

RESOLUTION NUMBER R- 308465DATE OF FINAL PASSAGE SEP 30 2013A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING COASTAL DEVELOPMENT
PERMIT NO. 1044519 FOR THE PINAR PLACE STREET
VACATION – PROJECT NO. 294358

WHEREAS, SAN JAY NIGAM, representing himself, his wife and five other property owners all of whom will be affected by the vacation of Pinar Place and who have given their permission to process the application and assigned SAN JAY NIGAM to sign said permit on their behalf, as representative of the Owners/Permittees, filed an application with the City of San Diego for a Coastal Development Permit No. 1044519, to vacate an existing public right-of-way known as the Pinar Place Street Vacation project, located at 2144 through 2186 Pinar Place and 13610 Pine Needles Drive between Pine Needles Drive and Nob Avenue, San Diego, California, and legally described as All of Pinar Place, dedicated as 1st Street of Del Mar Heights, according to Map No. 157, filed July 8, 1887, in the RS-1-6 zone of the Torrey Pines Community Plan; and

WHEREAS, on June 20, 2013, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 1044519, and pursuant to Resolution No. 4922-PC voted 7:0:0 to recommend City Council approval of the Permit; 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 30 2013,

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. 1044519:

COASTAL DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE (SDMC)
SECTION 126.0708

1. **The proposed coastal development will not encroach upon any existing physical accessway 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 coastal development is the vacation of an existing public right-of-way and as such no change upon the land to the existing property which contains the public right-of-way will occur with the approval of the coastal development permit. Furthermore, the site 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 because none exist at this site and none are planned for this site. The proposed coastal development, which is the vacation of an existing public right-of-way, will have no effect upon public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan. Furthermore, there are no public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan from this site or across this site to these visual resources.

2. **The proposed coastal development will not adversely affect environmentally sensitive lands.** The proposed coastal development is the vacation of an existing public right-of-way and as such no change upon the land to the existing property which contains the public right-of-way will occur with the approval of the coastal development permit. The site is a developed suburban property. The site does not contain any environmentally sensitive lands or environmentally sensitive resources and as such the proposed coastal development will not adversely affect any environmentally sensitive lands.

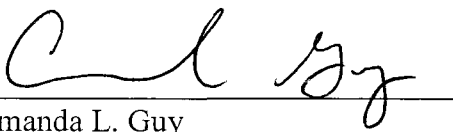
3. **The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.** The proposed coastal development is the vacation of an existing public right-of-way and as such no change upon the land to the existing property which contains the public right-of-way will occur with the approval of the coastal development permit. The adopted Torrey Pines Community Plan designates this site for residential uses and the vacation of the public right-of-way is consistent with those uses. The vacation of the public right-of-way complies with all regulations of the certified Implementation Program for the adopted Torrey Pines Community Plan and the Land Development Code.

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 the vacation of an existing public right-of-way and as such no change upon the land to the existing property which contains the public right-of-way will occur with the approval of the coastal development permit. The site 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. As such the vacation of an existing public right-of-way and approval of the coastal development permit will have no effect upon 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. 1044519 is granted to SAN JAY NIGAM, representing himself, his wife and five other property owners all of whom will be affected by the vacation of Pinar Place and who have given their permission to process the application and assigned SAN JAY NIGAM to sign said permit on their behalf, as representative of the 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 
Amanda L. Guy
Deputy City Attorney

ALG:hm
08/14/2013
Or.Dept:DSD
Doc. No. 615619

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

INTERNAL ORDER NUMBER: 24003217

COASTAL DEVELOPMENT PERMIT NO. 1044519
PINAR PLACE STREET VACATION PROJECT NO. 294358
CITY COUNCIL

This Coastal Development Permit No. 1044519 is granted by the City Council of the City of San Diego to SAN JAY NIGAM, representing himself, his wife and five other property owners all of whom will be affected by the vacation of Pinar Place and who have given their permission to process the application and assigned SAN JAY NIGAM to sign said permit on their behalf, as representative of the Owners/Permittees, pursuant to San Diego Municipal Code (SDMC) section 126.0708. The 0.447 acre site is located at 2144 through 2186 Pinar Place and 13610 Pine Needles Drive between Pine Needles Drive and Nob Avenue, San Diego, California in the RS-1-6 zone of the Torrey Pines Community Plan. The project site is legally described as All of Pinar Place, dedicated as 1st Street of Del Mar Heights, according to Map No. 157, filed July 8, 1887.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to vacate an existing public right-of-way described and identified by size, dimension, quantity, type, and location as shown on Drawing No. 37279-B, on file in the Development Services Department.

The project shall include:

- a. The vacation of an existing public right-of-way.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. This permit expires on SEP 30 2016. Utilization of this permit shall be deemed the recordation of the resolution approving the vacation of the public

right-of-way in the San Diego County Recorder's Office. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1, of the SDMC within the 36-month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

3. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

4. 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.).

5. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If 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" 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.

6. The Owner/Permittee 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 Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee 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, Owner/Permittee 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 Owner/Permittee 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 Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this 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 30 2013.

Coastal Development Permit No. 1044519
Date of Approval: _____

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT:

BY: _____
Mike Westlake, Acting Deputy Director
Development Services Department

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

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

SAN JAY NIGAM,
Owner/Permittee

BY: _____
Name: _____
Title: _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

Passed by the Council of The City of San Diego on SEP 30 2013, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 30 2013

(Please note: When a resolution is approved by the Council President as interim Mayor; the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA, COUNCIL PRESIDENT
as interim Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Mary Zimm*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 308465