

RESOLUTION NUMBER R-304730

DATE OF FINAL PASSAGE MARCH 10, 2009

RESOLUTION GRANTING APPEAL AND DENYING SITE DEVELOPMENT PERMIT NO: 470555/ NEIGHBORHOOD USE PERMIT NO. 381871/VARIANCE NO. 470554 – LIBERATORE RESIDENCE, PROJECT NO. 113555.

WHEREAS, Federico Liberatore, Owner/Permittee, filed an application with the City of San Diego for a site development permit/neighborhood use permit/variance to construct a new guest quarters and partial underground garage on a 5,836 square-foot lot with existing single-family residence known as the Liberatore Residence project, located at 3371 Valemont Street, and legally described as Lots 18 and 19, Block 1 of Roseville Heights, Map No. 423 in the Peninsula Community Plan area and Local Coastal Program Land Use Plan, in the RS-1-7 zone, Coastal Height Limit Overlay Zone, and Airport Overlay Zone; and

WHEREAS, on November 6, 2008, the Planning Commission of the City of San Diego considered Site Development Permit No. 470555, Neighborhood Use Permit No. 381871, and Variance No. 470554 for the Liberatore Residence project, and pursuant to Resolution No. 4478-PC approved Site Development Permit No. 470555, Neighborhood Use Permit No. 381871, and Variance No. 470554; and

WHEREAS, William A. Ladd and Anita Busquets appealed the Planning Commission's decision to the Council of the City of San Diego; 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; and

WHEREAS, the matter was set for public hearing on March 10, 2009, 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 found that a proper factual foundation was not established to make the mandatory legal findings necessary to grant the variance; and

WHEREAS, the City Council was unable to find that there are special circumstances or conditions applying to the land or premises for which the variance is sought that are peculiar to the land or premises and do not apply generally to the land or premises in the neighborhood, and these conditions have not resulted from any act of the applicant after the adoption of the applicable zone regulations; and

WHEREAS, the City Council was unable to find that the circumstances or conditions are such that the strict application of the regulations of the Land Development Code would deprive the applicant of reasonable use of the land or premises and the variance requested is the minimum variance that will permit the reasonable use of the land or premises; NOW,
THEREFORE,

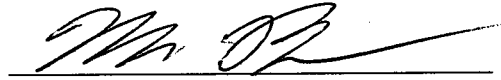
BE IT RESOLVED, by the Council of the City of San Diego, that the City Council, having heard the arguments both in favor and opposition to the proposed permits and variances, and having reviewed all the available documentation, hereby determines to grant the appeal of

William A. Ladd and Anita Busquets and deny Site Development Permit No. 470555,

Neighborhood Use Permit No. 381871, and Variance No. 470554.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Keith Bauerle
Deputy City Attorney

KB:hm

03/13/09

Or.Dept:Clerk

R-2009-958

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