

RESOLUTION NUMBER R-291886

ADOPTED ON JUNE 29, 1999

WHEREAS, Dr. Mahmood Mahdavi, Owner/Permittee, filed an application with The City of San Diego for a Coastal Development Permit/Hillside Review Permit [CDP/HRP] to construct a three-story single-family home referred to as the Hillside Residence, located at 7674 Hillside Drive, and legally described as Lot 4, La Jolla Hillside, Map No. 8782, in the La Jolla Community Plan area, in the R1-40000 (main portion of the lot), R1-8000 (narrow strip portion of flag shaped lot), and Hillside Review Overlay zones; and

WHEREAS, on April 8, 1999, the Planning Commission of The City of San Diego considered CDP/HRP Permit No. 96-7549, and pursuant to Resolution No. 2777-PC voted to approve the project; and

WHEREAS, Beatrice Hughes, Joanne Pearson, and Scott Peters appealed the decision of the Planning Commission to the Council of The City of San Diego; and

WHEREAS, the matter was set for public hearing on June 29, 1999, 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 CDP/HRP Permit No. 96-7549:

I. COASTAL DEVELOPMENT PERMIT FINDINGS (San Diego Municipal Code Section 105.0202):

A. The proposed development will not encroach upon any existing physical accessway legally utilized by the general public or any proposed public accessway

identified in an adopted LCP Land Use Plan; nor will it obstruct views to and along the ocean and other scenic coastal areas from public vantage points.

The proposed road/driveway to a future single-family residential building site is located on a vacant 3.8 hillside site. There are no current accessways on or adjacent to the property. The La Jolla Local Coastal Plan does not identify any accessways or public view corridor crossing the project site.

B. The proposed development will not adversely affect identified marine resources, environmentally sensitive areas, or archaeological or paleontological resources.

The Environmental document prepared for the development proposal, Mitigated Negative Declaration 96-7549, did not identify this site as containing marine or archaeological resources. However, the site was found to contain environmentally sensitive areas and potential paleontological resources.

Mitigation measures have been added which require conservation of undeveloped portions of the lot, restrictions of non-native plant species, and drainage restrictions aimed at protecting the environmentally sensitive areas. Potential paleontological resources are required to be monitored by a qualified paleontologist.

C. The proposed development will comply with the requirements related to biologically sensitive lands and significant prehistoric and historic resources as set forth in the Resource Protection Ordinance (San Diego Municipal Code section 101.0462), Unless by the terms of the Resource Protection Ordinance, it is exempted therefrom.

The Mitigated Negative Declaration that was prepared for the project identified southern mixed chaparral, chamise chaparral, disturbed habitat and potential for paleontological resources. The proposed development has been designed to minimize the impacts to biologically sensitive areas, consistent with the Resource Protection ordinance. Furthermore, mitigation conditions have been applied to the project to monitor the site during grading and construction to protect any potential paleontological resources.

D. The proposed development will not adversely affect identified recreational or visitor-serving facilities or coastal scenic resources.

The project site is located immediately adjacent to the La Jolla Natural Park, to the project's west slope. However, through the project's reduced or limited design, restricted brush management plan, and conservation of the remaining undeveloped portion of the lot, the project is designed in an effort to be sensitive to adjacent park resources.

E. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent

parks and recreation areas, and will provide adequate buffer areas to protect such resources.

The project is located adjacent to the La Jolla Natural Park and is designed to limit the area of brush management, restrict the use of invasive non-native plant species, and control drainage all in an effort to be sensitive to the adjacent park resource and environmentally sensitive habitat.

F. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geologic and erosional forces and/or flood and fire hazards.

The project has been designed to utilize a shared common driveway design previously approved under a Hillside Review Permit No. 126, which was associated with the original tentative map approval. Grading for the road/driveway has been minimized by following and utilizing the natural topography as recommended by the Hillside Review Guidelines. Due to the topographical constraints of this property coupled with known areas of geologic instability located to the east of the proposed building location, the future structure has been placed in the only feasibly develop able location on this lot. The project includes Geologic mitigation measures which require further geotechnical study and subsequent mitigation measures if recommended by the study. To reduce potential fire hazards, the future home will need to be equipped with fire sprinklers and will need to comply with the City's brush management requirements.

G. The proposed development will be visually compatible with the character of the surrounding area, and where feasible, will restore and enhance visual quality in visually degraded areas.

The proposed road/driveway to a future single-family home building site is designed to follow the natural topography of the hillside, restrict grading to a defined portion of the site and implement a landscape design to be sensitive to the adjacent native landscape, all in an effort to blend into the hillside surroundings. The proposed development is consistent with the development pattern of properties having similar topographical and geologic constraints on similar sites on adjacent to this site and in the community. Although neither the surrounding area nor the project site are visually enhanced and blend into the project site and the surrounding neighborhood.

H. The proposed development will conform with the City's Progress Guide and General Plan, the Local Coastal Program, and any other applicable adopted plans and programs in effect for this site.

The project has been designed to comply with the R1-40000 and Hillside Review Overlay Zone regulations and is consistent with the very low density residential/open space designations in the La Jolla community Plan and General Plan. The proposed development has been sited and

designed to reduce impacts on environmentally sensitive habitats, minimize impacts to coastal resources, and to be visually sensitive and compatible with the surrounding area, in order to comply with the Coastal Development Permit regulations and the guidelines of the Local Coastal Program. The project has additionally been sited on the only developable portion of the lot which is severely constrained by topographic, biological and geological limitations.

II. HILLSIDE REVIEW PERMIT FINDINGS (San Diego 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 project site is a steep vacant 3.8-acre site with a previously approved Hillside Review Permit (HRP No. 126) for a shared driveway design. The proposed road/driveway is designed to follow the natural topography of the hillside and utilizes the previously approved common driveway. The proposed development has been sited and designed to minimize grading impacts, to maximize and preserve open space, and to preserve sensitive areas. The road/driveway has additionally been sited on the only developable portion of the site which is severely constrained by topographical, biological and geologic limitations. The mitigation conditions applied to this project will ensure that the proposed development will not adversely impact sensitive areas.

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.

A geotechnical investigation was conducted for the site. The study identified the presence of a landslide in the central portion of the site. A majority of the proposed further geotechnical testing area would be located beyond the existing landslide area with the exception of the road/driveway. A detailed geologic study for the building site was not possible due to biological constraints which restricted access to the upper portion of the site. The mitigation conditions applied to this project will require further detailed geotechnical study and analysis to ensure that any future development will mitigate geologic and erosional hazards.

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.

The proposed road/driveway to a future single-family residential building site utilized the natural topography of the hillside which is consistent and as sensitive, if not more sensitive, to the topography of the site as existing development in the area. The road/driveway natural topographic design and limited graded area minimize impacts from grading, maximizes open space on site all in an effort to match and blend into the character of the neighborhood.

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 project conforms with the open space elements of both the General Plan and the La Jolla Community Plan. The development proposed through the mitigation measures to protect environmentally sensitive resources, and preserve natural amenities. The applicant has agreed to dedicate in fee, title or place in a conservation easement on the remaining undeveloped portion of the lot.

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 has been designed to conform to the Hillside Design Guidelines. The proposed road/driveway utilizes the natural topography of the site as recommended by the guidelines. The project design has been sited to limit and minimize grading and landform alteration and to maximize open space areas.

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 Beatrice Hughes, Joanne Pearson, and Scott Peters is continued in part and denied in part as follows:

1. Coastal Development Permit/Hillside Review Permit No. 96-7549 is approved for construction of an interim access road/driveway to allow further geotechnical testing and is granted to Dr. Mahmood Mahdavi, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof; and

2. The action on the appeal of Beatrice Hughes, Joanne Pearson, and Scott Peters is continued as it relates to the balance of the project until staff returns with a full geotechnical analysis and recommendation; and


3. Prior to commencement of any work or activity authorized by the attached permit, Dr. Mahmood Mahdavi, Owner/Permittee, shall execute a Notice of Hazardous Condition-Indemnification and Hold Harmless Agreement, in a form and content acceptable to the Planning and Development Review Director, or designated representative; and

4. The initial grading for access to the site for soils testing shall be the minimum necessary and shall be closely supervised by the City; and

5. If the results of the more detailed geotechnical investigation prior to issuing the permit fails to satisfy the City Engineer, and the plan must be altered to change the access or abandon the project, the cleared and graded portion shall be revegetated and restored. Payment for the revegetation and restoration shall be guaranteed before grading by the applicant with a bond or comparable instrument satisfactory to the City Engineer.

APPROVED: CASEY GWINN, City Attorney

By


Richard A. Duvernay
Deputy City Attorney

RAD:jls
09/27/99
Or.Dept:Clerk
R-2000-346
Form=permitr.frm
Reviewed by Glenn Gargas

RECORDING REQUESTED BY
CITY OF SAN DIEGO
PLANNING AND DEVELOPMENT REVIEW
PERMIT INTAKE, MAIL STATION 501

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT AND HILLSIDE REVIEW PERMIT 96-7549
HILLSIDE RESIDENCE (MMRP)
CITY COUNCIL

This Permit is granted by the City Council of the City of San Diego to DR. MAHMOOD MAHDAVI, Individual, Owner/Permittee pursuant to Section 105.0202 and 101.0454 of the Municipal Code of the City of San Diego. The 3.8-acre site is located at 7674 Hillside Drive (vacant land) in the R1-40000, R1-8000 (R1-8000 is only on the handle portion of the panhandle shaped lot) and the Hillside Review Overlay (HRO) zones of the La Jolla Community Planning Area. The project site is legally described as Lot 4, La Jolla Hillside, Map No. 8782.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner and Permittee to construct a road (with minimal improvements), for access and to conduct further geotechnical testing, for a future single-family residential home-site, with access through a common driveway previously approved with Tentative Map and associated Hillside Review Permit (No. 126) described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A", dated June 29, 1999 on file in the Office of Development Services. The facility shall include:

- a. Construction of a road/driveway (minimal improvements) for access to conduct geotechnical testing for a future single family residential home-site;
- b. Landscaping or re-vegetation (planting, irrigation and landscape related improvements); and
- c. Retaining walls (only if necessary for geotechnical testing),
- d. Accessory improvements determined by the City Manager 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 Municipal Code in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decisionmaker.
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 Permittee signs and returns the Permit to Development Services; 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 City Manager.
4. 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.
5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
6. Issuance of this permit 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.)
7. The Owner/Permittee shall secure all necessary building permits (only if retaining walls are found necessary in order to gain access to the site for geotechnical testing).
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated June 29, 1999, on file in the Office of

Development Services. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall 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 discretionary 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 special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the 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 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. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action, following all appeals.

11. Title Restrictions. Prior to commencement of any work or activity authorized by this permit, the Owner/Permittee shall execute a Notice of Hazardous Condition-Indemnification and Hold Harmless Agreement, in a form and content acceptable to the Planning and Development Review Director, or designated representative which shall provide: a) that the applicant understands that no new accessory structures and landscape features customary and incidental to residential uses shall be developed on this steep hillside site (as illustrated on approved plan Exhibit "A," dated June 29, 1999, on file in the Office of Planning and Development Review); and b) that the applicant understands that the site may be subject to extraordinary hazard from steep slopes and potential landslide(s) and the applicant assumes the liability from such hazards; and c) the applicant unconditionally waives any claim of liability against the City of San Diego and agrees to defend, indemnify and hold harmless the City of San Diego and its advisors relative to the City of San Diego's approval of the project and for any damage due to natural hazards. This Notice of Hazardous Conditions-Indemnification and Hold

Harmless Agreement shall be recorded against title to the property and shall run with the land, binding upon all successor and assigns.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. The applicant shall comply with the Mitigation, Monitoring, and Reporting Program (MMRP) as specified in Mitigated Negative Declaration LDR No. 96-7549, satisfactory to the City Manager and the City Engineer. Prior to issuance of the first grading permit, all mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue areas: Biological Resources, Geotechnical Impacts, Paleontological Resource, Public Safety, and Visual Impacts.

ENGINEERING REQUIREMENTS:

13. Prior to the issuance of any building/grading permits, the Owner/Permittee shall assure by permit and bond the installation of a standard driveway on Hillside Drive, satisfactory to the City Engineer.

14. Prior to the issuance of any building/grading permits, the Owner/Permittee shall obtain a grading permit from the City Engineer (referred to as an "engineering permit") for the grading proposed for this project. All grading shall conform to requirements in accordance with Sections 62.0401 - 62.0423 of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

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

16. Prior to the issuance of any building/grading permits, the Owner/Permittee shall provide evidence of a shared access easement agreement between Lot 1, Map 8782 and the project's Lot 4, Map 8782, satisfactory to the City Engineer.

17. Prior to the issuance of any building permits, the Owner/Permittee shall:

- a. Provide building address numbers visible and legible from street or road fronting property or a directory (UFC 901.44).
- b. Show location of all fire hydrants on plot to conform to Fire Department Policy #F-85-1 (UFC 903.2).
- c. Provide access in conformance with Fire Department Policy A-93-1 for roadways, signs, red curbs and/or turning radius (UFC 901 & 902).

- d. Comply with the City of San Diego Landscaping Technical Manual regarding brush and landscaping (Appendix II-A, Section 16).

The following comments are information items only:

- This development may be subject to a building permit park fee in accordance with San Diego Municipal Code Section 96.0401 et seq.
- 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 Planning and Development Manager.
- This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.

PLANNING/DESIGN REQUIREMENTS:

18. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

19. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

20. Prior to grading permit issuance, a bond or comparable instrument satisfactory to the City Engineer shall be provided by the owner/permittee to assure restoration and re-vegetation of the site in the event the proposed development is abandoned.

LANDSCAPE REQUIREMENTS:

21. Prior to issuance of any grading permits, complete landscape construction documents for the purposes of erosion control and/or landscape planting of retaining wall systems, including plans, details, specifications (including a temporary irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated June 29, 1999, on file in the Office of Development Services. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

22. The timely erosion control including planting and seeding of all slopes and pads consistent with the approved plans is considered to be in the public interest and the Permittee shall initiate such measures within 45 days from the date that the grading of

the site is deemed to be complete. Such erosion control and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the *Landscape Technical Manual*.

APPROVED by the Council of The City of San Diego on June 29, 1999, by Resolution No. R-291886.

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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.

DR. MAHMOOD MAHDAVI
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

9/28/99
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