

(R-98-297)

RESOLUTION NUMBER R- 289163

ADOPTED ON SEP 09 1997

WHEREAS, San Diego Housing Commission, Owner/Permittee, submitted an application to Development Services for a Coastal Development Permit for the street vacation of Girard Avenue (formerly Fay Avenue) described as Lots 3 through 9 and portions of Lots 1, 2, 10, 11 and 12, Miramar Terrace Map 1750 (portion of Pueblo Lot 1262), in the R1-20000, R-600, R-3000 and R-1000 Zone, in the City of San Diego, County of San Diego, State of California; and

WHEREAS, on August 29, 1996, the Planning Commission of The City of San Diego considered Coastal Development Permit No. 96-0176 pursuant to San Diego Municipal Code section 101.0510 and recommended that the City Council adopt the written findings and approve the permit; and

WHEREAS, the matter was set for public hearing on September 9, 1997, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Coastal Development Permit No. 96-0176:

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A. THE PROPOSED DEVELOPMENT WILL NOT ENCROACH UPON ANY EXISTING PHYSICAL ACCESSWAY LEGALLY UTILIZED BY THE PUBLIC OR ANY PROPOSED PUBLIC ACCESSWAY IDENTIFIED IN AN ADOPTED LCP LAND USE PLAN; NOR WILL IT OBSTRUCT VIEWS TO AND ALONG THE OCEAN AND OTHER SCENIC COASTAL AREAS FROM PUBLIC VANTAGE POINTS.

The rights-of-way proposed for vacation are no longer required for street purposes as a result of the evaluation through the Fay Avenue Study and Adoption of the Fay Avenue Extension Precise Plan which eliminated extension of Fay Avenue from the circulation element of the community plan.

The Transportation Element of the community plan shows the continuation of the Fay Avenue bike path as a Class III bikeway along existing streets.

B. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT MARINE RESOURCES, ENVIRONMENTALLY SENSITIVE AREAS, OR ARCHAEOLOGICAL OR PALEONTOLOGICAL RESOURCES.

An environmental exemption was prepared for this proposal and therefore did not identify any significant environmental impacts occurring as a result of the proposed vacation of the street, including adverse impacts to environmentally sensitive areas, habitats, archaeological or paleontological resources.

C. THE PROPOSED DEVELOPMENT WILL COMPLY WITH THE REQUIREMENTS RELATED TO BIOLOGICALLY SENSITIVE LANDS AND SIGNIFICANT PREHISTORIC AND HISTORIC RESOURCES AS SET FORTH IN THE RESOURCE PROTECTION ORDINANCE, CHAPTER X, SECTION 101.0462 OF THE SAN DIEGO MUNICIPAL CODE, UNLESS BY THE TERMS OF THE RESOURCE PROTECTION ORDINANCE, IT IS EXEMPTED THEREFROM.

This project is located within the coastal zone and is exempted from the requirements of the Resource Protection Ordinance, Chapter X, Section 101.0462 of the San Diego Municipal Code because there will be no physical change to the subject site. Therefore, the required findings can be made.

D. THE PROPOSED DEVELOPMENT WILL NOT ADVERSELY AFFECT RECREATIONAL OR VISITOR-SERVING FACILITIES OR COASTAL SCENIC RESOURCES.

No coastal scenic resources or recreational or visitor-servicing facilities presently exist or were identified for the area adjacent to and immediately surrounding the subject site. Therefore no mitigation would be required and no adverse impacts would occur as a result of project implementation.

E. THE PROPOSED DEVELOPMENT WILL BE SITED AND DESIGNED TO PREVENT ADVERSE IMPACTS TO ENVIRONMENTALLY SENSITIVE HABITATS AND SCENIC RESOURCES LOCATED IN ADJACENT PARKS AND RECREATION AREAS, AND WILL PROVIDE ADEQUATE BUFFER AREAS TO PROTECT SUCH RESOURCES.

There will be no impacts to the adjacent golf course because there is no development proposed with this request.

F. THE PROPOSED DEVELOPMENT WILL MINIMIZE THE ALTERATIONS OF NATURAL LANDFORMS AND WILL NOT RESULT IN UNDUE RISKS FROM GEOLOGIC AND EROSIONAL FORCES AND/OR FLOOD AND FIRE HAZARDS.

There will be no alteration to the existing property. The environmental exemption prepared for this vacation concluded that no mitigation measures would be necessary to incorporate into coastal development permit to reduce impacts associated with geologic and erosional forces.

G. THE PROPOSED DEVELOPMENT WILL BE VISUALLY COMPATIBLE WITH THE CHARACTER OF SURROUNDING AREAS, AND WHERE FEASIBLE, WILL RESTORE AND ENHANCE VISUAL QUALITY IN VISUALLY DEGRADED AREAS.

This request is compatible with the character of surrounding areas, and any future development will be required to be designed so to be compatible with the character of the surrounding areas.

H. THE PROPOSED DEVELOPMENT WILL CONFORM WITH THE GENERAL PLAN, THE LOCAL COASTAL PROGRAM, AND ANY OTHER APPLICABLE ADOPTED PLANS AND PROGRAMS. ✓

The project will conform with the General Plan, the Local Coastal Program, the Fay Avenue Precise Plan and the Fay Avenue Plan. As a condition of approval of this project, the following language has been placed in the permit "prior to issuance of building permits for future development of the subject site, the permittee shall obtain a Coastal Development Permit or any other discretionary permit required by regulations in place at the time of development."

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

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Coastal Development Permit No. 96-0176 is hereby granted to San Diego Housing Commission, under the terms and conditions set forth in the permit attached hereto and made a

part hereof.

APPROVED: CASEY GWINN, City Attorney

By Prescilla Dugard  
Prescilla Dugard  
Deputy City Attorney

PD:cdk  
09/11/97  
Or.Dept:Clerk  
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Form=permitr.frm

RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES

AND WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE /

COASTAL DEVELOPMENT PERMIT NO. 96-0176  
FAY AVENUE STREET VACATION  
CITY COUNCIL

This Coastal Development Permit for Street Vacation of Fay Avenue is granted by the City Council of the City of San Diego to SAN DIEGO HOUSING COMMISSION, a Public Agency, Owner/Permittee, pursuant to Section 105.0201 of the Municipal Code of the City of San Diego.

1. Permission is hereby granted to Owner/Permittee to vacate portions of the dedicated street of Girard Avenue described as Lots 3, through 9 and portions of Lots 1, 2, 10, 11 and 12, Miramar Terrace Map 1750 (portion of Pueblo Lot 1262), in the R1-20000, R-600, R-3000 and R-1000 Zone.
2. The facility shall consist of the following:
  - a. The vacation of approximately 1.73 areas of unimproved right-of-way of Fay Avenue;
3. No permit shall be granted nor shall any activity authorized by this permit be conducted on the premises until:
  - a. The Permittee signs and returns the permit to Development Services; and
  - b. The Coastal Development Permit is recorded in the office of the County Recorder.
4. The property included within this coastal development shall be used only for the purposes and under the terms and conditions set forth in this permit unless authorized by the Development Services Director or the permit has been revoked by the City of San Diego.
5. This Coastal Development Permit may be cancelled or revoked if there is a material breach or default in any of the conditions of this permit. Cancellation or revocation may be instituted by the City of San Diego or Permittee.

6. This Coastal Development Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

7. Prior to issuance of building permits for future development of the subject site, the permittee shall obtain a Coastal Development Permit or any other discretionary permit required by regulations in place at the time of development.

8. Unless appealed this Coastal Development Permit shall become effective on the eleventh day following the decision of the City Council.

9. Unless appealed this Coastal Development Permit shall become effective on the eleventh working day following receipt by the Coastal Commission of the Notice of Final Action. This condition shall be included in all permits appealable to the State Coastal Commission.

10. This Coastal Development Permit must be utilized within 36 months after the effective date. Failure to utilize the permit within 36 months will automatically void the permit unless an extension of time has been granted as set forth in Section 105.0216 of the Municipal Code.

11. 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 the event that a challenge pertaining to future growth management requirements is found by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, the Development Services Director shall have the right, but not the obligation, to review this Permit to confirm that the purpose and intent of the original approval will be maintained.

12. The issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et. seq.).

APPROVED by the City Council of the City of San Diego on September 9, 1997, by Resolution No. R-289163.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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

**SAN DIEGO HOUSING COMMISSION,**  
a Public Agency, Owner/Permittee

By \_\_\_\_\_

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

9/23/97