

(R-2010-94)
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RESOLUTION NUMBER R- 305220
DATE OF FINAL PASSAGE SEP 01 2009

RESOLUTION GRANTING COASTAL DEVELOPMENT
PERMIT NO. 668274 FOR THE PECKHAM – EASEMENT
ABANDONMENT PROJECT, PROJECT NO. 183423.

WHEREAS, 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, filed an application with the City of San Diego for a coastal development permit to abandon an unnamed and unused easement along the side of the property, known as the Peckham Easement Abandonment project, located at 5055 N. Harbor Drive, and legally described as all of that certain unnamed four (4) foot wide easement per Map No. 2946, filed in the Office of the County Recorder of San Diego County, January 8, 1953, in the CC-4-2 zone, Coastal Overlay Zone (non-appealable), and the 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), the North Bay Redevelopment Project Area of the Peninsula Community Plan and Local Coastal Program Land Use Plan Area; and

WHEREAS, on July 15, 2009, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act [CEQA] (Public Resources Code section 21000 et. seq.) under CEQA Guideline section 15305 (Minor Alterations in Land Use Limitations); and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code [SDMC] section 112.0520; 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 SEP 01 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. 668274:

**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 project request is to vacate a 4-foot wide unnamed and unused easement along the easterly side of the property, located at 5055 N. Harbor Drive, in the Roseville/Shelter Island area of the Peninsula Community Plan and Local Coastal Program Land Use Plan Area, within the North Bay Redevelopment Project Area. The site is bounded by North Harbor Drive to the south, Scott Street to the west, and Jarvis Street to the north. No development is proposed with this project. The project site has an approved CDP No. 546192 and Site Development Permit [SDP] No. 546193 for construction and developing the site which consists of a 2-story, 24,130-square foot commercial/office building that is located within the subject easement.

The Peninsula Community Plan and Local Coastal Program [LCP] do not identify this location as a designated physical accessway to the coastal area; therefore, the project will not encroach upon any existing or proposed physical accessway identified in the LCP. The project location is not within or adjacent to any designated public view corridors. Accordingly, the proposed project will not impact any public views to and along the ocean and 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. An environmental review has been performed for this project for conformance with the CEQA Guidelines. The project was determined to be exempt from CEQA review pursuant to State Guidelines section 15305. The property is relatively flat and does not include any sensitive topographical or biological resources. The site is neither within nor adjacent to the Multiple Species Conservation Program [MSCP], Multiple Habitat Planning Area [MHPA], and is not designated within any environmentally sensitive lands [ESL]. Therefore, the proposed coastal development will not adversely affect ESL.

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 is located within Roseville Community Plan Implementation Overlay Zone [CPIOZ] of the Peninsula Community Plan and Local Coastal Program Land Use Plan. The plan contains recommendations for urban design, building placement, pedestrian orientation, architectural features and landscaping, as well as direction regarding architectural 'themes' in the Roseville commercial area.

This project proposes no development. The area to be vacated has never been utilized for any public use and does not provide a logical connection to any other easement or utility due to its interior location. The request for the easement abandonment is to allow full utilization of the property, with the implementation of previously approved development entitlements, that would help implement policies related to CPIOZ, including the provision of outdoor patios, and would not adversely affect the Peninsula Community Plan, as the plan does not address easement abandonments. Therefore, 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.

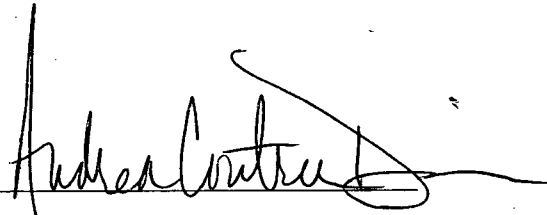
4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act. Coastal Act policies designed to protect, preserve and enhance California's coastline are incorporated into the Peninsula Community Plan and are part of the City's segmentation of its coastal element by community. Policies regarding physical, shoreline and visual access within the coastal zone are implemented through protected public pathways, public shoreline access ways and coastal view corridors identified in the Peninsula Community Plan. The proposed project is not on or adjacent to any public path, shoreline access way or coastal view identified in the community plan. No development is proposed with this project. Therefore, 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 herein incorporated by reference.

BE IT FURTHER RESOLVED, that Coastal Development Permit No. 668274 is granted 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, 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:



Andrea Contreras Dixon
Deputy City Attorney

ACD:cw
08/11/09
08/18/09 COR.COPY
Or.Dept:DSD
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