

RESOLUTION NUMBER R-300357

ADOPTED ON APRIL 19, 2005

WHEREAS, Ralph E. and Carol Van De Moere, Owner/Applicant and La Jolla Soledad West, Inc., Owner, filed an application with the City of San Diego for a Coastal Development Permit No. 85142, Planned Development Permit No. 85143, Easement Abandonment No. 85144 and Lot Line Adjustment No. 85145 to adjust the common lot line between Lot 61, Muirlands West Unit No. 2, Map No. 5701 and Parcel 3, Parcel Map No. 17214 (lying within the boundaries of Planned Residential Development Permit No. 11) and abandon the open space easement on the 970.8 square-feet being transferred, known as the Van de Moere Residence, located at 6876 Avenida Andorra, and legally described as Lot 61, Muirlands West Unit No. 2, Map No. 5701 and Parcel 3, Parcel Map 17214, , in the La Jolla Community Plan area, in the RS-1-2 zone; and

WHEREAS, on January 27, 2005, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 85142. Planned Development Permit No. 85143, Easement Abandonment No. 85144 and Lot Line Adjustment No. 85145, and pursuant to Resolution No. 3465-PC voted to recommend City Council approval of the permits; and

WHEREAS, the matter was set for public hearing on April 19, 2005, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. 85142, Planned Development Permit No. 85143, Easement Abandonment No. 85144 and Lot Line Adjustment No. 85145:

A. 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 access-way 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. The property owner of the site addressed as 6876 Avenida Andorra constructed accessory improvements to the existing single-family residence onto the lower landscaped slopes of the adjoining parcel of land owned in common by a Homeowner's Association and encumbered by an open space easement as a portion of the project required overall open space. Both lots subject to this requested lot-line adjustment map are not used by the public, or proposed to be used, by the public as a physical access-way or are legally used by the public currently as identified in the La Jolla/La Jolla Shores Local Coastal Program land use plan. The proposed lot-line adjustment map will preserve the remaining sloped and landscaped area as project open space and the improvements constructed on the adjoining parcel are located within the rear yard and not within a public view area and the approval of this request 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.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The requested lot-line adjustment between two adjoining properties at 6876 Avenida Andorra and the abandonment of an open space easement on the 970.8 square-feet of area, is not identified as environmentally sensitive lands and this coastal development will not therefore, adversely affect 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. The two adjoining properties requesting a lot-line adjustment of an area of 970.8 square-feet and the abandonment of the open space easement encumbering it, are within fully developed subdivisions improved with public streets and sidewalks and the residential development complies with the underlying zoning and land use identified in the General Plan, La Jolla Community Plan and the coastal development requested is in conformity with the certified La Jolla/La Jolla Shores Local Coastal Program land use plan and further complies with all 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 subject properties requesting a lot-line adjustment and abandonment of an open space easement on a 970.8 square-foot area of adjoining land at 6876 Avenida Andorra on the slopes of Mt. Soledad within the La Jolla Community Plan area and is not between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone. Additionally, the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. There are no public parks or recreational areas in the vicinity.

B. PLANNED DEVELOPMENT PERMIT - SECTION 126.0604

1. The proposed development will not adversely affect the applicable land use plan. Two adjoining properties at 6876 Avenida Andorra are proposing the lot-line adjustment of

an area of 970.8 square-feet and to remove the open space easement encumbering the property. The 970.8 square-feet of land area currently are within the boundaries of a previously approved Planned Residential Development No. 11 and is a portion of the overall required project open space maintained by the development. The site receiving the 970.8 square-feet of area is subdivided and improved with a single-family residence. Both sites have been developed in accord with the adopted City of San Diego General Plan, the La Jolla Community Plan and the certified La Jolla/La Jolla Shores Local Coastal Program and this proposed lot-line adjustment will not adversely affect the applicable land use plan(s).

2. The proposed development will not be detrimental to the public health, safety, and welfare. The lot-line adjustment of a 970.8 square-foot area of land encumbered by an open space easement upon which accessory improvements to an existing single-family residence on the adjoining lot has encroached, will not be detrimental to the public health, safety, and welfare. Both adjoining lots are developed and the open space easement is not City-wide open space but project required and the resultant completion of the entitlements will not adversely affect the adjoining property owners who support the request.

3. The proposed development will comply with the regulations of the Land Development Code. The requested lot-line adjustment involves the transfer of a 970.8 square-foot of area currently within an open space and landscaped parcel which is a portion of the open space required of this Planned Residential Development. The Mt. Soledad West PRD No. 11, was approved with an excess number of acres of required usable and total open space and the subject open space lot was previously and similarly adjusted with another adjacent property years ago. The property receiving the 970.8 square-feet of area already meets the minimum lot area required and will be enlarged by this action. The applications requested to accomplish this

action have been reviewed with the changes proposed and it has been determined that this proposed development will comply with the regulations of the Land Development Code.

4. The proposed development, when considered as a whole, will be beneficial to the community. The 970.8 square-feet of area being transferred in ownership through a lot-line adjustment and requiring the abandonment of an open space easement on this portion of land, lies within the common adjoining rear yard areas out of public view and is requested due to the encroachment of private improvements onto the open space lot. The property being transferred is a portion of a landscaped and manufactured slope maintained as open space by the Homeowner's Association of the Mt. Soledad West PRD No. 11. The improvements encroaching into this area are an accessory pool, spa, landscaping and fencing for the existing single-family residence on the site and is a visual enhancement of the area. The proposed development, considered as a whole, is beneficial to the community in resolving a boundary conflict amicably between the two adjoining owners and assuring maintenance of the area.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. No deviations are proposed or requested in order to transfer the 970.8 square-feet of land area as proposed through this lot-line adjustment map and abandonment of a portion of an open space easement. This permit is required due to the existing Planned Residential Development No. 11 controlling the development and use of the land area being transferred and the Planned Development Permit Ordinance being the successor implement for the review of amendments.

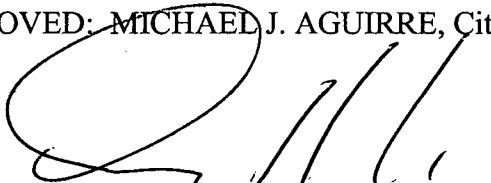
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Coastal Development Permit No. 85142, Planned Development Permit No. 85143, is granted to Ralph E. and Carol Van De Moere and La Jolla Soledad West, Inc., Owners, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

BE IT FURTHER RESOLVED, that Lot Line Adjustment No. 85145 to adjust the common lot line between Lot 61, Muirlands West Unit No. 2, Map No. 5701 and Parcel 3, Parcel Map No. 17214 (lying within the boundaries of Planned Residential Development Permit No. 11) and abandon the open space easement on the 970.8 square-feet being transferred, known as the Van de Moere Residence, located at 6876 Avenida Andorra, and legally described as Lot 61, Muirlands West Unit No. 2, Map No. 5701, in the La Jolla Community Plan area, in the RS-1-2 zone is approved.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Douglas K. Humphreys
Deputy City Attorney

DKH:ai
03/28/05
Or.Dept:DSD
R-2005-1007
MMS #1672

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

WHEN RECORDED MAIL TO

**CITY CLERK
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-2572

**COASTAL DEVELOPMENT PERMIT NO. 85142
PLANNED DEVELOPMENT PERMIT NO. 85143
LOT LINE ADJUSTMENT NO. 85145
VAN DE MOERE RESIDENCE – PROJECT NO. 31364
CITY COUNCIL**

This Coastal Development Permit No. 85142, Planned Development Permit No. 85143, Easement Abandonment No. 85144 and Lot Line Adjustment No. 85145, is granted by the City Council of the City of San Diego to RALPH E. AND CAROL J. VAN DE MOERE, a married couple, Owner/Permittee and LA JOLLA SOLEDAD WEST, INC., a California Corporation, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 126.0701, 126.0601, 125.0301 and 125.1001. The 1.412 site is located at 6876 Avenida Andorra in the RS-1-2 zone of the La Jolla Community Plan. The project site is legally described as Lot 61, Muirlands West Unit No. 2, Map No. 5701 and Parcel 3, Parcel Map 17214.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to do a lot-line adjustment between an open space lot within the boundaries of a Planned Residential Development and an adjacent lot to resolve an encroachment into the open space and to abandon the easement on this 970.8 square-foot area, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated January 27, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. The deletion of an open space easement on 970.8 square-foot portion of an open space lot within Planned Residential Development Permit No. 11 and the transfer of this area to the ownership of the adjoining property owner at 6876 Avenida Andorra through the recordation of a Lot-Line Adjustment Map; and
- b. The maintenance of Planned Residential Development Permit No. 11 (La Jolla Soledad West) under the authority and obligations of previously approved permits; and

- c. Accessory improvements determined by the City Manager 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. Processing of the Lot Line Adjustment Map and Easement Abandonment Drawings must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No processing of the Lot Line Adjustment Map and Easement Abandonment Drawings shall commence or be approved for any entitlements described herein until:
 - a. The 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 City Manager.
4. This 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.
5. The utilization and 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 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. Before issuance of any Lot Line Adjustment Map or Easement Abandonment Drawings, complete maps and drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

8. 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.

9. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action following all appeals.

ENGINEERING REQUIREMENTS:

10. The Lot-Line Adjustment, Approval No. 85144, shall be recorded to effectuate the entitlements contained within this permit document.

PLANNING/DESIGN REQUIREMENTS:

11. All parking required for Planned Residential Development Permit No. 11 and subsequent Amendments are not altered by the action on this permit and shall be maintained as required. The single-family residence at 6876 Avenida Andorra likewise, shall maintain all existing off-street parking as previously required. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

12. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

13. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

14. No building additions shall be permitted unless approved by the City Manager.

15. 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.

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 section 66020.

APPROVED by the City Council of the City of San Diego on April 19, 2005, Resolution No. 300357.

ALL-PURPOSE CERTIFICATE

Coastal Development Permit No. 85142, Lot-line
Adjustment No. 85145 and Planned Development Permit
No. 85143.
Date of Approval: April 19, 2005

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

Robert Korch, Development Project Manager

On _____, 2005, before me, Stacie L. Maxwell, (Notary Public), personally appeared Robert Korch, Development Project Manager of the Development Services Department of the City of San Diego, personally known to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Signature _____
Stacie L. Maxwell

ALL-PURPOSE CERTIFICATE

OWNER(S)/PERMITTEE(S) SIGNATURE/NOTARIZATION:

THE UNDERSIGNED OWNER(S)/PERMITTEE(S), BY EXECUTION THEREOF, AGREES TO EACH AND EVERY CONDITION OF THIS PERMIT AND PROMISES TO PERFORM EACH AND EVERY OBLIGATION OF OWNER(S)/PERMITTEE(S) THEREUNDER.

Signed _____ Signed _____
Typed Name Typed Name

STATE OF _____
COUNTY OF _____

On _____ before me, _____ (Name of Notary Public) personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____