

(R-2008-855)

HEET

333 (A)  
5/06

RESOLUTION NUMBER R- 303664

DATE OF FINAL PASSAGE MAY 06 2008

WHEREAS, the Real Estate Assets Department of the City of San Diego, La Jolla Methodist Church, Mario and Rene Spiazzi, and Maurizio Zanetti, Owners/Permittees, filed an application with the City of San Diego for a coastal development permit to summarily vacate unimproved portions of Fay Avenue to be known as the Fay Avenue Vacation project, located between La Hermosa Avenue and La Jolla Boulevard adjacent to 6063 La Jolla Boulevard, and legally described as portions of Lot 1 and 2 in Block 17; portions of Lots 5 through 8 in Block 18, and a portion of Mira Monte of La Jolla Hermosa, Map 1810, and portions of Lots 12 thru 17 in Block B, La Jolla Hermosa Unit A, Map 2086, in the La Jolla Community Plan area, in the RM-2-5, OP-1-1 and RS-1-7 zones and Coastal Zone (non-appealable); and

WHEREAS, the subject property was acquired by the City of San Diego in 1958 and 1960 to extend Fay Avenue;

WHEREAS, the extension of this portion of Fay Avenue has been summarily vacated and the property is no longer needed for public use; 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 MAY 06 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. 527629:

**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 proposed site does not contain any existing physical accessway utilized by the general public to and along the ocean and other scenic coastal areas. The proposed site is not identified in the La Jolla Community Plan or Local Coastal Program Land Use Plan as a proposed accessway to be utilized by the general public for providing access to the ocean or other scenic coastal area. The project site is approximately one-half mile east of the Pacific Ocean and the beaches and bluffs located there. The action is the vacation of unimproved portion of Fay Avenue, no obstruction to views to and along the ocean and other scenic coastal areas will not occur.

**2. The proposed coastal development will not adversely affect environmentally sensitive lands.** This activity is categorically exempt from the California Environmental Quality Act [CEQA] pursuant to State CEQA Guidelines, Section 15301.

**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 coastal development is the vacation of unimproved portions of Fay Avenue between La Hermosa Avenue and La Jolla Boulevard, adjacent to the La Jolla Methodist Church at 6063 La Jolla Boulevard. This development is in conformance with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program in effect for the site.


**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 coastal development is not located between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone. Therefore, the proposed coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

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. 527629 is granted to the Real Estate Assets Department of the City of San Diego, La Jolla Methodist Church, Mario and Rene Spiazzi, and Maurizio Zanetti, 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

  
\_\_\_\_\_  
Todd bradley  
Deputy City Attorney

RL:TB:pev  
04/01/08  
Or.Dept:READ  
R-2008-855

**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 6091

**COASTAL DEVELOPMENT PERMIT NO. 527629**  
**FAY AVENUE SUMMARY STREET VACATION**

**CITY COUNCIL**

This Coastal Development Permit No. 527629 is granted by the City Council of the City of San Diego to the Real Estate Assets Department of the City of San Diego, La Jolla Methodist Church, Mario and Rene Spiazzi and Maurizio Zanetti, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] section 126.0708. The approximately 1.0-acre site is located on the unimproved portion of Fay Avenue between La Hermosa Avenue and La Jolla Boulevard, adjacent to the La Jolla Methodist Church at 6063 La Jolla Boulevard in the RM-2-5, OP-1-1, RS-1-7, zones and the Coastal Zone (non-appealable) of the La Jolla Community Planning area. The project site is legally described as portions of Lot 1 and 2 in Block 17; portions of Lots 5 through 8 in Block 18, and a portion of Mira Monte of La Jolla Hermosa, Map 1810, and portions of Lots 12 thru 17 in Block B, in La Jolla Hermosa Unit A Map 2086.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees to summarily vacate a public right-of-way for portions of Fay Avenue, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated MAY 06 2008, on file in the Development Services Department.

The project or facility shall include:

A Summary Public Right-of-Way Vacation for portions for Fay Avenue between La Hermosa Avenue and La Jolla Boulevard adjacent to the La Jolla Methodist Church located at 6063 La Jolla Boulevard.

**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 the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. 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 Owners/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 City Manager.

4. This Permit is a covenant running with the subject property and shall be binding upon the Owners/Permittees 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 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 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.

8. 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 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.

**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.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on     MAY 06 2008    , by  
Resolution No. R- 303664.

**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.

**REAL ESTATE ASSETS DEPARTMENT  
OF THE CITY OF SAN DIEGO  
Owner/Permittee**

By \_\_\_\_\_

By \_\_\_\_\_

**LA JOLLA METHODIST CHURCH  
Owner/Permittee**

By \_\_\_\_\_

By \_\_\_\_\_

**MARIO SPIAZZI  
Owner/Permittee**

By \_\_\_\_\_

By \_\_\_\_\_

**RENE SPIAZZI  
Owner/Permittee**

By \_\_\_\_\_

By \_\_\_\_\_

MAURIZIO ZANETTI  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

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

PERMIT/OTHER - Permit Shell 11-01-04