

(R-2008-738)

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4/22/08

RESOLUTION NUMBER R- 303624

DATE OF FINAL PASSAGE APR 22 2008

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING COASTAL DEVELOPMENT PERMIT NO. 520542, TO VACATE A PORTION PUBLIC RIGHT-OF-WAY Y ENCUMBERING OLIVET AVENUE.

WHEREAS, Vincent and Heather Andreucetti, Owners/Permittees, filed an application with the City of San Diego for a Coastal Development Permit to vacate a portion of public right-of-way encumbering Olivet Avenue adjacent to an existing single-family residence known as the Olivet Avenue Street Vacation Project [Project], on portions of an approximate 5,506 square foot property located at 1215 and 1211 Virginia Way, and legally described as portions of Lots 11 and 12, Block 76, Villa Tract La Jolla Park, Map No. 976, in the RS-1-7 zone, Coastal Overlay Zone (non-appealable), Coastal Height Limitation Zone, within the La Jolla Community Planning Area; and

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

WHEREAS, the matter was set for public hearing on APR 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,

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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. 520542:

**A. FINDINGS FOR ALL COASTAL DEVELOPMENT PERMITS –SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0708(a).**

**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 524 square-foot project site is currently undeveloped lawn area adjacent to an existing single-family residence. The development proposes to vacate a portion of public right-of-way along Olivet Avenue and is located approximately one-half mile from the coastline. The proposed development is contained within the existing legal lot area of two legal lots, which will not encroach upon any existing or proposed physical access to the coast. The project site is not located in an area with a public view as identified within the La Jolla/La Jolla Shores Local Coastal Program. The project site is situated along Olivet Avenue, within a developed residential area. The area of the proposed vacation is currently developed with lawn area of an existing residence, no further development is proposed.

**2. The proposed coastal development will not adversely affect environmentally sensitive lands.** The 524 square-foot project site is currently undeveloped lawn area, 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 the California Environmental Quality Act [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 Low Density Residential (5-9 dwelling unit per acre) in the La Jolla Community Plan. The proposed street vacation area would become part of the adjacent single-family lots, which conforms with this land use designation and density. The proposed vacation to Olivet Avenue would narrow the future public right-of-way to approximately 60 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 not located in an area identified as containing a public view as identified within the La Jolla/La Jolla Shores Local Coastal Program. Due to these factors the proposed street vacation project was found to be in compliance with the City of

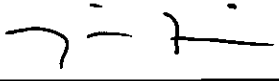
San Diego adopted La Jolla Community Plan and the Progress Guide, the certified Local Coastal Program Land Use Plan and General Plan.

**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 a 5,506 square-foot site, currently developed with an existing residential structure, 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, excess public right-of-way will be fully within what would normally be area of private property. The project site is approximately one-half mile away from the Pacific Ocean. The project site is not located in an area identified as containing a public view as identified within the La Jolla/La Jolla Shores Local Coastal Program. The existing residence, currently is designed to take access off the existing public street, Olivet Avenue, with adequate off street parking. The existing character and pedestrian design of the street will remain unaltered and/or be improved.

BE IT FURTHER RESOLVED by the Council of the City of San Diego, that Coastal Development Permit No. 520542 is granted to Vincent and Heather Andreucetti, Owners/Permittees, under the terms and conditions as set forth in the attached Permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
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Nina M. Fain  
Deputy City Attorney

NMF:mm  
03/17/08  
Or.Dept:DSD  
R-2008-738  
MMS#5925

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
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: 42-7768

**COASTAL DEVELOPMENT PERMIT NO. 520542  
OLIVET AVENUE STREET VACATION – PROJECT NO. 128990  
CITY COUNCIL**

This Coastal Development Permit No. 520542, is granted by the City Council of the City of San Diego to Vincent and Heather Andreucetti, Individuals, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] Sections 125.0901 et seq. and 126.0701 et seq. The subject site is located on the west side of Olivet Avenue with an unimproved portion of Olivet Avenue to the east side of the property. The project site is located at 1215 and 1211 Virginia Way, 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 portion of Lots 11 and 12, Block 76, Villa Tract La Jolla Park, Map No. 976.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees to vacate excess Public Right-of-Way, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated APR 22 ~~21~~, 2008, 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 Olivet Avenue on the rear and east side of the property located at 1215 Virginia Way on a property containing an existing single-family residence; and
- b. Maintenance of existing landscaping (planting, irrigation and landscape related improvements) within the portion of the Public Right-of-Way to be vacated.

**STANDARD REQUIREMENTS:**

1. Maintenance of existing landscape improvements within the portion of the Public Right-of-Way to be vacated 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 not be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Permittees sign and return 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 appropriate City authority.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittees and any successor or successors, and the interests of any successor(s) 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 Permittees 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 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" conditions(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.

**ENGINEERING REQUIREMENT :**

8. This Coastal Development Permit shall comply with the Street Vacation No. 443998, to the satisfaction of the City Engineer.

**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 APR 22 2008, 2008, by Resolution No. R- 303624.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

\_\_\_\_\_

The undersigned Permittees, by execution hereof, agree to each and every condition of this Permit and promise to perform each and every obligation of Permittees hereunder.

Vincent Andreucetti  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

Heather Andreucetti  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

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

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