance of natural landforms (hillsides).

- B. THE GRADING 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.**

The grading and excavation proposed in connection with the development will not result in significant soil erosion, nor silting of lower slopes, slide damage, flooding, severe scarring or any other geological instability which would affect health, safety and general welfare. Disturbed slopes are to be landscaped as shown on Exhibit "A" landscape plans to minimize erosion.

- C. 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.**

Through conditions of the permit, the proposed development will retain the visual quality of the site, the aesthetic qualities of the area and the neighborhood character. The proposed development is similar in scale and character to other homes built in the 3500 block of Trenton Avenue.

- D. THE PROPOSED DEVELOPMENT IS IN CONFORMANCE WITH THE OPEN SPACE ELEMENT OF THE CITY'S PROGRESS GUIDE AND GENERAL PLAN, THE OPEN SPACE AND SENSITIVE LAND ELEMENT OF THE APPLICABLE COMMUNITY PLAN, ANY OTHER ADOPTED APPLICABLE PLAN IN EFFECT FOR THIS SITE, AND THE ZONE. THE APPLICANT HAS DISCUSSED THE FEASIBILITY OF OPEN SPACE DEDICATIONS OR EASEMENTS WITH APPROPRIATE CITY STAFF.**

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, and the R1-5000 Zone. A non-building easement will be placed on a portion of the property and become permanent open space.

- E. 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."**

The proposed development is in conformance with the guidelines and criteria as set forth in Document No. RR-262129, Hillside Design and Development Guidelines". The project has been sited and designed to minimize encroachments into the hillside.

PLANNED INFILL RESIDENTIAL DEVELOPMENT FINDINGS.

- A. THE PROPOSED USE WILL FULFILL A COMMUNITY NEED AND WILL NOT ADVERSELY AFFECT THE CITY'S PROGRESS GUIDE AND GENERAL PLAN OR THE ADOPTED COMMUNITY PLAN.**

The proposed use is in conformance with the General Plan and the Clairemont Mesa Community Plan in that it is consistent with the Hillside Review Development Guidelines.

- B. THE PROPOSED USE WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY AND GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE AREA AND WILL NOT ADVERSELY AFFECT OTHER PROPERTIES IN THE VICINITY.**

The two houses located on the alley shall be required to dedicate additional right-of-way for a hammer head at the end of Trenton Street (alley) or sprinkler the two houses on Trenton Street (alley) to the satisfaction of the City Engineer and the Fire Department. The house located on Trenton Avenue will be providing adequate fire access to the site. The project will be required to comply with City Brush Management Regulations; therefore, the project will not be detrimental to the health, safety and general welfare of nearby residents.

- C. THE PROPOSED USE WILL FULLY COMPLY WITH THE RELEVANT REGULATIONS OF THE MUNICIPAL CODE IN EFFECT FOR THIS SITE.**

The project as designed and with all the conditions that have been applied to it will comply with all the relevant regulations of the Municipal Code.

BRUSH MANAGEMENT ALTERNATIVE COMPLIANCE FINDINGS - MUNICIPAL CODE SECTION 55.0888.0201

- A. THE PROPOSED BRUSH MANAGEMENT PROGRAM WILL MEET THE PROPOSE AND INTENT OF APPENDIX II A OF THE UNIFORM FIRE CODE.**

The proposed brush management meets the intent of Appendix II of the Uniform fire Code by providing an average 24' setback from the native vegetation. This setback will be maintained in accordance with Zone 1 standards, as an ornamental, irrigated landscape and therefore provide an effective firebreak. Therefore, the proposed brush management program will meet the purpose and intent of Appendix II A of the Uniform fire Code; and

- B. THE PROPOSED BRUSH MANAGEMENT PROGRAM, BECAUSE OF CONDITIONS THAT HAVE BEE APPLIED TO IT, WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY AND GENERAL WELFARE OF PERSONS RESIDING OR WORKING IN THE AREA.**

The entire site is to be maintained in a permanently irrigated condition, thereby providing an effective firebreak. The use of low gallonage irrigation and drought tolerant plant material reduces the potential of erosion on the hillside and runoff onto adjacent properties. Conditions incorporated into the permit eliminate the need to encroach into adjoining City owned and privately owned land. Therefore, the proposed brush management program, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area; and

- C. THE PROVISIONS AS OUTLINED SECTION 6.6-2 OF THE DOCUMENT ENTIRELY "CITY OF SAN DIEGO LANDSCAPE TECHNICAL MANUAL", ON FILE IN THE OFFICE OF THE CITY CLERK AS DOCUMENT NUMBER RR-274506 SHALL BE SATISFIED AND THE PROPOSED DEVELOPMENT SHALL PROVIDE OTHER FIRE RESISTIVE FEATURES AS REQUIRED BY THE FIRE CHIEF.**

The architectural features outlined in Section 6.6-2 of the Landscape Technical Manual have been incorporated int the project in addition to those architectural features outlined in Finding 'b' of the Brush Management findings outlined in Section 6.6-2 of the document entitled "City of San Diego Landscape Technical Manual" shall be

satisfied and the proposed development shall provide other fire resistive features are required by the fire Chief; and

- D. COMPLIANCE WITH THE PROVISIONS OF THIS SECTION IN ADDITION TO ANY OTHER APPLICABLE ADOPTED PLANS OR ORDINANCES WOULD PRECLUDE ANY REASONABLE DEVELOPMENT ON THE SITE.**

Literal compliance with the provisions of this section would require encroachment into the adjoining City owned land and other adjoining native vegetation, thereby increasing the encroachment allowances of the Resource Protection Ordinance. Compliance with the provisions of the Hillside Review Ordinance, the Resource Protection Ordinance and the Appendix II a of the UFC would preclude assignable development on the site. However, granting the site alternative compliance to the Brush Management Regulations allows reasonable development of this site without causing unnecessary encroachment into adjoining property. Therefore;

CLAIREMONT MESA HEIGHT LIMITATION ZONE

- A. THE GRANTING OF AN EXCEPTION WILL NOT INTERFERE WITH PUBLIC VIEWS FROM WESTERN CLAIREMONT MESA TO MISSION BAY AND THE PACIFIC OCEAN WITHIN THE SURROUNDING AREA.**

The granting of a height exception of two (2) feet will not interfere with any public views from western Clairemont Mesa to Mission Bay.

- B. IF THERE ARE EXISTING STRUCTURES OVER THIRTY FEET (30') IN HEIGHT, A VARIATION IN HEIGHT MAY BE GRANTED, PROVIDED THE NEW STRUCTURE IS COMPATIBLE WITH THE SURROUNDING ONE, TWO OR THREE-STORY STRUCTURES.**

The proposed development is sited on a steeply sloping site. Due to the physical constraints of the site, the proposed height will deviate only slightly from the required (30' -0" height limit) (40' -0" with the 10' -0" slope differential).

- C. THE PROPOSED STRUCTURE MAY EXCEED THE HEIGHT LIMIT TO INCLUDE ROOFLINE AND FACADE VARIATIONS, ACCENTS, TOWER ELEMENTS AND OTHER SIMILAR ELEMENTS, PROVIDED THE ELEMENT WILL NOT INCREASE THE FLOOR AREA OF THE STRUCTURE.**

The proposed deviation does not increase the floor area of the structures.

D. THE PROPOSED STRUCTURE MAY EXCEED THE HEIGHT LIMIT IF THERE ARE TOPOGRAPHIC CONSTRAINTS PECULIAR TO THE LAND.

Due to the steeply sloping hillsides the project height will exceed the height limit.

E. THE PROPOSED STRUCTURE WILL COMPLY WITH THE REGULATIONS AND CONDITIONS SPECIFIED IN THE UNDERLYING ZONE FOR SUCH STRUCTURES.

The proposed structures will otherwise comply with the regulations and conditions of the underlying zone.

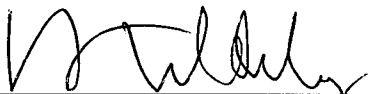
F. THE GRANTING OF AN EXCEPTION WILL NOT ADVERSELY AFFECT ANY ADOPTED PLAN OF ANY GOVERNMENTAL AGENCY.

The granting of a height exception will not adversely affect any adopted plan of any government agency.

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

BE IT FURTHER RESOLVED, that, based on the findings hereinbefore adopted by the City Council, Planned Infill Residential Development/Hillside Review/Resource Protection Ordinance and Exception to the Clairemont Mesa Height Limitation Zone Permit No. 89-0956 is hereby granted to James R. Toone, 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:ps
03/31/95
Or.Dept:Clerk
R-95-1267

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT

AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED INFILL RESIDENTIAL DEVELOPMENT/HILLSIDE REVIEW/
RESOURCE PROTECTION ORDINANCE AND EXCEPTION TO
THE CLAIREMONT MESA HEIGHT LIMITATION NO. 89-0956
CITY COUNCIL

This Planned Infill Residential Development/Hillside Review/Resource Protection Ordinance and Clairemont Mesa Height Limitation Zone Permit is granted by the City Council of the City of San Diego to JAMES R. TOONE, an individual, Owner/Permittee, pursuant to conditions in Sections 101.0454, 101.0462, 101.0930 AND 101.0452.5 of the Municipal Code of the City of San Diego.

1. Permission is granted to Owner/Permittee to construct three single-family homes, located between Ticonderoga and Bunker Hill Streets, west of Trenton Avenue in the Clairemont Mesa Community, also described as Lots 29-36 of Block 5 of Map No. 983, in the R1-5000 Zone.

2. The Planned Infill Residential Development/Hillside Review/Resource Protection Ordinance and exception to the Clairemont Mesa Height Limitation Zone shall allow the following:

- a. Three single-family homes (Unit 1, 2,480 square feet, Unit 2, 2,535 square feet, Unit 3, 2,535 square feet); and
- b. Exposed decks are to be of non-combustible material:
 - (1) Concrete Sonotube foundations
 - (2) Steel beams covered with stucco
 - (3) Steel decks with concrete cover
 - (4) Railings to be metal pipe railings
- c. Prior to the recordation of a lot consolidation parcel map, the applicant shall dedicate additional right-of-way for a hammerhead at the end of Trenton

Street (alley) or sprinkle the two houses on Trenton Street (alley) to the satisfaction of the City Engineer and the Fire Department.

- d. All three houses will be granted height deviations, per Exhibit "A."
- e. A deviation from the height regulations for fences and walls is granted for overheight retaining walls within the sideyard setbacks for all three units, per Exhibit "A."
- f. A 10' -0" frontyard setback is granted for Unit 3 where a 15' -0" frontyard setback is required.

3. That the applicant shall obtain a grading permit from the City Engineer prior to the issuance of any building permits. The adequacy of the drainage, for this development, shall be determined by a drainage study prepared to the satisfaction of the City Engineer, and the applicant shall provide either drainage or flowage easements as determined by a drainage proof by the City Engineer.

4. 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 Development Services Department; and
- b. The Permit is recorded by the Development Services Department in the office of the County Recorder.

5. Before issuance of any building permits, complete grading and building plans shall be submitted to the Development Services Department for approval. Plans shall be in substantial conformance to Exhibit "A," dated February 14, 1995, on file in the office of the Development/Environmental Planning Division of the Development Services Department. No changes, modifications, or alterations shall be made unless approval of substantial conformance review or amendment of this permit shall have been granted by the appropriate decisionmaker.

6. Prior to the issuance of any grading or building permits, complete grading, construction and landscape plans, including plans for a permanent irrigation system shall be submitted to the Development Services Department for approval. The plans shall be in substantial conformance to the approved Exhibit "A" dated February 14, 1995, on file in the office of the Development Services Department, DEP Division. Approved landscaping shall be installed before issuance of any certificate of occupancy for any

building. Such landscaping shall not be modified or altered unless this permit has been amended and is to be maintained in a disease-, weed- and litter-free condition at all times.

7. Construction and use of the approved residences shall comply at all times with the regulations of this or any other governmental agencies.

8. This permit must be utilized within 36 months after the effective date of approval by the City, failure to utilize this permit within 36 months will automatically void the permit unless an Extension of Time has been granted by the decisionmaker. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the Extension of Time is granted.

9. This Permit may be cancelled or revoked by the City if there is a material breach or default in any of the conditions of this Permit.

10. This Permit is a covenant running with the 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 in this Permit and all referenced documents.

11. 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.

12. The Permittee 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 grading or building permits, Permittee shall obtain approval of a lot line adjustment/consolidation parcel map in a manner satisfactory to the City Engineer.

14. Prior to the recordation of the parcel map, Permittee shall assure, by permit and bond, the installation of traffic signage on Trenton Street (alley) and on Trenton Avenue, satisfactory to the City Engineer.

15. Prior to issuance of a certificate of occupancy for the houses located off of Trenton Street (alley), "No Parking - Fire Lane" signs shall be posted every 100 feet on both sides of Trenton Street (alley) adjacent to this site, to the satisfaction of the Fire Department.

16. Prior to the recordation of the parcel map, the Permittee shall assure, by permit and bond, the construction of a street section of Trenton Avenue, north from Ticonderoga Street, up to the southerly property line of the non-buildable area of Parcel 3. The improvements shall include curb, gutter, sidewalk, and a minimum width of 26 feet of pavement, in a manner satisfactory to the City Engineer. There shall be a minimum seven-foot curb-to-property-line distance on the west side of the street, and the curb return at Ticonderoga Street shall have a minimum 20-foot radius consistent with the approved grade and alignment, as shown on the site plan for approved Hillside Review Permit No. 89-0957, on file in the City Engineer's Office.

17. Prior to issuance of a certificate of occupancy, for the two residences located off of Trenton Street (alley), Permittee shall restripe the entire length of Trenton Street (alley) to the satisfaction of the Fire Department.

18. Prior to the issuance of any building permits, the Permittee shall assure, in a manner satisfactory to the Water Utilities Director, the following:

- a. No retaining walls shall be installed within ten feet of the existing water main in Trenton Avenue or the existing sewer main in the alley; and
- b. Installation of fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two (2) fire hydrants and/or thirty (30) Equivalent Dwelling Units (EDUs) are located on a dead-end main, then a dual-fed system shall be installed; and
- c. Provide evidence that each residence will have its own water service and sewer lateral.

19. The drainage system proposed for this development, as shown on the approved site plan, is subject to approval by the City Engineer.

20. Prior to the recordation of the parcel map, Permittee shall obtain a grading permit from the City Engineer.

21. Prior to issuance of a certificate of occupancy, Permittee shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of any public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

22. Prior to issuance of building permits, a complete brush management plan shall be submitted to the Development Services Department, Development and Environmental Planning Division for approval. Said plans shall be in conformance with Appendix "C" of the *Landscape Technical Manual*.

23. No accessory structures shall be permitted within the designated Zone 1 area, including but not limited to: wood decks, wood trellises, wood gazebos, etc. Non-combustible structures may be approved by the Fire Marshall subject to approval by the Development Services Director.

24. At no time shall the Brush Management work required by the approved permit encroach onto any adjoining property, public or private. Approval by the Development Services Director is required if any subsequent off-site encroachments are necessary. Any additional encroachments into the native vegetation are subject to additional environmental review.

25. The Fire Department may consider deviations from these conditions or may require additional conditions at the time of final inspection if it is deemed that an eminent health and safety risk still exists.

26. A private drainage easement shall be required to be recorded over Parcels 1, 2 and 3.

27. Before the issuance of building permits, Permittee shall complete the following:

- a. Prepare and submit to the Development Services Department, Development/Environmental Planning Division a habitat restoration plan, accompanied by a cover letter, to achieve the following:
 - 1) Eradicate all *Arundo donax* (giant reed) within the proposed non-building open space easement area; and
 - 2) Plant arroyo willow as individual plants and/or as part of a planting mix that excludes exotics; and
 - 3) Monitor, and if necessary eradicate, exotic species from the negative open space easement area for a period of one year.
- b. Notify the Development Services Department, Development/ Environmental Planning Division in writing, when the eradication of exotic species has been achieved and the habitat restoration accomplished.

28. The Development Services Department shall inspect the premises upon receipt of the above written notification and at the end of the one-year monitoring period to ensure that the mitigation program is successful.

29. This development may be subject to payment of a park fee prior to the approval of the lot consolidation/parcel map in accordance with San Diego Municipal Code Section 102.0406 et seq. This property is also subject to a building permit park fee in accordance with San Diego Municipal Code Section 96.0401 et seq.

30. This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by California Government Code Section 53080(b) (Statutes of 1986, Chapter 887), in accordance with procedures established by the Development Services Department.

31. This development may also be subject to impact fees, as established by the City Council.

32. Prior to the issuance of any building permits, Permittee shall:

- a. Ensure that building address numbers are visible and legible from the street (UFC 10.301).
- b. Show the location of all fire hydrants on the plot plan (UFC 10.401).
- c. Provide access in conformance with Fire Department Policy A-93-1 (UFC 10.207).

33. The issuance of this permit(s) by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.).

APPROVED by the Council of The City of San Diego on February 14, 1995, by Resolution No. R-285359.

AUTHENTICATED BY THE CITY MANAGER

By _____

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.

JAMES R. TOONE
Owner/Permittee

By _____

By _____

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