

(118)
○

RESOLUTION NUMBER R- 305219

DATE OF FINAL PASSAGE SEP 11 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO DECLARING A CONTINUED STATE OF
EMERGENCY DUE TO SEVERE SHORTAGE OF
AFFORDABLE HOUSING IN THE CITY.

WHEREAS, California Government Code section 8630 authorizes local governing bodies to proclaim local emergencies when such events occur as are defined by California Government Code section 8558(c); and

WHEREAS, on August 6, 2002, the City Council adopted Resolution No. R-296982 declaring the existence of a state of emergency due to severe shortage of affordable housing in the City of San Diego; and

WHEREAS, in adopting Resolution No. R-296982 on August 6, 2002, the Council specifically found, pursuant to the aforementioned California Government Code, that the affordable housing shortage was an emergency "beyond the control of the services, personnel, equipment and facilities" of the City of San Diego alone; and

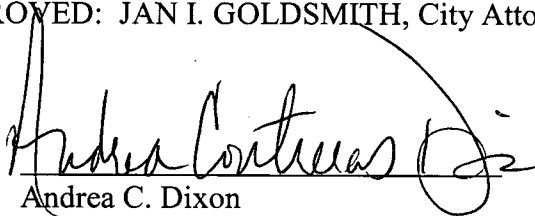
WHEREAS, the Council finds that, despite numerous successful initiatives to preserve and produce affordable housing, such an emergency continues to exist in the City of San Diego;

NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that pursuant to California Government Code section 8630, a continued state of emergency is declared to exist due to severe shortage of affordable housing in the City of San Diego.

BE IT FURTHER RESOLVED, that the measures previously taken by the City Council in Resolution No. R-296982 shall continue to have full force and effect.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Andrea C. Dixon
Deputy City Attorney

ACD:mm
06/11/09
Or.Dept: Mayor
R-2009-1285
MMS#9511

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of SEP 01 2009.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 9-11-09
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

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: 43-2510

COASTAL DEVELOPMENT PERMIT NO. 668274
AND EASEMENT ABANDONMENT NO. 661828
PECKHAM EASEMENT ABANDONMENT - PROJECT NO. 183423

CITY COUNCIL

This Coastal Development Permit [CDP] No. 668274 and Easement Abandonment No. 661828 is granted by the City Council of the City of San Diego to Michael P. Peckham, Bruce R. Peckham, and Nancy M. Peckham, Co-Trustees of the Survivor's Trust under the trust agreement of the Peckham Family Trust dated January 28, 1993, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] sections 126.0708 and 125.1040. The 0.0098-acre site is located at 5055 North Harbor Drive, between Scott Street and North Harbor Drive in the CC-4-2 zone, Coastal Overlay Zone (non-appealable), Coastal Height Limit Overlay Zone, FAA Part 77 Noticing areas for San Diego International Airport, within the Community Plan Implementation Overlay Zone [CPIOZ], (CPIOZ "Type B" Roseville), within the North Bay Redevelopment Project area of the Peninsula Community Plan and Local Coastal Program Land Use Plan Area. The project site is legally described as all of that certain unnamed 4-foot wide easement per Map No. 2946, filed in the Office of the County Recorder of San Diego County, January 8, 1953.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees to abandon an unnamed and unused easement along the side of the property, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated **SEP 01 2009**, on file in the Development Services Department.

The Peckham Easement Abandonment Project shall include:

- a. Abandonment of all of that certain unnamed and unused 4-foot wide easement per Map No. 2946, located at 5055 N Harbor Drive;
- b. No new development;

- c. The requested vacation would facilitate the development of the previously approved CDP No. 546192, and Site Development Permit [SDP] No. 546193, to construct a new commercial/office building.

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. The easement abandonment described herein shall not be granted, nor shall any activity authorized by this Permit be conducted on the premises, following all appeals, 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 Owners/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 [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. The Owners/Permittees 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 Owners/Permittees of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owners/Permittees 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, Owners/Permittees 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 Owners/Permittees 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 Owners/Permittees shall not be required to pay or perform any settlement unless such settlement is approved by Owners/Permittees.

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 SEP 01 2009 by
Resolution No. R- 305220.

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Owners/Permittees, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owners/Permittees hereunder.

MCHAEL P. PECKHAM, Co-Trustee of the Survivor's Trust under the trust agreement of the Peckham Family Trust dated January 28, 1993, Owner/Permittee

By _____

By _____

BRUCE R. PECKHAM, Co-Trustee of the Survivor's Trust under the trust agreement of the Peckham Family Trust dated January 28, 1993, Owner/Permittee

By _____

By _____

NANCY M. PECKHAM, Co-Trustee of the Survivor's Trust under the trust agreement of the Peckham Family Trust dated January 28, 1993, Owner/Permittee

By _____

By _____

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

PERMIT/OTHER - Permit Shell 11-01-04