

RESOLUTION NUMBER R- 307756  
DATE OF FINAL PASSAGE OCT 16 2012

A RESOLUTION GRANTING VARIANCE AT 6010 ROCK STREET (VARIANCE NO. 983078 -PROJECT NO. 267163)

WHEREAS, San Diego Habitat For Humanity, Owner/Permittee, filed an application with the City of San Diego for a variance for the construction of a single-family dwelling unit on a vacant lot known as the Rock Street Residence project, located at 6010 Rock Street, and legally described as: All land lying easterly of 60<sup>th</sup> Street, northerly of Rock Street and southerly of Rock Place in Lot 20 of Waterville Heights, in the City and County of San Diego, State of California, according to Map thereof No. 748, filed in the Office of the County Recorder of San Diego County, April 22, 1893; Parcel A and B of that portion of Lot 20 of Waterville Heights, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 748, filed in the Office of the County Recorder of San Diego County, April 22, 1893, lying within that real property as described in Deed recorded March 13, 2005 as Document No. 2005-0406783 of official records; and that portion of the easement for Public Street, granted per Document recorded March 26, 1958 as Document No. 48363 in Book 7009, Page 129 of official records, in the Eastern Area Neighborhood of the Mid-City Communities Plan, in the RS-1-7 Zone and Transit Area Overlay Zone; and

WHEREAS, on September 27, 2012, the Planning Commission of the City of San Diego considered variance [VAR] Permit No. 983078, and pursuant to Resolution No. 4833-PC voted to recommend approval of the Permit; 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 October 16, 2012, 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 it adopts the following findings with respect to Variance No. 983078:

**A. VARIANCE - SDMC Section 126.0805**

**1. 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.**

The project site is located at 6010 Rock Street, on the east side of 60<sup>th</sup> Street, between Rock Street and Rock Place. On September 21, 2004, Agreement No. 7007 was approved by and between the Board of Supervisors of the County of San Diego and San Diego Habitat for Humanity for the purchase of the property for the construction and sale of a single-family dwelling unit affordable to low-income persons, or to preserve this site as open space. The project proposes the construction of a two-story, 1,369 square foot, three bedroom, single-family dwelling unit with an attached 376 square-foot two car garage, which will be sold to low-income persons in accordance with Agreement No. 7007.

The 2,495 square-foot project site is a vacant irregular shaped corner lot with street frontage on three sides and is substandard in size; less than the minimum 5,000-square foot lot area required per the underlying zone. The property has been previously graded, and contains a 20-foot wide water and drainage easement that covers approximately 75-percent of the lot. This easement currently contains an active Public Utilities Department's 16-inch drainage pipe, which is used as a reservoir overflow and drain pipe for the water tank located south of the development. The proposed development includes the vacation of the existing 20-foot wide water and drainage easement, and the relocation of the existing 16-inch drainage pipe within public right-of-way (ROW) along 60<sup>th</sup> Street.

Approximately 167 square-feet of the public ROW at the intersection of Rock Place and 60<sup>th</sup> Street steps inward towards the property. Therefore, the proposed development includes a partial public ROW vacation for the realignment of the corner. Included as a condition of the

realignment, the proposed development will be required to dedicate approximately 381 square-foot additional ROW along the project frontage on Rock Place and 60<sup>th</sup> Street, to provide a minimum of 10-foot curb to property line distance.

The public ROW vacation and dedications establishes the new property lines, setbacks lines, and buildable area on the site. The site varies from approximately 21-feet to 32-feet wide, which is less than the minimum 55-feet required per the underlying zone for a corner lot. The buildable area within the required setbacks varies from approximately 7-feet to 18-feet wide within the new setbacks. Based on the new property lines, the proposed single family dwelling unit will encroach 5-foot 5-inches to 8-foot 4-inches within the 10-foot street side yard setback along 60<sup>th</sup> Street.

The requested variance is to allow for the reasonable use of the land on this irregular shaped corner lot that is substandard in size and has street frontage on three sides. There are special circumstances or conditions, as outlined above, that applies to the land for which the variance is sought that are peculiar to the land and do not apply generally to the land in the neighborhood.

**2. 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 granted by the City is the minimum variance that will permit the reasonable use of the land or premises,**

The project proposes the construction of a two-story, 1,369 square-foot, three bedroom, single-family dwelling unit with an attached 376 square-foot two car garage, which will be sold to low-income persons in accordance with Agreement No. 7007. The 2,495 square-foot project site is a vacant irregular shaped corner lot with street frontage on three sides and is substandard in size-less than the 5,000-square foot minimum lot area required per the underlying zone.

Approximately 167 square-feet of the public ROW at the intersection of Rock Place and 60<sup>th</sup> Street steps inward towards the property. Therefore, the proposed development includes a partial public ROW vacation for the realignment of the corner. Included as a condition of the realignment, the proposed development will be required to dedicate approximately 381 square-foot additional ROW along the project frontage on Rock Place and 60<sup>th</sup> Street, to provide a minimum of 10-foot curb to property line distance.

The public ROW vacation and dedications establishes the new property lines, setbacks lines, and buildable area on the site. The site varies from approximately 21-feet to 32-feet wide, which is less than the minimum 55-feet required per the underlying zone for a corner lot, the buildable area within the required setbacks varies from approximately 7-feet to 18-feet wide within the new setbacks. Based on the new property lines, the proposed single family dwelling unit will encroach 5-foot 5-inches to 8-foot 4-inches within the required 10-foot street side yard setback along 60<sup>th</sup> Street.

The requested variance is the minimum necessary to provide adequate building widths that will allow functional living areas. The requested variance also allows the minimum

necessary width for the garage to house the required off-street parking. The project complies with all other requirements of the zone.

The circumstances or conditions are such, as stated above, that the strict application of the regulations of the Land Development Code would deprive the applicant of reasonable use of the land or premises. Therefore, the variance granted by the City is the minimum variance that will permit the reasonable use of the land or premises while meeting the purpose and intent of the development regulations.

**3. The granting of the variance will be in harmony with the general purpose and intent of the regulations and will not be detrimental to the public health, safety, or welfare.**

The project proposes the construction of a two-story, 1,369 square-foot, three bedroom, single-family dwelling unit with an attached 376 square-foot two-car garage, which will sold to low-income persons in accordance with Agreement No. 7007. The public ROW vacation and dedications establishes the new property lines, setbacks lines, and buildable area on the site. The site varies from approximately 21-feet to 32-feet wide, which is less than the minimum 55-feet required per the underlying zone for a corner lot, the buildable area within the required setbacks varies from approximately 7-feet to 18-feet wide within the new setbacks. Based on the new property lines, the proposed single family dwelling unit will encroach 5-foot 5-inches to 8-foot 4-inches within the required 10-foot street side yard setback along 60<sup>th</sup> Street. The general purpose and intent of the yard setbacks are to provide light, ventilation, circulation, landscape areas and recreational use, and to be in harmony with the surrounding development.

The proposed single family dwelling unit conforms to the required 15-foot front yard setbacks along Rock Street and Rock Place required per the underlying zone, and complies with the visibility area requirements at both corners. The proposed development shall provide setbacks that are smaller than the standard setbacks, but still allows for light, ventilation, circulation, landscape areas and recreational use. Therefore, the granting of the variance will be in harmony with the general purpose and intent of the regulations and will not be detrimental to the public health, safety, or welfare and shall be in harmony with the surrounding development.

**4. The granting of the variance will not adversely affect the applicable land use plan. If the variance is being sought in conjunction with any proposed coastal development, the required finding shall specify that granting of the variance conforms with, and is adequate to carry out, the provisions of the certified land use plan.**

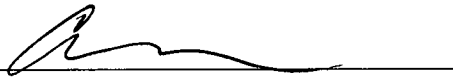
The project site is located at 6010 Rock Street, on the east side of 60<sup>th</sup> Street, between Rock Street and Rock Place, in the RS-1-7 Zone within the Eastern Area Neighborhood of the Mid-City Communities Plan. The community plan designates the site for Residential, 6-10 dwelling unit per acre (DU/AC). The project site, occupying 0.06-acre, could accommodate one dwelling units based on the underlying zone and one dwelling units based on the community plan.

The community plan envisions a community characterized by a diverse array of well-designed and maintained neighborhoods with affordable housing that caters to a full range of

family and living styles. The proposed project would help implement the goals and recommendations of the community plan by helping to maintain single-family residential areas as the prevailing housing pattern in the neighborhoods. In addition, the project site is not located within or adjacent to the Coastal Overlay Zone. Therefore, the granting of the variance will not adversely affect the applicable land use plan.

BE IT FURTHER RESOLVED, that Variance Permit No. 983078 is granted to San Diego Habitat For Humanity, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Corrine L. Neuffer  
Deputy City Attorney

CLN:jls  
September 28, 2012  
Or.Dept: DSD  
Doc. No. 446821

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

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24002415

**VARIANCE NO. 983078**  
**ROCK STREET RESIDENCE-PROJECT NO. 267163**  
**CITY COUNCIL**

This Variance No. 983078 is granted by the City Council of the City of San Diego to SAN DIEGO HABITAT FOR HUMANITY, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] Section 126.0805. The 0.06-acre site is located at 6010 Rock Street in the RS-1-7 Zone within the Eastern Area Neighborhood of the Mid-City Communities Plan, Transit Area Overlay Zone and Council District 7 (future Council District 4). The project site is legally described as: All land lying easterly of 60<sup>th</sup> Street, northerly of Rock Street and southerly of Rock Place in Lot 20 of Waterville Heights, in the City and County of San Diego, State of California, according to Map thereof No. 748, filed in the Office of the County Recorder of San Diego County, April 22, 1893; Parcel A and B of that portion of Lot 20 of Waterville Heights, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 748, filed in the Office of the County Recorder of San Diego County, April 22, 1893, lying within that real property as described in Deed recorded March 13, 2005 as Document No. 2005-0406783 of official records; and that portion of the easement for Public Street, granted per Document recorded March 26, 1958 as Document No. 48363 in Book 7009, Page 129 of official records.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for the construction of a single family dwelling unit on a vacant lot described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated OCT 16 2012, on file in the Development Services Department.

The project shall include:

- a. The construction of a two-story, 1,369 square-foot, three bedroom, single-family dwelling unit with an attached 376 square-foot two-car garage;

- b. Variance to Table 131-04D footnote 2 to allow for a street side yard setback that varies from 5-feet 5-inches to 8-feet 4-inches along 60<sup>th</sup> Street where a minimum 10-foot setback is required;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking; and
- e. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by October 30, 2015.
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 Owner/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. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
5. The 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 Owner/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 Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited 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 were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If 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 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.

10. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.



**AFFORDABLE HOUSING REQUIREMENTS:**

11. The Owner/Permittee shall execute the provisions of Agreement No. 7007, approved on September 21, 2004, by and between the Board of Supervisors of the County of San Diego and San Diego Habitat for Humanity for the construction and sale of a single family dwelling unit affordable to low-income persons.

**ENGINEERING REQUIREMENTS:**

12. Prior to building occupancy, the Owner/Permittee shall dedicate additional right-of-way, along the project frontage, to provide a minimum of 10 feet curb to property line distance, satisfactory to the City Engineer.

13. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the construction of a City standard 12-foot wide driveway, on Rock Place, satisfactory to the City Engineer.

14. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the installation of City standard sidewalk, along the entire project frontage on Rock Place, 60th Street and Rock Street, satisfactory to the City Engineer.

15. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the installation of City standard curb ramps, located at the southeast corner of Rock Place and 60th Street and at the northeast corner of 60th Street and Rock Street, per Standard Drawing SDG-132, satisfactory to the City Engineer.

16. Prior to the issuance of any building permit, the Owner/Permittee shall assure by permit and bond the relocation of the existing onsite storm drain pipe onto the City's right-of-way, satisfactory to the City Engineer.

17. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.

18. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction Best Management Practices (BMP) necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications, satisfactory to the City Engineer.

19. Prior to the issuance of any construction permits, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

20. Prior to the issuance of any construction permits, the Owner/Permittee 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, satisfactory to the City Engineer.

**PLANNING/DESIGN REQUIREMENTS:**

21. Owner/Permittee shall maintain a minimum of two (2) off-street parking spaces 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 appropriate City decision maker in accordance with the SDMC.

22. Exterior facilities associated with the dwelling unit and visible from the public right-of-way such as plumbing, heating, and cooling equipment shall be completely screened on all sides with a solid wall or fence that is painted or texturized to match the primary building on the premises. All utilities, such as gas meters, electrical meters and panels, fire control panels, telephone, cable television panels, and similar devices shall be screened from public view unless other Municipal Code regulations require that visibility be maintained. Landscape screening may be used to screen utilities.

23. Prior to issuance of construction permits for public right-of-way improvements, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall include at least two 24-inch box size trees within the public right-of-way or within 10 feet of the public right-of-way to the satisfaction of the Development Services Department.

24. Prior to Final Inspection, it shall be the responsibility of the Owner/Permittee to install all street trees. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees within the public right-of-way.

25. 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 Owner/Permittee.

26. 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.

**PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:**

27. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of any new water and sewer service outside of any driveway in a manner satisfactory to the Director of Public Utilities and the City Engineer.

28. Prior to the issuance of any certificates of occupancy, all public water and sewer facilities shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.

29. The Owner/Permittee shall design and construct all proposed public water and sewer facilities in accordance with established criteria in the current edition of the City of San Diego Water and Sewer Facility Design Guidelines and City regulations, standards and practices.

**INFORMATION ONLY:**

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this 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.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on OCT 16 2012, and pursuant to Resolution No. R-307756.

Permit Type/PTS Approval No.: Variance No. 983078  
Date of Approval: \_\_\_\_\_

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

\_\_\_\_\_  
Jeffrey A. Peterson  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

\_\_\_\_\_  
**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of  
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

SAN DIEGO HABITAT FOR HUMANITY  
Owner/Permittee

By \_\_\_\_\_  
Name:  
Title:

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**