

RESOLUTION NUMBER R- 301529

DATE OF FINAL PASSAGE JUN 12 2006

WHEREAS, section 8330 et seq. of the California Streets and Highways Code and San Diego Municipal Code section 125.1001 et seq. provides a procedure for the summary vacation of public easement by City Council resolution where the easements is no longer required; and

WHEREAS, the affected property owner has requested the vacation of the sewer easement, to unencumber this property and facilitate development of the site and as conditioned in approved Neighborhood Development Permit No. 6244; and

WHEREAS, the City Council finds that:

(a) there is no present or prospective use for the easement, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated;

(b) the public will benefit from the vacation through improved utilization of land;

(c) the vacation is consistent with the General Plan or an approved Community Plan; and

(d) the public purpose for which the easement was originally acquired will not be detrimentally affected by this vacation; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

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

1. That the portion of easement located within the Mid-City Communities Plan area in connection with the Neighborhood Development Permit No. 6244, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20115-B, marked as Exhibit "B," and on file in the office of the City Clerk as Document Nos. RR-301529-1, and RR-301529-2, which are by this reference incorporated herein and made a part hereof, is ordered vacated.

2. That said easement is conditioned upon approval and issuance of Neighborhood Development Permit No. 6244. In the event this condition is not completed within two years following the adoption of this resolution, then this resolution shall become void and be of no further force or effect.

3. That the City Engineer shall advise the City Clerk of the completion of the aforementioned condition and the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder.

4. That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Shannon M. Thomas
Shannon M. Thomas
Deputy City Attorney

SMT:als
05/15/06
Or.Dept:DSD
R-2006-983
MMS#3299

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-0496

NEIGHBORHOOD DEVELOPMENT PERMIT NO. 6244
CONNOLLY RESIDENCE – PROJECT NO. 3760
CITY COUNCIL

This Neighborhood Development Permit No. 6244 is granted by the City Council of the City of San Diego to Foster Carr and David Englert, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] section 126.0404. The 0.22-acre site is located at 5242 Cromwell Court in the RS-1-7, RS-1-1; and OR-1-1 zones, all within the Mid-City Communities Plan area. The project site is legally described as Lot 5, Indian Hills Subdivision, Map No. 1974.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees to develop the site with a two-story single-family, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated JUN 12 2006, on file in the Development Services Department.

The project or facility shall include:

- a. A 4, 352 square-foot 2-story single family home over a basement with pool and spa;
- b. Landscaping/Brush Management Plan (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities including one two-car garage and one single-car garage; and
- 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 SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect 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 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 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 agency.
6. Issuance of this Permit by the City of San Diego does not authorize the 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 building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
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." 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" 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.

BRUSH MANAGEMENT PROGRAM REQUIREMENTS:

10. The Permittee shall implement the all of the requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Program/Landscape Concept Plan.

11. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A."

12. Prior to issuance of any building permits, a complete set of Brush Management Construction Documents shall be submitted for approval by the City Manager and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A." and shall comply with the Uniform Fire Code, M.C. 55.0888.0201, the Landscape Standards and the Land Development Code [LDC] section 142.0412 (Ordinance - 18451).

The Brush Management Program shall consist of two zones consistent with the Brush Management regulations of the Land Development Code section 142.0412 as follows:

Lot # 5 (East of I-805) Zone One: 60-feet Zone Two: Not Required

13. The construction documents shall conform to the Architectural features as described in LDC section 142.0412(d).

14. Within Zone One combustible accessory structures (including, but not limited to decks, trellises, gazebos, etc) are not permitted while non-combustible accessory structures may be approved within the designated Zone One area subject to Fire Marshall and the City Manager's approval.

15. Provide the following note on the Brush Management Construction Documents. "It shall be the responsibility of the Permittee to schedule a pre-construction meeting on site

with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program.”

16. 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 Section and the Environmental Analysis Section.

ENGINEERING REQUIREMENTS:

17. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the installation of a 20 foot-wide City standard driveway with appropriate transitions to the existing rolled curb, on Cromwell Court, per Standard G-14A, G-16 and SDG-100, satisfactory to the City Engineer.

18. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the replacement of any damaged rolled curb, along the project frontage on Cromwell Court, satisfactory to the City Engineer.

19. Prior to the 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 Municipal Code, into the construction plans or specifications.

20. Prior to the issuance of any construction permit, the applicant shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

21. Prior to the issuance of any building permits, the applicant shall obtain an encroachment removal agreement from the City Engineer for the pressurized curb-outlet in the City right-of-way.

22. The drainage system for this project shall be private and will be subject to approval by the City Engineer.

23. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

24. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such 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.

LANDSCAPE REQUIREMENTS:

25. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit shall have been granted by the City Manager.
26. In the event that a foundation only permit is requested by the Permittee or subsequent Owner, a site plan or staking layout plan shall be submitted identifying all landscape areas consistent with Exhibit "A" Landscape Concept Plan. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "landscaping area."
27. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation construction documents consistent with the Landscape Standards (including planting and irrigation plans, details and specifications) shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A" Landscape Concept Plan.
28. Prior to issuance of any construction permit for parking structures, the Permittee shall submit on the planting and irrigation plans a signed statement by a Registered Structural Engineer indicating that supporting structures are designed to accommodate the necessary structural loads and associated planting and irrigation.
29. Installation of slope planting and erosion control including seeding of all disturbed land (slopes and pads) consistent with the approved landscape and grading plans is considered to be in the public interest. The Permittee shall initiate such measures as soon as the grading has been accomplished. Such erosion control/slope planting and the associated irrigation systems (temporary and/or permanent) and appurtenances shall be installed in accordance with the approved plans and the Landscape Standards.
30. Prior to final inspection, it shall be the responsibility of the Permittee or subsequent Owner to install all required landscape. A No Fee Street Tree Permit, if applicable, shall be obtained for the installation, establishment and on-going maintenance of all street trees.
31. 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, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or Certificate of Occupancy

PLANNING/DESIGN REQUIREMENTS:

32. No fewer than three off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking

spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

33. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

34. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

35. 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 Permittee.

36. 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.

37. The guest bedroom shall not be converted to a companion unit nor shall there be a gas line installed to the guest bedroom to facilitate the installation of cooking facilities unless the conversion complies with the Limited Use Regulations of Municipal Code section 141.0302.

38. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

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

WASTEWATER REQUIREMENTS:

40. Prior to the issuance of any grading permits, the developer shall abandon the on-site public sewer main, satisfactory to the Metropolitan Wastewater Department Director. All associated public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director.

41. All proposed sewer facilities will be private.

42. Prior to the issuance of any building permits, the developer shall provide private force laterals to serve this lot and the adjacent lots to the north.

43. No private sewer facilities shall be in or over any public right of way prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.

44. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

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 section 66020.

APPROVED by the City Council of the City of San Diego on JUN 12 2006, 2006
by Resolution No. R- 301529

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.

FOSTER CARR
Owner/Permittee

By _____

DAVID ENGLERT
Owner/Permittee

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04

Passed by the Council of The City of San Diego on JUN 1 2 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUN 1 2 2006

AUTHENTICATED BY:

(Seal)

JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Maurel E. Ketchum, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R-301529