

RESOLUTION NUMBER R-304685

DATE OF FINAL PASSAGE FEBRUARY 24, 2009

RESOLUTION DENYING THE APPEAL AND APPROVING
COASTAL DEVELOPMENT PERMIT NO. 426369 –
TENTATIVE MAP NO. 426356 - 7836 EL PASEO GRANDE
TENTATIVE MAP PROJECT NO. 124540.

WHEREAS, Desautels Company, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit to convert eight existing residential units to condominiums to be known as the 7836 El Paseo Grande Tentative Map project, located at 7836 El Paseo Grande, and legally described as lots 5 and 6 of Spindrift, according to Map 3096 filed June 3, 1954, in the MF 2 zone in the La Jolla Community Plan area.

WHEREAS, on November 6, 2008, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] No. 426369 and pursuant to Resolution No. 4480-PC voted to approve the Permit; and

WHEREAS, the Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation appealed the Planning Commission decision to the Council of the City of San Diego; 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 February 24, 2009, 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. 426369:

**A. COASTAL DEVELOPMENT PERMIT SAN DEGO 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 0.35-acre site is approximately 0.25 miles from the Pacific Ocean and does not encroach on any physical access way used by the public or identified in the Local Coastal Program land use plan. The site is currently developed with two, 2-story buildings; is previously conforming and on private property. The project proposes a tentative map to convert the existing eight residential dwelling units into condominiums. No physical changes to the buildings or the site are being proposed. The existing two, 2-story buildings do not penetrate the 30 foot height limit. The subject property is not located within or near any designated public view corridors. Therefore, the proposed project will not impact any public views to or along the ocean or 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 project proposes a tentative map to convert the existing eight residential dwelling units into condominiums. The site is currently developed with two, 2-story buildings; is previously conforming and on private property. The project site is rectangular in shape and is a relatively flat lot located within an urbanized area of the La Jolla Community Plan and the Local Coastal Program and surrounded by a fully developed residential neighborhood. The City of San Diego conducted a complete environmental review of the subject site and determined the project was exempt from the California Environmental Quality Act [CEQA] in accordance with State CEQA Guidelines. The existing site is fully developed and proposes no physical changes. The project does not contain Environmentally Sensitive Lands [ESL]; therefore the proposed project could not adversely affect these resources.

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 a tentative map to convert the existing eight residential dwelling units into condominiums. The site is currently developed with two, 2-story buildings; is previously conforming and on private property. The proposed project conforms with the La Jolla Community Plan and the Local Coastal Program Plan which designates the site for multi-family development and is consistent with the design guidelines and development standards in effect for this site per the Coastal Overlay Zone (Non- Appealable Area 2), Coastal Height Overlay Zone, Beach Parking Impact, Residential Tandem Overlay, and Transit Area Overlay zones. Any and all development would occur on private property and there is no construction proposed; therefore, the project will not encroach upon any existing physical access


way used by the public. Adequate off street parking spaces exist and will be maintained on site thereby eliminating any impacts to public parking. No deviations or variances from the development regulations are being proposed or are required to implement the project.

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 a tentative map to convert the existing eight residential dwelling units into condominiums. The site is currently developed with two, 2-story buildings; is previously conforming and on private property. The existing development site is approximately 0.25 miles from the Pacific Ocean and is not located between the ocean and the first public roadway. The project proposes no physical changes to the buildings or the site which would encroach upon any existing public access-way used by the public nor would it adversely affect any proposed physical access-way identified in the Local Coastal Program Land Use Plan. The proposed coastal development will conform to 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 the appeal of the Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation is denied; the decision of the Planning Commission is sustained; and Coastal Development Permit No. 426369 is granted to Desautels Company, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Keith Bauerle
Deputy City Attorney

KB:hm
02/25/09
Or.Dept:DSD
R-2009-915
MMS#7521

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 42-7503

COASTAL DEVELOPMENT PERMIT NO. 426369
7836 EL PASEO GRANDE TENTATIVE MAP - PROJECT NO. 124540
CITY COUNCIL

This Coastal Development Permit No. 426369 is granted by the City Council of the City of San Diego to Desautels Company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0702. The .35-acre site is located at 7836 El Paseo Grande in the MF2 zone of the La Jolla Community Plan. The project site is legally described as lots 5 and 6 of Spindrift, according to Map 3096 filed June 3, 1954.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to convert eight existing residential units to condominiums, abandon a sewer easement, and waive the requirement to underground existing overhead utilities, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated February 24, 2009, on file in the Development Services Department.

The project or facility shall include:

- a. The subdivision of a 0.35-acre site into one lot for eight condominiums. No construction is authorized or proposed by the issuance of this permit;
- b. Encroachment Maintenance and Removal Agreement for a 5 foot sewer easement located along the northwest property line; 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. 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 applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. No final map or easement abandonment 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.
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 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.
5. The Coastal Development Permit shall comply with all conditions of the Final Map for Tentative Map No. 426356.
6. The utilization and 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. 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" 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.

9. 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, relating to the issuance of this permit 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.

ENGINEERING REQUIREMENTS:

10. The Coastal Development Permit shall comply with the conditions of the Final map for Tentative Map No. 426356.

11. The Subdivider shall underground any new service run too any new or proposed structures within the subdivision

LANDSCAPE REQUIREMENTS:

12. All of the property not used or occupied by structures, recreational areas, walks and driveways shall be landscaped. This landscaped area shall be no less than 30 percent of the total parcel area.

PLANNING/DESIGN REQUIREMENTS:

13. No fewer than eight 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 City Manager.

14. The Owner/Permittee shall post a copy of the approved discretionary permit or Tentative Map in the sales office for consideration by each prospective buyer.

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 Council of the City of San Diego on February 24, 2009 by Resolution No. R-304685.

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.

DESAUTELS COMPANY
Owner/Permittee

By _____
MARK DESAUTELS
President

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