

(R-2008-557)

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RESOLUTION NUMBER R- 303353

DATE OF FINAL PASSAGE JAN 22 2008

WHEREAS, Bonair Street Ocean Villas, LLC, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit to create five residential units under construction to condominium ownership known as the Windansea Luxury Condos project, located at 231 Bonair Street, and legally described as Lots 4, 5 and 6, La Jolla Strand Map No. 1216, in the La Jolla Community Plan area, in the RM-3-7 zones, Coastal Overlay, Parking Impact, Residential Tandem Parking, and Transit Area Overlay Zones; and

WHEREAS, on November 15, 2007, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] Permit No. 443805, and pursuant to Resolution No. 4339-PC voted to recommend approval of the Permit; and

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

WHEREAS, the matter was set for public hearing on JAN 22 2008, 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. 443805:

**COASTAL DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC]
SECTION 126.0708**

Findings for all Coastal Development Permits:

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 6,750 square foot site is located on the south side of 231 Bonair Street and approximately 280 feet from the Pacific Ocean. The project proposes to create five residential units under construction to condominium ownership and an easement vacation. Bonair Street, public right-of-way, is designated as an existing visual access corridor in the La Jolla Community Plan. Creating five residential units to condominiums will not impact any public views to and along the ocean. The proposed project meets all of the development regulations including, setbacks, height, and floor area ratio. All fencing and landscape within the front setback of the development shall be limited to 3'-0" in height as conditions of the prior permit approval. The site is not located along any existing or proposed public accessways identified in the adopted La Jolla Community Plan and Local Coastal Program Land Use Plan.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The project proposes to create five residential units under construction to condominium ownership and an easement vacation. There are no sensitive habitats on the site, nor is it adjacent to the City of San Diego's Multi-Habitat Planning Area. Staff has determined that the proposed project for 231 Bonair Street will not adversely affect environmentally sensitive lands. The project was determined to be exempt pursuant to the California Environmental Quality Act [CEQA] and State CEQA guidelines.

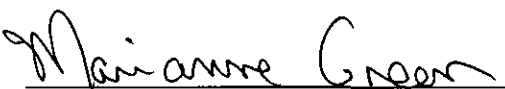
3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program. The project proposes to create five residential units under construction to condominium ownership and an easement vacation. The project is an area identified as Medium High Residential Density (30-45 du/acre) in the La Jolla Community Plan. The five residential units under construction are consistent with the land use and would adhere to community goals since it was designed in a manner that did not intrude into any of the physical access ways used by the public. Additionally, the project was designed to have a harmonious visual relationship between bulk and scale of the existing structure and the adjacent structures as stated in the adopted Local Coastal Program land use 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 project proposes to create five residential units under construction to condominium ownership and an easement vacation. The proposed coastal development lies approximately 280 feet east of the Pacific Ocean shoreline. The first public roadway adjacent to this property is Neptune Place. There will be no impact to public beach parking since the proposed five condominium units will have 11 off-street parking spaces. The project conforms to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

BE IT FURTHER RESOLVED, by the Council of the City of San Diego that Coastal Development Permit No. 443805 is granted to Bonair Street Ocean Villas, LLC, Owner/Permittee, 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 
Marianne Greene
Deputy City Attorney

MG:als
01/02/08
Or.Dept:DSD
R-2008-557

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
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 42-7766

COASTAL DEVELOPMENT PERMIT NO. 443805
AMENDMENT TO COASTAL DEVELOPMENT PERMIT NO. 7283
WINDANSEA LUXURY CONDOS - PROJECT NO. 128934
CITY COUNCIL

This Coastal Development Permit No. 443805, an amendment to Coastal Development Permit No. 7283, is granted by the City Council of the City of San Diego to Bonair Street Ocean Villas, LLC, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0701. The 0.155 site is located at 231 Bonair Street in the RM-3-7, Coastal Overlay, Parking Impact, Residential Tandem Parking, and Transit Area Overlay Zones of the La Jolla Community Plan area. The project site is legally described as Lots 4, 5 and 6, La Jolla Strand, Map No. 1216.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee, to create five residential units under construction to condominium ownership, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated JAN 22 2008, on file in the Development Services Department.

The project or facility shall include:

- Creating five residential units construction to condominium ownership.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six 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

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applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.

2. 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, or following all appeals.

3. 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.

4. 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.

5. 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.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. 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.).

8. 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.

9. 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.

10. 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

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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.

11. 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, including, but not limited to, any 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.

ENGINEERING REQUIREMENTS:

12. The Permit shall comply with the conditions of Tentative Map No. 444017.

13. Prior to occupancy, all work authorized by permit W-51758 and shown on drawing 32754-D, shall be completed and accepted by the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

14. All conditions in Coastal Development Permit No. 7283 will remain in effect.

15. No fewer than eleven 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.

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16. 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.

17. 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.

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 JAN 22 2008, by
Resolution No. R- 303353.

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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.

BONAIR STREET OCEAN VILLAS, LLC
Owner/Permittee

By _____

By _____

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

PERMIT/OTHER - Permit Shell 11-01-04

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