



THE CITY OF SAN DIEGO

# REPORT TO THE PLANNING COMMISSION

**DATE ISSUED:** October 15, 2009

**REPORT NO. PC-09-079**

**ATTENTION:** Planning Commission, Agenda of October 22, 2009

**SUBJECT:** GRUBER RESIDENCE- PROJECT NO. 140248  
PROCESS TWO APPEAL

**OWNER/  
APPLICANT:** Allen and Toni Gruber (Attachment 9)  
Albert Marone, BM Studio

## SUMMARY

**Issue(s):** Should the Planning Commission approve or deny an appeal of the Staff decision to approve a Coastal Development Permit and a Neighborhood Development Permit to construct a two story 2,398 square-foot single family residence on a vacant 3,760 square-foot lot located at 3434 Jennings Street within the Peninsula Community Planning area?

### Staff Recommendations:

1. CERTIFY Negative Declaration No. 140248; and
2. DENY the appeal and uphold the City staff decision to APPROVE Coastal Development Permit No. 489096 and Neighborhood Development Permit No. 603467.

**Community Planning Group Recommendation:** On May 21, 2009, the Peninsula Community Planning Board voted to recommend approval of the project by a vote of 6-4-0, with conditions. (Attachment 11).

**Environmental Review:** Negative Declaration No. 140248 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines.

**Fiscal Impact Statement:** All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

**Code Enforcement Impact:** There are no open zoning or building code violations on the property.



**Housing Impact Statement:** The subject site is designated for low density residential with a range of 5 to 9 dwelling units per acre which would allow a maximum of one dwelling unit on the existing vacant site. The proposed project, consisting of a single-family residence would provide a net gain of one dwelling unit in the community.

## **BACKGROUND**

The vacant 3,760 square-foot lot is located at 3434 Jennings Street in the RS-1-7 zone within the Peninsula Community Planning area, Coastal Overlay zone (non Appealable), Coastal Height Limit Overlay zone, Airport Approach Overlay zone and the Federal Aviation Administration (FAA) Part 77 Notification Area. The Peninsula Community Plan designates the site as single family residential with a maximum density of 9 dwelling units per acre.

On July 17, 2009, City staff approved a Coastal Development Permit and a Neighborhood Development Permit for the construction of a 2,398 square-foot single family home and carport. A Coastal Development Permit is required for development within the coastal zone. A Neighborhood Development Permit is required for the improvements over three feet in height within the public right-of-way. The right-of-way improvements were required by staff to stabilize the end of the alley and channelize water to the storm drain in Jennings Street. The proposed project met all the code requirements and did not require any deviations.

On August 4, 2009, Charles Kleinhans appealed staff's decision to approve the project.

## **DISCUSSION**

### **Project Description:**

The project proposes to construct a two story 2,398 square-foot single family residence with a carport on a 3,760 square-foot lot. The first floor of the residence will be 1,286 square feet and the second floor is 1,112 square feet. The project proposes 146.85 square feet of hardscape where the code allows 252 square feet (60%). As part of this sites development, a City Standard full-width concrete alley and drainage improvements to the rear of the site, and a sidewalk along Jennings Street adjacent to the site shall be required.

### **General/Community Plan Analysis**

The Land Use and Community Planning Element of the General Plan implements the City of Villages Strategy within the context of San Diego's community planning program, and includes goals for balanced communities and equitable development. Specifically, the plan includes the goal of ensuring diverse and balanced neighborhoods and communities with housing available for households of all income levels, and the policy of providing a variety of housing types and sizes with varying levels of affordability in residential and village developments. The plan also established each community plan as an essential component of the Land Use Element, and relies on community plans for site-specific and use and density designations and recommendations. The 0.09-acre site, located at 3434 Jennings Street, is designated for Low Density Residential development at 5 to 9 dwelling units per acre in the Peninsula Community Plan, and would allow the construction of one dwelling unit. The proposal to construct a single residence would implement the land use designation and density of the community plan.

The Residential Element of the Peninsula Community Plan includes goals to encourage design compatible with existing residential development in all new infill housing, as well as to conserve the character of existing stable single-family neighborhoods throughout Peninsula including the very low-density character of certain neighborhoods.

The proposed project site is located in a hilly portion of the La Playa neighborhood of Peninsula. This neighborhood is characterized by large single-family homes of various ages and architectural styles, including colonial, Spanish and contemporary designs. The proposed project site would be surrounded by low-density single family residential use on all sides.

The surrounding neighborhood is characterized by single family residential development of one and two-story structures, and displays a variety of architectural styles, from traditional to contemporary. The proposed development, consisting of a two story, single-family residence with a shingled pitched-roof, prefinished siding, and wood framed doors would reflect a traditional design style that would be compatible with existing development and conserve the character of this existing single-family neighborhood.

The Urban Design Element of the General Plan is based on the guiding principles of building upon our existing communities. The core values related to urban form include a compact, efficient, and environmentally sensitive pattern of development; and the physical, social and cultural diversity of our City and its neighborhoods. The proposed project would provide a compact, efficient, and environmentally sensitive pattern of development through minimal excavation and construction of a two-story, well-articulated dwelling that would fit in architecturally with the neighborhood. Another goal of the urban design element relates to the utilization of landscape as an important aesthetic and unifying element throughout the City. The proposed project would meet this goal by incorporating extensive landscaping which would play an important role in softening the physical appearance of the proposed building and unifying the development with the other landscaped structures in the neighborhood.

The Urban Design Element of the Peninsula Community Plan contains a goal to maintain and compliment the existing scale and character of the residential areas of Peninsula. The proposed project consisting of a 2-story, single-family residence would complement the existing scale and character which is made up of an eclectic mix of one and two-story residences of varying architectural styles.

Another recommendation in this element relates to how the utilization of architectural elements including entryways, window proportions, façade texture (surface material) and finish are significant factors in ensuring that new development relates to surrounding buildings. Within the proposed project's vicinity, landscaped structures with varying roof forms featuring entryways and exterior stucco facades typify the immediate neighborhood. In this regard the proposed project would utilize both various building materials and textures such as cement, stucco, asphalt shingle roofing, and prefinished composite siding in order to be compatible with other structures in the immediate area.

A section in the Urban Design Element related to landscaping recommends that landscaping be used to add texture to blank walls, soften edges and provide a sense of pedestrian scale. The proposed project would implement this recommendation by incorporating various shrubs, grasses and trees that would serve to add natural texture to the proposed building and reduce its visual impact within the surrounding neighborhood.

## **Appeal Issues:**

The appellant, Charles Kleinhans, a neighbor adjacent to the site, appealed the project on August 4, 2009, (Attachment 6). The following general appeal issues are provided along with the City staff's response:

### ***Appeal Issue No. 1 - Legal lots- Violation of equal protection:***

**City Response:** The project was reviewed for conformance with the RS-1-7 zone and all applicable sections of the San Diego Municipal Code for single family development on a single family lot. All projects are checked to confirm they are legal lots or if they have previously conforming rights under the Municipal Code.

Responding to the Peninsula Community Planning Group and the interested parties, additional deed information/documentation was requested from the applicant and reviewed by the City for conformance to the Subdivision Map Act (SMA). Upon thorough review, the lot was determined to be a legal lot under the SMA.

No documentation has been located as to why the lots were not merged and therefore, the property is an individually owned, legal lot with full development rights.

Additionally, the Subdivision Map Act §66451.19(d) states:

(d) The failure of a local agency to comply with the requirements of this article for the merger of contiguous parcels or units of land held in common ownership shall render void and ineffective any resulting merger or recorded notice of merger and no further proceedings under the provisions of this division or a local ordinance enacted pursuant thereto shall be required for the purpose of sale, lease, or financing of those contiguous parcels or units, or any of them, until such time as the parcels or units of land have been lawfully merged by subsequent proceedings initiated by the local agency which meet the requirements of this article.

### ***Appeal Issue No. 2 - Bulk and Scale – Negative Visual Impact:***

**City Response:** The Lerner Residence is one of two adjacent properties being developed and referenced in the appeal. Both of the properties are legal lots with an area of 3,760 square feet. According to San Diego Municipal Code Section 131.0446, Table 131-04J, the maximum Floor Area Ratio (FAR) for a lot this size is 0.65. The proposed development is designed at a FAR of 0.62. The proposed development requires no deviations to the development regulations and will maintain the 30- foot height limit.

The Urban Design Element of the Peninsula Community Plan describes building scale as a quality which describes the relationship of buildings to each other and human dimension. Specific recommendations include articulating large surfaces and adding texture to reduce their apparent size; reflecting the appearance of surrounding development; controlling building bulk through the use of vertical and horizontal offsets and other architectural features, such as balconies, porches, and bay windows, which serve to break up building facades; and considering flat roofs for use as terraces. Surrounding development, in the vicinity of the proposed project is described as single-

family homes of one and two-story construction with varying architectural styles and sizes. The designs for the separate proposals would include varying roof styles and would be well articulated through the inclusion of balconies and vertical and horizontal offsets that break up buildings' facades.

Neither of the proposed developments would impact coastal views identified in the adopted community plan.

***Appeal Issue No. 3 - Drainage:***

**City Response:** The current site conditions include an unpaved alley which has potential, during storm events, to drain into the lower lots on Loma Valley Place, at the end of the alley. This project, and the adjacent Lerner Residence (a separate application, No. 140246), have been conditioned to provide full width alley improvements to City Standard including the appropriate drainage system. In addition, the Gruber Residence application has been conditioned to install a private retaining wall and private catch basin in the alley adjacent to the site, all of which will be reviewed and inspected by the City Engineer. In addition, both home sites will have drainage systems in place to control potential runoff from the improved properties to the homes below. The drainage will be channeled through to Jennings Street. The proposed development of both of the properties will offer improved drainage of the existing lots and control the potential runoff for the homes below on Loma Valley Place.

***Appeal Issue No. 4 - Engineering Issues:***

**City Response:** The construction of the proposed retaining walls and stabilizing of the slopes will be in conformance with the California Building Code and reviewed by the City Engineer. Construction and grading activities are inspected in phases to insure conformance to the approved plans and engineering specifications required by the code.

A geotechnical investigation report was prepared for the Lerner Residence project by Construction Testing & Engineering, Inc. (CTE). Based on their investigation, CTE concludes that the proposed slopes and improvements will have a factor of safety greater than 1.5 with respect to gross slope stability. In addition, the consultant opines that the proposed project will not destabilize or result in settlement of the adjacent property.

Retaining walls (permanent shoring walls) are proposed adjacent to the eastern property line. CTE indicates that if their recommendations are followed, the retaining wall will have a factor of safety of 1.5 or greater with respect to global stability. Dodd and Associates, Consulting Engineers, have reviewed the conceptual retaining wall plans and indicate that the retaining wall is structurally feasible and can be designed to limit lateral deflection to a maximum of ¼-inch. CTE indicates that construction of the retaining wall will not require offsite excavations.

The City has reviewed the geotechnical information provided by CTE and based upon that review; CTE has adequately addressed the geologic conditions potentially affecting the proposed development for environmental review. Additional geotechnical information will be required as part of the construction permit application as construction plans are developed for this project. The proposed retaining wall shall be conditioned to be designed to limit lateral deflections to less than ¼-inch in order to minimize

movement of adjacent existing improvements.

***Appeal Issue No. 5 - Projects contrary to the Peninsula Community Plan:***

**City Response:** With respect to lot size the project is being developed on a legal lot as Previously Conforming consistent with the San Diego Municipal Code Section 127.0102. The lots are allowed to maintain their existing size and configuration.

The Residential Element of the Peninsula Community Plan includes the objectives for conserving character of stable, single-family neighborhoods; preserving existing landscape and vegetation; encouraging design compatible with existing residential development; and encouraging sensitive placement of structures in steeply sloped areas. The Appellant's referenced projects do not contain steep slopes. Both the Lerner site, at 3424 Jennings St. and the Gruber site, at 3434 Jennings St. are in an area designated for low-density residential development at a range of 5 to 9 dwelling units per acre. Both development proposals would implement the objectives and recommendations of the Peninsula Community Plan for conserving the character of stable single-family neighborhoods through the construction of traditional detached housing units on individual lots. Both projects are located in the La Playa neighborhood which according to the community plan, is characterized by large single-family homes of various ages and architectural styles, including colonial, Spanish and contemporary designs. No single architectural style dominates the neighborhood.

Additionally, both development proposals utilize finish materials that are common for the neighborhood, including pre-formed siding and stucco. The community plan recommends that entryways, window proportions, façade texture (surface materials) and finish are significant factors in how well a building contributes and relates to surrounding buildings. The Gruber proposal is a more traditional design with a shingled and pitched roof, wood-framed doors and mullioned window treatment. The Lerner proposal is a contemporary design with flat roof, metal eyebrows and stucco siding and decks with metal railings. Lots on this particular block, as well as those of adjacent blocks are of varying width and length. As proposed, both development projects would conserve the established and eclectic single-family character within the La Playa neighborhood.

The proposal would also implement the guidelines for landscaping through the provision of replacement landscaping where removal of existing vegetation is proposed. The various shrubs, grasses and trees proposed would add natural texture to soften building edges.

The proposed buildings are under the allowed thirty-foot height limit in the Coastal Overlay Zone and of similar height to many other buildings in the immediate neighborhood.

***Appeal Issue No. 7: Suspended development until the Lot Merger issue is resolved.***

**City Response-** This property is an individually owned, legal lot with full development rights.

**Conclusion:**

City staff have reviewed the request for the Coastal Development Permit and the Neighborhood Development Permit for the construction of a 2,398 square-foot single family home, carport, retaining walls and public improvements and have determined that the project complies with all applicable sections of the Municipal Code, and that the required findings can be made to support the project.

**ALTERNATIVE'S**

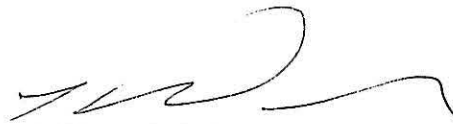
1. **CERTIFY** Negative Declaration 140248 and **Deny** the appeal, and **Approve** Coastal Development Permit No. 489096 and Neighborhood Development Permit No. 603467, **with modifications.**
2. **Approve** the appeal, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



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Mike Westlake  
Program Manager  
Development Services Department



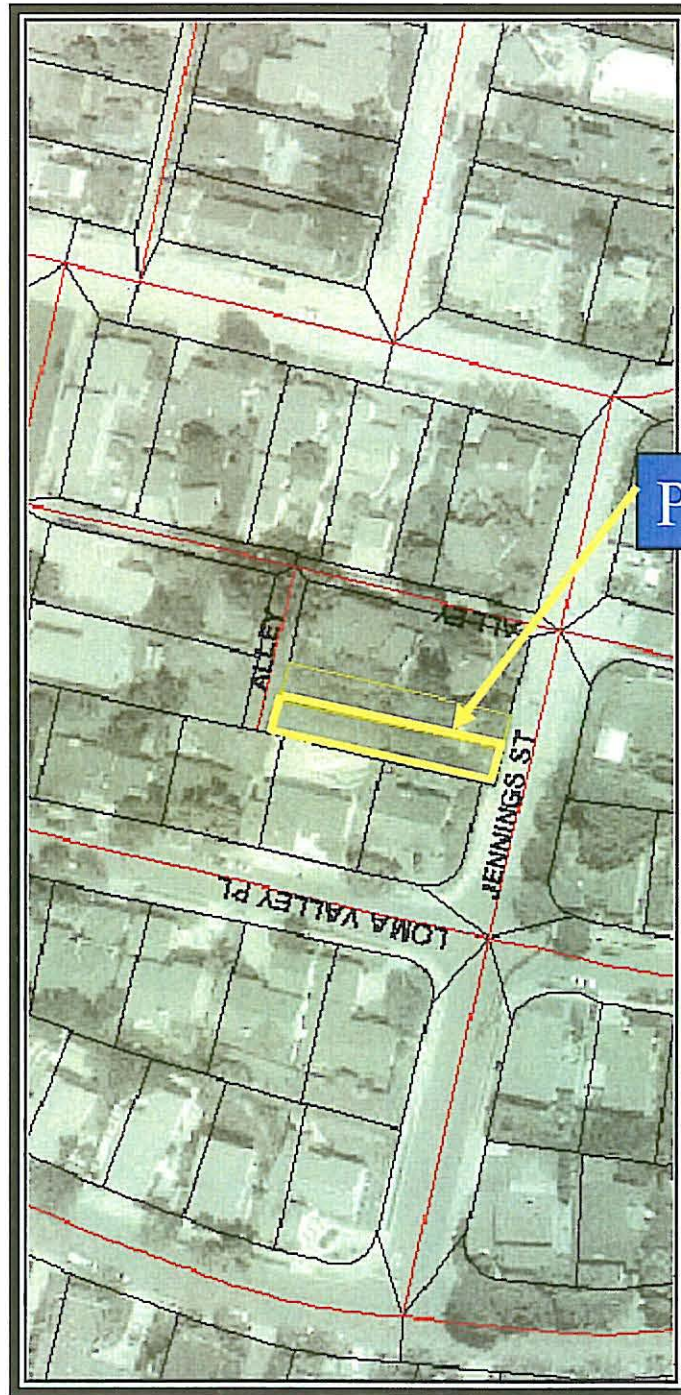
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Helene Deisher  
Development Project Manager  
Development Services Department

KGB/HMD

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Data Sheet
4. Draft Permit Resolution with Findings
5. Draft Permit with Conditions
6. Copy of Appeal
7. Draft Environmental Resolution
8. Project Plans
9. Ownership Disclosure Statement
10. Project Chronology
11. Community Planning Group Minutes



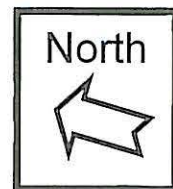
Project Site



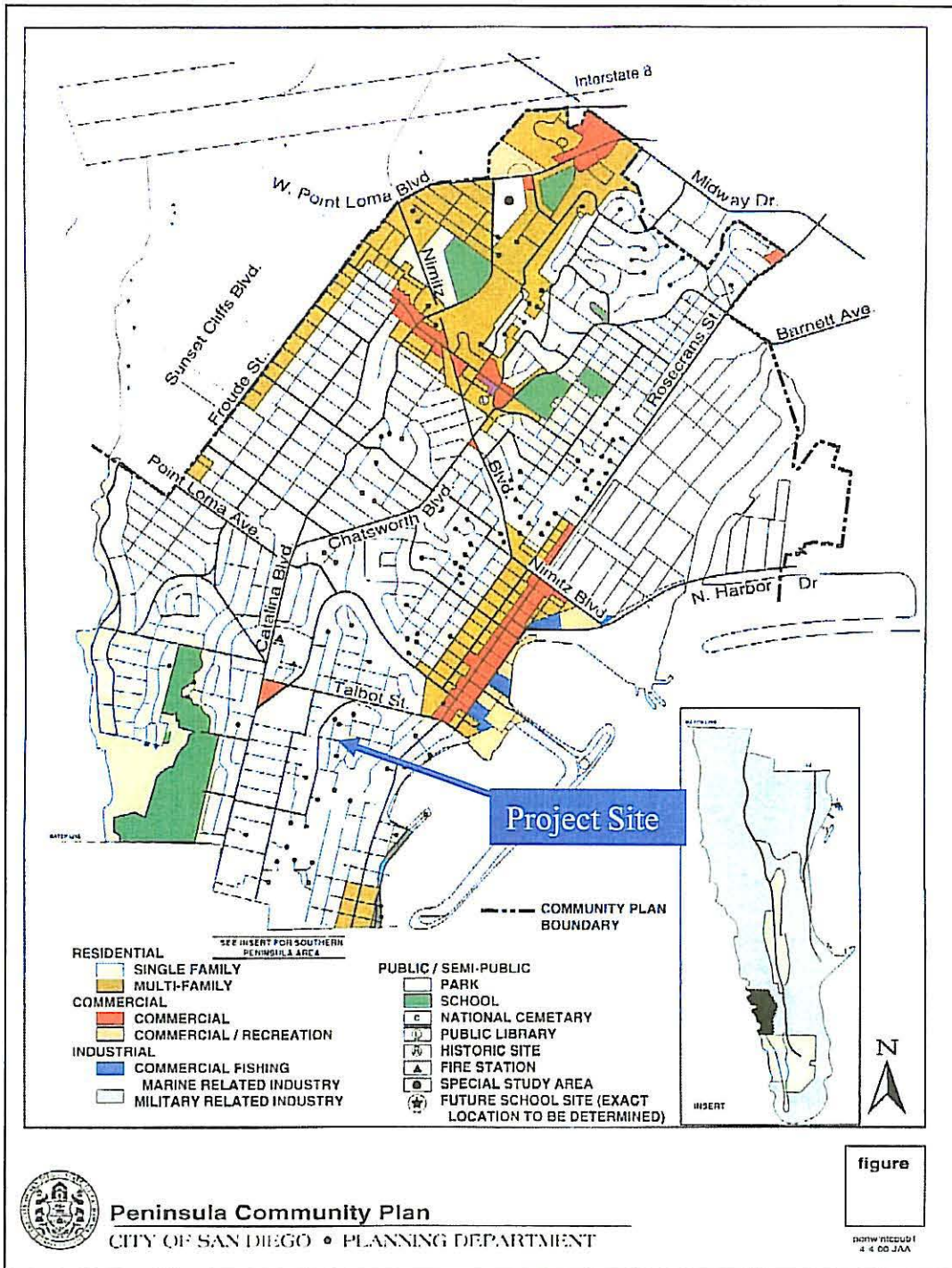
# Aerial Photo

GRUBER RESIDENCE - PROJECT NO. 140248

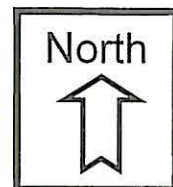
3434 JENNINGS STREET







**Peninsula Community Planning Map**  
**GRUBER RESIDENCE - PROJECT NO. 140248**

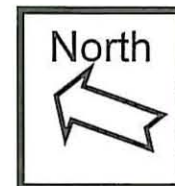




## Project Location Map

**GRUBER RESIDENCE. - PROJECT NO. 140248**

**3434 Jennings St.**



PLANNING COMMISSION RESOLUTION NO. XXXX  
COASTAL DEVELOPMENT PERMIT NO. 489096  
NEIGHBORHOOD DEVELOPMENT PERMIT NO. 603467  
**GRUBER RESIDENCE PROJECT NO. 140248**

WHEREAS, ALLEN M. GRUBER AND TONI-DIANE DONNET, IN THEIR CAPACITY AS TRUSTEES OF THE GRUBER-DONNET FAMILY TRUST, DATED AUGUST 15, 1989 AS AMENDED, Owner/Permittee, filed an application with the City of San Diego for a permit to construct a 2,398 square-foot, single family residence with an access bridge to a detached accessory structure containing an office, bathroom, exercise space, two-car, car port, roof deck and required private improvements in the alley right-of-way to provide legal access to the property which meets City Standards. Right-of-way improvements include full width alley improvements; a retaining wall; guard posts and barricades as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No's. 489096 and 603467, on portions of a 3,760 square foot site;

WHEREAS, the project site is located at 3434 Jennings Street in the RS-1-7 and coastal overlay zones of the Peninsula Community Plan;

WHEREAS, the project site is legally described as Lot 38 in Block 15 of Roseville Heights, in the City of San Diego, Map No. 423, filed December 1, 1887;

WHEREAS, on July 17, 2009, the Development Services Department of the City of San Diego considered and approved Coastal Development Permit No. 489096 and Neighborhood Development Permit No. 603467 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on August 4, 2009, Charles Kleinhans appealed the project to the Planning Commission

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated October 22, 2009.

FINDINGS:

**Coastal Development Permit - Section 126.0708**

**1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan; and**

The proposed project is to construct 2,398 square-foot single family residence on a vacant 0.31 acre site located at 3434 Jennings Street with an access bridge to a detached accessory structure containing an office, bathroom, exercise space, two-car, car port, a roof deck, and required private improvements in the alley right-of-way to provide legal access to the property which meets City Standards. Right of way improvements include full width alley improvements; a retaining wall; guard posts and barricades.

There is no development proposed for this site which lies within a public access way identified in a Local Coastal Program land use plan. The proposed development site is approximately one half mile from the ocean and does not have an existing physical access way or proposed public access way to or along the ocean. The proposed single-family development will not encroach upon any existing physical access way that is legally used by the public or any proposed public access way identified in a Local Coastal Program land use plan. The proposed project has been designed in conformance with development regulations of the RS-1-7 zone, which include setbacks, height and floor area ratio. There are no public views on Jennings Street as identified in the Peninsula Community Plan and Local Coastal Program. Therefore, the proposed project will not interfere with public views to and along the ocean and other scenic coastal areas as identified in the Local Coastal Program.

**2. The proposed coastal development will not adversely affect environmentally sensitive lands.**

The proposed project is to construct 2,398 square-foot single family residence on a vacant 0.31 acre site located at 3434 Jennings Street with an access bridge to a detached accessory structure containing an office, bathroom, exercise space, two-car, car port, roof deck and required private improvements in the alley right-of-way to provide legal access to the property which meets City Standards. Right of way improvements include full width alley improvements; a retaining wall; guard posts and barricades. The site does not contain steep slopes as defined by the San Diego Municipal Code. Therefore, the development will not encroach into steep hillsides. The project site is not within or adjacent to the City's Multi-Habitat Planning Area (MHPA). The property contains non-native vegetation and disturbed habitat. A Negative Declaration, Project No. 140248, has been prepared for this project in accordance with State of California Environmental Quality Act (CEAQ) guidelines. The proposed project would not impact any sensitive biological resources and no mitigation is required. The proposed single-family residence and associated improvements will have no adverse affect on environmentally sensitive lands.

**3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program; and**

The proposed project is to construct 2,398 square-foot single family residence on a vacant 0.31 acre site located at 3434 Jennings Street with an access bridge to a detached accessory structure containing an office, bathroom, exercise space, two-car, car port, roof deck and required private improvements in the alley right-of-way to provide legal access to the property which meets City Standards. Right of way improvements include full width alley improvements; a retaining wall; guard posts and barricades. The project is located in an area designated as single family, low residential land use at 9 dwelling units per acre within the Peninsula Community Plan and Local Coastal Program land use plan. The proposed development is consistent with density and designated land use. The proposed project has been designed in conformance with regulations of the RS-1-7 zone, Coastal Overlay and Coastal Height Limitation zones and development standards in effect for this site. The proposed project conforms to the certified Local Coastal Program land use plan and complies with all the regulations of the certified Implementation Program.

**4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.**

The proposed project is to construct 2,398 square-foot single family residence on a vacant 0.31 acre site located at 3434 Jennings Street with an access bridge to a detached accessory structure containing an office, bathroom, exercise space, two-car, car port, roof deck and required private improvements in the alley right-of-way to provide legal access to the property which meets City Standards. The property is approximately less than a half-a-mile from the San Diego Bay. The proposed project is not located between the first public roadway and the sea or the shoreline of any body of water located with the Coastal Overlay Zone. There is no identified public access and public recreation on this private property. The proposed coastal development conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

**Neighborhood Development Permit - Section 126.0404**

**A. Findings for all Neighborhood Development Permits**

**1. The proposed development will not adversely affect the applicable land use plan.**

The proposed project is to construct 2,398 square-foot single family residence on a vacant 0.31 acre site located at 3434 Jennings Street with an access bridge to a detached accessory structure containing an office, bathroom, exercise space, two-car, car port, roof deck and required private improvements in the alley right-of-way to provide legal access to the property which meets City Standards. The project is located with in the Peninsula Community Plan and Local Coastal Program Land Use Plan and is designated as low density residential development. The proposed project to construct a single family residence on a vacant 0.31 acre site is in conformance with the land use designation. Therefore, the proposed development will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.**

The proposed project is to construct 2,398 square-foot single family residence on a vacant 0.31 acre site located at 3434 Jennings Street with an access bridge to a detached accessory structure containing an office, bathroom, exercise space, two-car, car port, roof deck and required private improvements in the alley right-of-way to provide legal access to the property which meets City Standards. The project has been designed to comply with all the applicable development regulations. The permit controlling the development and continued use of the development proposed for this site contains conditions addressing project compliance with the City's regulations and other regional, state and federal regulations to prevent detrimental impacts to the health, safety, and general welfare. All Building, Fire, Plumbing, Electrical, Mechanical Code and the City regulations governing the construction and continued operation of the development apply to this site. The proposed project with conditions of the permit would not be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the applicable regulations of the Land Development Code.**

The proposed project is to construct 2,398 square-foot single family residence on a vacant 0.31 acre site located at 3434 Jennings Street with an access bridge to a detached accessory structure containing an office, bathroom, exercise space, two-car, car port, roof deck and required private improvements in the alley right-of-way to provide legal access to the property which meets City Standards. The project complies with the development regulations of the RS-1-7 zone, Coastal Overlay and Coastal Height Limitation zones, Peninsula Community Plan and Local Coastal Program. Specific conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into Coastal Development Permit No. 489096 and Neighborhood Development Permit No. 603467. Development of the property shall meet all the requirements of the regulations and development criteria and requires no deviations from the development code. Therefore, the proposed project will comply with the applicable regulations of the Land Development Code.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Development Permit No. 489096 and Neighborhood Development Permit No. 603467 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, of exhibits and the terms and conditions as set forth in Permit No's. 489096 and 603467, a copy of which is attached hereto and made a part hereof.

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Helene Deisher  
Development Project Manager  
Development Services

Adopted on: October 22, 2009

Job Order No. 42-8621

cc: Legislative Recorder, Development Services Department

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

**WHEN RECORDED MAIL TO**  
**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
**MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-8621

**COASTAL DEVELOPMENT PERMIT NO. 489096**  
**NEIGHBORHOOD DEVELOPMENT PERMIT NO. 603467**  
**GRUBER RESIDENCE PROJECT NO. 140248**  
**PLANNING COMMISSION**

This Coastal Development Permit No. 489096 and Neighborhood Development Permit No. 603467 are granted by the Planning Commission of the City of San Diego to Allen M. Gruber and Toni-Diane Donnet, in their capacity as Trustees of The Gruber-Donnet Family Trust, dated August 15, 1989 as amended, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0701 and 126.0401. The 3,760 square foot site is located at 3434 Jennings Street in the RS-1-7 zone within the Peninsula Community Plan. The project site is legally described as Lot 38 in Block 15 of Roseville Heights, in the City of San Diego, Map No. 423, filed December 1, 1887.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a 2,398 square-foot single family residence with an access bridge to a detached accessory structure containing an office, bathroom, exercise space, two-car, car port and roof deck on a vacant lot, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated October 22, 2009, on file in the Development Services Department.

The project shall include:

- a. Construct a 2,398 square-foot single family residence with an access bridge to a detached accessory structure containing an office, bathroom, exercise space, two-car carport and roof deck;
- b. Alley improvements;
- c. Off-street parking;
- d. Retaining walls as shown in Exhibit A and as satisfactory to the City Engineer; and

- e. Accessory improvements determined by the Development Services Department 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. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect 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 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. 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 Development Services Department.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/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 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 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. Construction 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" 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 applicant 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 applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant 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, applicant 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 applicant 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 applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

11. Prior to issuance of grading, the Owner/Permittee shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration (FAA).

#### **ENGINEERING REQUIREMENTS:**

12. All excavated material listed to be exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2003 edition and Regional Supplement Amendments adopted by Regional Standards Committee.

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

14. Prior to foundation inspection, the Owner/Permittee shall submit a building pad certification signed by a Registered Civil Engineer or a Licensed Land Surveyor, certifying that the pad elevation based on USGS datum is consistent with Exhibit 'A', satisfactory to the City Engineer.
15. Prior to the issuance of any construction permits, the Owner/Permittee shall dedicate an additional 2.75 feet on Jennings Street to provide a 10 foot curb-to-property-line distance, satisfactory to the City Engineer.
16. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the Owner/Permittee to provide the right-of-way free and clear of all encumbrances and prior easements. The Owner/Permittee must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.
17. Prior to the issuance of any construction permits, the Owner/Permittee shall construct a current City Standard full-width concrete alley, in the alley adjacent to the site, satisfactory to the City Engineer.
18. Prior to the issuance of any construction permits, the Owner/Permittee shall construct a current City Standard sidewalk, adjacent to the site on Jennings Street.
19. Prior to the issuance of any construction permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the curb outlet in the Jennings Street Right-of-Way.
20. Prior to the issuance of any construction permit, the Owner/Permittee applicant 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 surface drainage entering into the property from the alley Right-of-Way.
21. Prior to the issuance of any construction permit, the Owner/Permittee shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.
22. Prior to the issuance of any construction permit, 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.
23. Prior to the issuance of any construction permit, 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.
24. Prior to the issuance of any construction permits, the Owner/Permittee shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the private retaining wall and private catch basin in the alley adjacent to the site.

**PLANNING/DESIGN REQUIREMENTS:**

25. The accessory structure, located toward the rear of the property adjacent to the alley, will not be used for living or sleeping purposes.
26. The accessory structure, located toward the rear of the property adjacent to the alley, shall not be sold or conveyed separately.
27. The spiral staircase shall not encroach into the required side setback.
28. No retaining walls over three feet in height, measured in accordance with San Diego Municipal Code Section 113.0270(b), shall be allowed within the required front setback.
29. No retaining walls over six feet in height, measured in accordance with San Diego Municipal Code Section 113.0270(b), shall be allowed within the required side or rear setbacks.
30. No fewer than two 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 Development Services Department.
31. 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.
32. 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.

**GEOLOGY REQUIREMENTS:**

33. Prior to the issuance of any construction permits, the Owner/Permittee shall provide additional geotechnical information for the review and approval of the City Geologist, satisfactory to the City Geologist and Development Services Department.

**WASTEWATER REQUIREMENTS:**

34. The Owner/Permittee shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego Sewer Design Guide. Proposed facilities that do not meet the current standards shall be private or redesigned.
35. 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.

**WATER REQUIREMENTS:**

36. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway, and the removal of all existing unused services, within the right-of-way adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.

37. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including water services and meters, shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.

38. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Public water facilities, and associated easements, as shown on approved Exhibit "A" shall be modified at final engineering to comply with standards.

**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 §66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on October 22, 2009 by Resolution No. XXX.

Permit Type/PTS Approval No.: CDP No. 489096

NDP No. 603467

Date of Approval:

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

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Helene Deisher  
TITLE: Development Project Manager

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

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**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.

The Gruber-Donnet Family Trust, dated  
August 15, 1989 as amended  
Owner/Permittee

By \_\_\_\_\_  
Allen M. Gruber, Trustee of the The  
Gruber-Donnet Family Trust, dated  
August 15, 1989 as amended

By \_\_\_\_\_  
Toni-Diane Donnet, Trustee of the The  
Gruber-Donnet Family Trust, dated  
August 15, 1989 as amended

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