

RESOLUTION NUMBER R- 309856

DATE OF FINAL PASSAGE JUL 14 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO GRANTING SITE DEVELOPMENT PERMIT NO. 1306241, NEIGHBORHOOD DEVELOPMENT PERMIT NO. 1460597 AND VARIANCE NO. 1151185 FOR 3142 STERNE STREET – PROJECT NO. 327613.

ITEM # 333
7/14/15

WHEREAS, Mark Nichols, Owner/Permittee, filed an application with the City of San Diego for Site Development Permit No. 1306241, Neighborhood Development Permit No. 1460597 and Variance No. 1151185 for the construction of a private driveway and landscape planters within the public right-of-way, where the applicant is not the record owner of the underlying fee title, as well as the construction of a private driveway, private storm drain facility, and landscape planters where the applicant owns the underlying fee title. The project includes a variance to construct over-height retaining walls, walls not providing the required offsets within the front, interior side and rear setbacks, and to allow a portion of the driveway within the front setback. The improvements would facilitate the construction of a 3,461-square-foot, 3-level, single-family residence. The project is described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated JUL 14 2015 on file in the Development Services Department, on portions of an approximately 5,000-square-foot site; and

WHEREAS, the project site is located at 3142 Sterne Street in the RS-1-7 zone, the Coastal Height Limit Overlay Zone, the Airport Influence Area for the San Diego International Airport and the Airport Approach Overlay Zone, within the Peninsula Community Plan area; and

WHEREAS, the project site is legally described as Lot 3 in Block 160 of Roseville Map No. 165; and

WHEREAS, on JUL 14 2015, the City Council of the City of San Diego considered Site Development Permit No. 1306241, Neighborhood Development Permit No. 1460597 and Variance No. 1151185 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on May 8, 2014, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) under CEQA Guideline Section 15303 (a) - (New Construction) and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; 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 City Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 1306241, Neighborhood Development Permit No. 1460597 and Variance No. 1151185:

I. SITE DEVELOPMENT PERMIT FINDINGS (SDMC SECTION 126.0504):

A. Findings for all Site Development Permits

1. The proposed development will not adversely affect the applicable land use plan. The site is located at 3142 Sterne Street between Evergreen Street and Locust Street, zoned RS-1-7 and designated for residential uses within the Peninsula Community Plan. The project is consistent with the overall development pattern of the single family neighborhood. The community plan does not contain policy language for proposed encroachments within the right of way and deviations to the retaining wall and setback regulations. The plan does provide guidance regarding new developments and contains several recommendations concerning compatibility of design in older neighborhood and on hillside properties. The proposed single-family residence implements several of these recommendations.

The proposed residence is consistent with the scale and character of the surrounding homes. Surrounding residences have a variety of styles and designs, with both single and multi-story residences. Due to the topography of the surrounding neighborhood, split level homes with various levels and landscape retaining walls are common. The proposed residence has articulated planes to address bulk and scale in both the vertical and horizontal planes. The roofline is consistent with the surrounding area, which has a variety of shapes and materials. These include sloping and flat roof residences in the surrounding area. The project proposes to landscape the proposed walls to soften the appearance and scale.

Regarding hillside developments, the project has limited ground cover and has addressed the natural drainage patterns to the greatest extent possible. The project has been designed to fit into the sloping site as opposed to cantilevering away from the slope. The project has varied roof forms and planes to provide interest and help blend into the existing slope. The project is in conformance with the general guidelines of the community plan.

2. The proposed development will not be detrimental to the public health, safety and welfare. The proposed project is located at 3142 Sterne Street between Evergreen Street and Locust Street, zoned RS-1-7 and designated for residential uses within the Peninsula Community Plan. The subject property is currently vacant and has never been developed. A single family residence is proposed on the site, consistent with the zone and the community plan.

The project required the preparation of a geotechnical report. The site is located within geologic hazard zone 52 as shown on the City's Seismic Safety Study Geologic Hazards Maps. Zone 52 is characterized by other level areas, gently sloping to steep terrain with favorable geologic structure, low risk. The site is underlain with by the Cabrillo Formation Sandstone of the Rosario group, and is within an area described as generally stable within the City of San Diego Seismic Safety element. The report states that the site does not contain geologic hazards such as faults, nor suspected landslides or areas of potential soil liquefaction on site or within the immediate vicinity. The report concluded that the proposed site improvements are feasible from a geological standpoint provided generally accepted construction practices and other customary development techniques are adhered to.

The development required the preparation of a water quality technical report which concluded that the proposed site improvements would comply with the requirements of the State Water Resources Control Board and Municipal Storm Water Permit, Waste Discharge Requirements for Discharges of Storm Water Runoff Associate with Construction Activity.

Erosion control in the steep topography will be improved with flow through planters and a drainage containment system for the project. Permanent landscape in the right-of-way is conditioned to be recorded within a landscape maintenance agreement and will provide visual shielding of the driveway walls as well as improve the overall appearance of this part of the right-of-way areas.

The project was determined to be exempt from the California Environmental Quality Act pursuant to section 15303 (New Construction), as it was determined that the project is minor in scope and will not adversely impact any environmentally sensitive lands or California Environmental Quality Act (CEQA) issue areas, including Visual Quality. A visual simulation

was required for the proposed retaining walls due to the over-height condition of the walls as viewed from the public rights of way. In accordance with the City's CEQA Significance Determination Thresholds, significant Visual Quality/Development Features may result in negative visual appearance impacts from projects that include walls greater than six feet in height and 50 feet in length. The proposed landscape materials are consistent with the Hillside Review Guidelines (achievement of 80 percent coverage within two years), and the construction of the driveway and retaining walls will not pose a visual impact.

The private driveway would create vehicular access to the proposed residence. No barriers such as gates or fences are proposed to limit access. New public storm drain facilities will be installed that will safely convey runoff along Street. The facility would also eliminate sections of older piping susceptible to failure and/or increased maintenance by the City.

The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, state and federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, public improvement repairs, fire protection, and landscaping. All Uniform Building, Fire and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity.

Therefore, the proposed construction of the retaining walls and the private driveway within the public right of way will not adversely affect the public health, safety and welfare.

3. The proposed development will comply with the applicable regulations of the land development code. The project proposes to construct a 3-level, single family residence that is in conformance for density, lot size, floor area ratio, building setback and height regulations of the RS-1-7 single family zone and other pertinent regulations of the Land Development Code which includes grading and landscaping. A variance is included to allow a 17-foot high segment of the driveway within the front setback and over-height retaining walls in the front, interior and rear setbacks without the required offsets. Deviations to these development regulations can be supported as they facilitate the construction of required accessory improvements necessary to allow development of the site as described in the variance Findings, Section IV. The project will comply with the applicable regulations of the Land Development Code, including any allowable deviations pursuant to the Land Development Code.

II. SUPPLEMENTAL FINDINGS -PUBLIC RIGHT OF WAY ENCROACHMENTS **(SDMC SECTION 126.0504 (O))**

1. The proposed encroachment is reasonably related to public travel, or benefits a public purpose, or all record owners have given the applicant written permission to maintain the encroachment on their property. The proposed encroachment into the Sterne Street right-of-way requires the approval of a Site Development Permit to construct a private driveway and landscape planters to provide vehicular access to a proposed single-family residence. The proposed driveway structure is 150 feet in length and consists of support Keystone retaining walls ranging in height from 3 feet to 22 feet surfaced with asphaltic concrete. The driveway would be 12 to 18 feet in width and not cross over the center line of the

street. The proposed drainage pipe would be located underground. Landscaped planter walls are proposed adjacent to the wall to provide visual screening.

Sterne Street within this block, south of its intersection with Evergreen Street, is unimproved due to the existing topography which would have made installation of a standard street impractical. The changes in elevation between the streets is in excess of 70 feet. The driveway encroachment provides for vehicular circulation within the right-of-way, including access for emergency vehicles, access for residents and visitors, and the replacement of older water and sewer service lines with new improved service lines. The applicant has obtained written permission from the record owners to maintain the encroachments.

2. The proposed encroachment does not interfere with the free and unobstructed use of the public right-of-way for public travel. The proposed encroachment into the Sterne Street right-of-way requires the approval of a Site Development Permit to construct a private driveway, private storm drain facility and landscape planters for a proposed residence where the applicant does not own the underlying fee title. The proposed driveway structure is 150 feet in length and consists of support Keystone retaining walls ranging in height from 3 feet to 22 feet surfaced with asphaltic concrete. The proposed drainage pipe would be located underground. Landscaped planter walls are proposed adjacent to the wall to provide visual screening.

Sterne Street within this block, south of its intersection with Evergreen Street, is unimproved due to the existing topography which would have made installation of a standard street impractical. The changes in elevation between the streets is in excess of 70 feet. Due to the extreme topography of the right-of-way at this location, the public currently does not have vehicular access. Additionally, the City does not have approved plans or funding to construct the street nor is it anticipated that given the topography the right-of-way would ever be improved in the future.

The proposed encroachment would not interfere with the free and unobstructed use of the public right of way. The right-of-way currently measures 70 feet in width. The encroachments would be located within the easterly 35 feet, up to the centerline of the street. The remaining area of the right-of-way would remain, with no obstructions to its use. As such, the lots on the west side of the street (Lots 9 through 12, Block 154) would maintain frontage and potential access abutting the unimproved right-of-way. Additionally, on the east side of Sterne Street abutting the subject Lot 3, Lots 1 and 2 are developed with an existing residence and accessory improvements located at the intersection of Tennyson Street and Sterne Street. Lots 1 and 2 currently have frontage on both Sterne and Tennyson Streets with vehicular access to the development from Tennyson Street, which is a developed right-of-way.

There are no gates, fences, or other similar type barriers proposed in the right-of-way which would obstruct access. Therefore, the proposed encroachment does not interfere with the free and unobstructed use of the public right-of-way for public travel.

3. The proposed encroachment will not adversely affect the aesthetic character of the community. The proposed driveway and landscaped planters within the right-of-way are similar private encroachments that exist within the community in terms of surfacing materials and configuration. Articulated Keystone walls are proposed with landscaping planters and

landscape materials such as trees and shrubbery, extending along the highest portion of the driveway to blend into the natural landscape. The encroachments were designed to blend into the natural topography to the greatest extent possible and will not adversely affect the aesthetic character of the community.

4. The proposed encroachment does not violate any other municipal code provisions or other local, state, or federal law. The proposed encroachment does not violate any other municipal code provisions or other local, state, or federal law.

5. For coastal development in the coastal overlay zone, the encroachment is consistent with section 132.0403 (supplemental use regulations of the coastal overlay zone). The subject property is not located in the Coastal Overlay Zone.

III. NEIGHBORHOOD DEVELOPMENT PERMIT FINDINGS (SDMC SECTION 126.0708):

1. The proposed development will not adversely affect the applicable land use plan. The project proposes to construct a private driveway, private storm drain facility and landscape planters within the public right-of-way where the applicant owns the underlying fee title. The encroachments are proposed within an unimproved portion of Sterne Street public right-of-way. The site is located at 3142 Sterne Street between Evergreen Street and Locust Street, zoned RS-1-7 and designated for residential uses within the Peninsula Community Plan.

The proposed residence is consistent with the scale and character of the surrounding homes. Surrounding residences have a variety of styles and designs, with both single and multi-story residences. Due to the topography of the surrounding neighborhood, split level homes with various levels and landscape retaining walls are common. The proposed residence has articulated planes to address bulk and scale in both the vertical and horizontal planes. The roofline is consistent with the surrounding area, which has a variety of shapes and materials. These include sloping and flat roof residences in the surrounding area. The project proposes to landscape the proposed walls to soften the appearance and scale.

Regarding hillside developments, the project has limited ground cover and has addressed the natural drainage patterns to the greatest extent possible. The project has been designed to fit into the sloping site as opposed to cantilevering away from the slope. The project has varied roof forms and planes to provide interest and help blend into the existing slope. The project is in conformance with the general guidelines of the community plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare. The proposed project is located at 3142 Sterne Street between Evergreen Street and Locust Street, zoned RS-1-7 and designated for residential uses within the Peninsula Community Plan. The subject property is currently vacant and has never been developed. A single family residence is proposed on the site, consistent with the zone and the community plan.

The project required the preparation of a geotechnical report. The site is located within geologic hazard zone 52 as shown on the City's Seismic Safety Study Geologic Hazards Maps. Zone 52 is characterized by other level areas, gently sloping to steep terrain with favorable

geologic structure, low risk. The site is underlain with by the Cabrillo Formation Sandstone of the Rosario group, and is within an area described as generally stable within the City of San Diego Seismic Safety element. The report states that the site does not contain geologic hazards such as faults, nor suspected landslides or areas of potential soil liquefaction on site or within the immediate vicinity. The report concluded that the proposed site improvements are feasible from a geological standpoint provided generally accepted construction practices and other customary development techniques are adhered to.

The development required the preparation of a water quality technical report which concluded that the proposed site improvements would comply with the requirements of the State Water Resources Control Board and Municipal Storm Water Permit, Waste Discharge Requirements for Discharges of Storm Water Runoff Associate with Construction Activity.

Erosion control in the steep topography will be improved with flow through planters and a drainage containment system for the project. Permanent landscape in the right-of-way is conditioned to be recorded within a landscape maintenance agreement and will provide visual shielding of the driveway walls as well as improve the overall appearance of this part of the right-of-way areas.

The project was determined to be exempt from the California Environmental Quality Act pursuant to section 15303 (New Construction), as it was determined that the project is minor in scope and will not adversely impact any environmentally sensitive lands or California Environmental Quality Act (CEQA) issue areas, including Visual Quality. A visual simulation was required for the proposed retaining walls due to the over-height condition of the walls as viewed from the public rights of way. In accordance with the City's CEQA Significance Determination Thresholds, significant Visual Quality/Development Features may result in negative visual appearance impacts from projects that include walls greater than six feet in height and 50 feet in length. The proposed landscape materials are consistent with the Hillside Review Guidelines (achievement of 80 percent coverage within two years), and the construction of the driveway and retaining walls will not pose a visual impact.

The driveway would create vehicular access to the proposed residence. No barriers such as gates or fences are proposed to limit access. New public storm drain facilities will be installed that will safely convey runoff along Sterne Street. The facility would also eliminate sections of older piping susceptible to failure and/or increased maintenance by the City.

The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, state and federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, public improvement repairs, fire protection, and landscaping. All Uniform Building, Fire and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity.

Therefore, the proposed construction of the retaining walls and the private driveway within the public right of way will not adversely affect the public health, safety and welfare.

3. The proposed development will comply with the regulations of the land development code including any allowable deviations pursuant to the land development code. The project proposes to construct a 3-level, single family residence that is in conformance for density, lot size, floor area ratio, building setback and height regulations of the RS-1-7 single family zone and other pertinent regulations of the Land Development Code which includes grading and landscaping. A variance is included to allow a 17-foot high segment of the driveway within the front setback and over-height retaining walls in the front, interior and rear setbacks without the required offsets. Deviations to these development regulations can be supported as they facilitate the construction of required accessory improvements necessary to allow development of the site as described in Variance Findings, Section IV. The project will comply with the applicable regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

IV. VARIANCE FINDINGS (SDMC SECTION 126.0801):

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 requested variance would allow the following deviations to facilitate the construction of accessory improvements necessary for a proposed single family residence at the subject lot:

Retaining Walls:

1. Northwest interior side setback adjacent to the driveway (perimeter site wall): 9 feet in height where 6 feet is allowed.
2. Rear setback (perimeter site wall): 12 feet in height where 9 feet is allowed.
3. Front yard setback (planter walls - southeast corner): 6 feet in height where 3 feet is allowed.
4. Eliminate the requirement to provide the horizontal or vertical offset that is required for those portions of walls exceeded 120 square foot in area.

Driveway Structure: 17 feet in height within the front setback where a 3-foot structure is allowed.

Both the site and Sterne Street's extreme topography and the lot's frontage on a paper street necessitate the construction of a private driveway within the right-of-way. The on-site retaining walls within the interior side setback and rear yard allow the driveway to maintain a slope less than 20 percent as required by the City's regulations, as well as retain the extreme topography on site. The topography of the site and the right-of-way and the site's frontage on a paper street create constraints and limit design options. The conditions for which the variance is being requested are not a result of any act of the applicant's, but result from the original creation of the map and street layout which did not reflect the steep topography of this area. The majority of the immediate developments are located adjacent to improved City streets that provide direct

access and do not have the excessive topographic elevation changes that characterize the land at the proposed development. These are special circumstances peculiar to the premises.

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. Both the site and Sterne Street's extreme topography and the lot's frontage on a paper street necessitate the construction of a private driveway within the right-of-way. The on-site retaining walls within the interior side setback and rear yard allow the driveway to maintain a slope less than 20 percent as required by the City's regulations, as well as retain the extreme topography on site. The topography of the site and the right-of-way and the site's frontage on a paper street create constraints and limit design options.

Accessing the lot from Locust Street to the south below the site would result in heights similar in design to the preferred design. In addition, accessing the site from below would have created additional storm water runoff off site which would potentially create a negative environmental impact.

The private driveway in the right of way has been designed to comply with City regulations regarding a maximum slope not exceeding 20 percent. Based on this slope design, the driveway transition occurs at an elevation of approximately 155' mean sea level. The walls requested on-site allow the driveway to maintain a slope less than the maximum of 20 percent slope required by the regulations as access continues onto the lot. The walls requested on the property are the minimum required to transition from the driveway in the right of way to the residence and property. Given the location of the Sterne Street right of way and the natural steep slope topography of the area, strict application of the regulations of the Land Development Code would deprive the applicant of the reasonable use of the land and the variance is the minimum variance that will facilitate the construction of a single family residence as allowed by the zone and anticipated for the site by the community plan.

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. Both the site and Sterne Street's extreme topography and the lot's frontage on a paper street necessitate the construction of a private driveway within the front yard setback and, over height planter and perimeter walls within the setbacks. The on-site retaining walls within the interior side setback and rear yard allow the driveway to maintain a slope less than 20 percent as required by the regulations, as well as retain the extreme topography on site. The 6-foot high retaining wall in the front setback is a landscaped planter adjacent to the residence that will provide screening of the driveway. The over-height walls will not be visible to the public due to the placement of the residence, landscaped planters and extension landscape materials proposed both on site and within the right-of-way.

The project required the preparation of a geotechnical report. The site is located within geologic hazard zone 52 as shown on the City's Seismic Safety Study Geologic Hazards Maps. Zone 52 is characterized by other level areas, gently sloping to steep terrain with favorable geologic structure, low risk. The site is underlain with by the Cabrillo Formation Sandstone of the Rosario group, and is within an area described as generally stable within the City of San

Diego Seismic Safety element. The report states that the site does not contain geologic hazards such as faults, nor suspected landslides or areas of potential soil liquefaction on site or within the immediate vicinity. The report concluded that the proposed site improvements are feasible from a geological standpoint provided generally accepted construction practices and other customary development techniques are adhered to.

The development required the preparation of a water quality technical report which concluded that the proposed site improvements would comply with the requirements of the State Water Resources Control Board and Municipal Storm Water Permit, Waste Discharge Requirements for Discharges of Storm Water Runoff Associate with Construction Activity.

The project will provide new utility lines for water and sanitary sewer in the right of way which will facilitate connections for future property owners as well as eliminating sections of older piping which could be more susceptible to failure and/or increased maintenance by the City. Erosion control in the steep topography will be improved with flow through planters and a drainage containment system for the project. Permanent landscape in the right-of-way is conditioned to be recorded within a landscape maintenance agreement and will provide visual shielding of the driveway walls as well as improve the overall appearance of this part of the right-of-way areas.

The project was determined to be exempt from the California Environmental Quality Act pursuant to section 15303 (New Construction), as it was determined that the project is minor in scope and will not adversely impact any environmentally sensitive lands or California Environmental Quality Act (CEQA) issue areas, including Visual Quality. A visual simulation was required for the proposed retaining walls due to the over-height condition of the walls as viewed from the public rights of way. In accordance with the City's CEQA Significance Determination Thresholds, significant Visual Quality/Development Features may result in negative visual appearance impacts from projects that include walls greater than six feet in height and 50 feet in length. The proposed landscape materials are consistent with the Hillside Review Guidelines (achievement of 80 percent coverage within two years), and the construction of the driveway and retaining walls will not pose a visual impact.

The driveway would create vehicular access to the proposed residence. No barriers such as gates or fences are proposed to limit access. New public storm drain facilities will be installed that will safely convey runoff along Sterne Street. The facility would also eliminate sections of older piping susceptible to failure and/or increased maintenance by the City.

The permit controlling this development contains conditions addressing compliance with the City's regulations and other regional, state and federal regulations to prevent detrimental impacts to the health, safety, and welfare of persons residing in the area. These conditions address requirements relating to storm water runoff, runoff during construction, public improvement repairs, fire protection, and landscaping. All Uniform Building, Fire and Mechanical Codes governing the construction and continued operation of the development will apply to this site to prevent adverse affects to those persons or other properties in the vicinity.

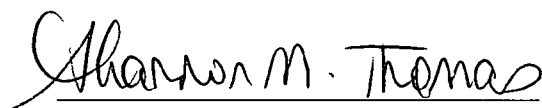
The proposed construction of the retaining walls and the private driveway within the public right of way will not adversely affect the public health, safety and welfare.

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 site is located at 3142 Sterne Street between Evergreen Street and Locust Street, zoned RS 1-7 and designated for residential uses within the Peninsula Community Plan. The project is consistent with the overall development pattern of the single family neighborhood. The community plan does not contain policy language for deviations to structure or retaining wall heights. The plan does provide guidance regarding new developments and contains several recommendations concerning compatibility of design in older neighborhood and on hillside properties. The proposed single-family residence implements several of these recommendations as referenced above in Site Development Permit Finding No. 1. The variance will facilitate the construction of accessory improvements necessary for the construction of the proposed single-family residence as allowed in the underlying zone and anticipated in the community plan. The subject lot is not within the Coastal Overlay Zone.

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

BE IT FURTHER RESOLVED, that Site Development Permit No. 1306241, Neighborhood Development Permit No. 1460597 and Variance No. 1151185 is granted to Mark Nichols, 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 
Shannon M. Thomas
Deputy City Attorney

SMT:als
6/25/2015
Or.Dept:DSD
Doc. No.: 1029432_2

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: 24003589

SITE DEVELOPMENT PERMIT NO. 1306241
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 1460597
AND VARIANCE NO. 1151185

3142 STERNE STREET PROJECT NO. 327613
CITY COUNCIL

This Site Development Permit No. 1306241, Neighborhood Development Permit No. 1460597 and Variance No. 1151185 is granted by the City Council of the City of San Diego to Mark Nichols, Owner and Permittee, pursuant to San Diego Municipal Code (SDMC) sections 126.0501, 126.0201 and 126.0801. The 0.115-acre site is located at 3142 Sterne Street in the RS-1-7 zone, the Coastal Height Limit Overlay Zone, the Airport Influence Area for the San Diego International Airport and the Airport Approach Overlay Zone within the Peninsula Community Plan. The project site is legally described as Lot 3 Block 160 Roseville Map No. 165.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to construct a driveway and over-height retaining walls within the public right-of-way and on the subject property for a proposed single-family residence on a vacant lot described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated JUL 14 2015, on file in the Development Services Department.

The project shall include the following accessory improvements to allow the construction of a three-level, approximately 3461-square-foot, single family residence that is permitted by right in the underlying zone:

- a. Encroachments of a private driveway and landscape planters within the Sterne Street public right-of-way (paper street);

- b. Encroachments of a private driveway, private storm drain facility, and landscape planters within the Sterne Street public right-of-way (paper street) where the applicant is the record owner of the property on which the proposed encroachment will be located;
- c. A variance (Process 3) for portion of the driveway, 17 feet in height, within the front setback and for over-height retaining walls within the front setback, interior side setback, and rear setback and to not provide required offsets as follows:
 - i. Interior side setback: Ranging up to 9 feet in height where 6 feet is allowed (perimeter walls);
 - ii. Rear setback: Ranging up to 12 feet in height where 9 feet is allowed (perimeter walls);
 - iii. Front yard setback: Ranging up to 6 feet in height where 3 feet is allowed (landscape planters);
 - iv. Eliminate the requirement to provide the minimum horizontal or vertical offset that is required for those portions of walls exceeding 120 square foot in area.
- d. Landscaping (planting, irrigation and landscape related improvements);
- e. Off-street parking;
- f. 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 JUL 14 2018.
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.

ENGINEERING REQUIREMENTS:

11. 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.

12. Prior to the issuance of any construction permits, the Owner/Permittee shall incorporate any construction Best Management Practices 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.

13. 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 G of the City's Storm Water Standards, satisfactory to the City Engineer.

14. The drainage system proposed for this development is private and subject to approval by the City Engineer.

15. All driveways and curb openings shall comply with City Standard Drawing SDG-163

16. This project proposes to export 525 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC Section 141.0620(i).

17. Prior to issuance of a building permit, the Owner/Permittee shall obtain a 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.

18. Prior to the issuance of any building permit, the Owner/Permittee shall enter into an agreement to indemnify, protect and hold harmless the City, its officials and employees from any and all claims, demands, causes or action, liability or loss because of, or arising out of public drainage from the Evergreen Street public right-of-way.

19. The encroachment shall be installed and maintained in a safe and sanitary condition at the sole cost, risk and responsibility of the owner and successors in interest and shall not adversely affect the public's health, safety or general welfare.

20. The property owner must agree to remove or relocate the encroachment within 30 days after notice by the City Engineer or the City Engineer may cause such work to be done, and the costs thereof shall be a lien upon said land, or the property owner agrees to an equivalent to the requirement for removal as determined by the City Engineer.

21. The property owner shall provide an alternate public right-of-way or relocation of any existing or proposed City facility to a new alignment, all without cost or expense to the City, whenever it is determined by the City Engineer that any existing or proposed City facility cannot be economically placed, replaced, or maintained due to the presence of the encroachment.

22. Whatever rights and obligations were acquired by the City with respect to the public right-of-way or public service easement shall remain and continue in full force and effect and shall in no way be affected by the City's grant of permission to construct and maintain the encroaching structure.

23. The property owner shall maintain a policy of \$1 million liability insurance, satisfactory to the City Engineer, to protect the City from any potential claims which may arise from the encroachment.

24. In the event the City is required to place, replace, or maintain a public improvement over which the property owner has constructed the encroachment, the property owner shall pay the City that portion of the cost of placement, replacement, or maintenance caused by the construction, or existence of the owner's encroachment.

25. The property owner shall pay the City for all the cost of placing, replacing, or maintaining a public improvement within a public right-of-way when the City's facility has failed as a result of the construction or existence of the owner's encroachment.

26. The costs of placing, replacing, or maintaining the public improvement shall include the cost of obtaining a necessary alternate easement.

27. The property owner shall pay the City or public utility for all costs of relocating, replacing, or protecting a facility within the public right-of-way or public service easement when such relocation, replacement, or protection results from the construction of the encroachment.

GEOLOGY REQUIREMENTS:

28. The Owner/Permittee shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to issuance of any construction permits.

29. The Owner/Permittee shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to exoneration of the bond and grading permit close-out.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

30. All proposed public water and sewer facilities, including services and meters, must be designed and constructed in accordance with established criteria in the most current edition of the City of San Diego Water and Sewer Facility Design Guidelines and City regulations, standards and practices pertaining thereto.

31. All proposed private sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

32. 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(s) outside of any driveway, and the disconnection at the water main of the existing unused water service adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

33. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate above ground private back flow prevention device(s) (BFPD), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Director of Public Utilities and the City Engineer. BFPD's are typically located on private property, in line with the service and immediately adjacent to the right-of-way. The Public Utilities Department will not permit the required BFPDs to be located below grade or within the structure.

34. Prior to the issuance of any engineering permits, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement (EMRA) for, and prior to, proposed improvements of any kind, including utilities, landscaping, enriched paving, and electrical conduits to be installed within the public- right-of-way or public easement. All private water and sewer services will require an EMRA.

35. Prior to the issuance of any engineering permits, the Owner/Permittee shall submit public improvements (D-Sheets) and obtain approval associated with changes (realignment and abandonment) in public utilities for public records.

36. Prior to the issuance of any engineering permits, the Owner/Permittee shall submit signed letters of permission from the property owners affected by realignment of sewer main and water services.

37. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten (10) feet of any sewer and five (5) feet of any water and facilities.

PLANNING/DESIGN REQUIREMENTS:

38. The Owner/Permittee shall maintain a minimum of two 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.

39. 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.

AIRPORT REQUIREMENTS:

40. The proposed single-family residence (habitable rooms) must be sound attenuated to 45 dB CNE.

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 JUL 14 2015 and Resolution No. R-309856.

Permit Type/PTS Approval No.: SDP No. 1306241/NDP No. 1460597/VAR No. 1151185

Date of Approval: _____

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Sandra Teasley
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.

MARK NICHOLS
Owner/Permittee

By _____
Mark Nichols
Owner

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

Passed by the Council of The City of San Diego on JUL 14 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 14 2015.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By  _____, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 309856