

303137
10/30

RESOLUTION NUMBER R- 303137

DATE OF FINAL PASSAGE OCT 30 2007

WHEREAS, Irwin M. Irwin and Nancy N. Frank, Individuals, Owners/Permittees, filed an application with the City of San Diego for a coastal development permit to vacate a portion of Exchange Place adjacent to an existing single-family residence for the project to be known as the Franks Right-of-Way Vacation project, located at 7767 Exchange Place, and legally described as Lot 9, Block 47, La Jolla Park, Map No. 352, in the La Jolla Community Plan area, in the RS-1-7zone, Coastal Overlay Zone (non-appealable), and the Coastal Height Limitation Overlay Zone; and

WHEREAS, this project is categorically exempt from the California Environmental Quality Act [CEQA] pursuant to State CEQA section 15301; 15304 and/or 15305 and

WHEREAS, under Charter section 280(a)(2) this resolution/ordinance is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on OCT 30 2007, 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 [CDP] No. 414404:

A. COASTAL DEVELOPMENT PERMIT –SAN DIEGO MUNICIPAL CODE
[SDMC] 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. The 5,649 square-foot project site, is currently developed with an existing single family residence. The development proposes to vacate a portion of public right-of-way along Exchange Place and is located approximately one half mile from the coastline. The proposed development is contained within the existing legal lot area, which will not encroach upon any existing or proposed physical access to the coast. The project site is located in an area identified as a public view corridor as identified within the La Jolla/La Jolla Shores Local Coastal Program. However, the portion of public right-of-way is located within the front setback area of an existing single family residence and will not negatively impact the public view corridor. The project site is situated along Exchange Place, within a developed residential and commercial area. The area of the proposed vacation is currently developed with a site wall and improved lawn area of an existing residence, no further development is proposed.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The 5,649 square-foot project site is currently developed, and based on City Staff's site visit the project site is fully disturbed where the proposed vacation area is located and the site does not contain environmentally sensitive lands. The environmental review, determined that the project would not have a significant environmental effect on environmentally sensitive lands and was found to be exempt from environmental review under CEQA Guidelines. The project site has been fully disturbed and does not contain any 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 proposed street vacation, is located adjacent to a site which is designated as Medium Density Residential (15-30 du/ac) in the La Jolla Community Plan. The proposed street vacation area would become part of the adjacent single family lot, which conforms with this land use designation and density. The proposed vacation to Exchange Place would narrow the future public right-of-way to approximately 58 feet in width, which was found to be consistent with the Transportation Element of the La Jolla Community Plan. The environmental review, determined that the project would not have a significant environmental effect on environmentally sensitive lands and was found to be exempt from environmental review under CEQA Guidelines. The project site is located in an area identified as a public view corridor as identified within the La Jolla/La Jolla Shores Local Coastal Program. However, the portion of public right-of-way is located within the front setback area of an existing single family residence and will not negatively impact the public view corridor. Due to these factors the proposed street vacation project was found to be in compliance with the City of San Diego adopted La Jolla Community Plan and the Progress Guide, the certified Local Coastal Program Land Use Plan and General Plan.

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 street vacation is adjacent to a 5,649 square foot site, currently developed with an existing residential structure, and is part of and within a well established urbanized area of La Jolla. The project site is not located between the first public road and the sea or coastline. Development of the project will be fully within the private property. The project site is approximately one half mile away from the Pacific Ocean. The project site is located in an area identified as a public view corridor as identified within the La Jolla/La Jolla Shores Local Coastal Program. However, the portion of public right-of-way is located within the front setback area of an existing single family residence and will not negatively impact the public view corridor. The existing residence, currently is designed to take access off the existing public street, exchange Place, with adequate off street parking. The existing character and pedestrian design of the street will remain unaltered and/or be improved.

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 Coastal Development Permit No. 414404 is granted to Irwin M. Irwin and Nancy N. Frank, Individuals, Owners/Permittees, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Shirley R. Edwards
Chief Deputy City Attorney

SRE:pev
10/09/07
12/11/07 COR.COPY
Or.Dept:DSD
R-2008-306
MMS #5417

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

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-7291

COASTAL DEVELOPMENT PERMIT NO. 414404
FRANKS RIGHT-OF-WAY VACATION – PROJECT NO. 120296
CITY COUNCIL

This Coastal Development Permit No. 414404, is granted by the City Council of the City of San Diego to Irwin M. Frank and Nancy N. Frank, Individuals, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] section 125.0901. The subject site is located on the east side of Exchange Place with an unimproved portion of Exchange Place to the south side of the property. The project site is located at 7767 Exchange Place, in the RS-1-7 zone, Coastal Overlay Zone (non-appealable), Coastal Height Overlay Zone and within the La Jolla Community Plan area. The project site is legally described as a Lot 9, Block 47, La Jolla Park, Map No. 352.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/ Permittee's to vacate excess Public Right-of-Way, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated OCT 30 2007, on file in the Development Services Department.

The project or facility shall include:

- a. The vacation of excess dedicated Public Right-of-Way of a portion of Exchange Place on the south side of the property located at 7767 Exchange Place on a property containing an existing single-family residence; and
- b. Existing landscaping (planting, irrigation and landscape related improvements) within the public right-of-way remaining to be maintained.

STANDARD REQUIREMENTS:

1. Vacation of the described Public Right-of-Way, 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. Vacation of the Public Right-of-Way described herein 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 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. 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 Owners/Permittees 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 Owners/Permittees 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.

8. 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 REQUIREMENT :

9. The Owners/Permittees shall provide adequate sidewalk transitions adjacent to the existing driveway on Exchange Place.

10. The Owners/Permittees shall provide and maintain adequate visibility area along the front setback. No obstacles higher than 36" shall be located within this area (e.g. walls, landscaping, shrubs etc.) per Land Development Code section 113.0273.

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 October 30, 2007,
Resolution No. R- 303137

AUTHENTICATED BY THE CITY MANAGER

By _____

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.

Irwin M. Frank
Owner/Permittee

By _____

Nancy N. Frank
Owner/Permittee

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04