

RESOLUTION NUMBER R- 309114

DATE OF FINAL PASSAGE JUL 14 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO GRANTING APPEAL AND DENYING COASTAL
DEVELOPMENT PERMIT NO. 857839, SITE DEVELOPMENT
PERMIT NO. 1191916, AND NEIGHBORHOOD
DEVELOPMENT PERMIT NO. 1191918 / PEELING
TENTATIVE MAP PROJECT NO. 239065.

WHEREAS, Mark Peeling, Owner, filed an application with the City of San Diego for Coastal Development Permit No. 857839, Site Development Permit No. 1191916, and Neighborhood Development Permit No. 1191918 to construct three (3) new single-family homes, including subdivision of a site with environmentally sensitive lands (biology) and encroachment within the Martinez Street public right-of-way with underground utility connections to public facilities within Bangor Street, as the applicant is not the underlying record owner of the property on which the proposed encroachment will be located, described and identified by size, dimension, quantity, type, and location on the approved exhibits dated October 17, 2013, on file in the Development Services Department, on portions of an approximately 0.97-acre site ("Project"); and

WHEREAS, the Project site is located at 3328 and 3340 Harbor View Drive in the RS-1-7 zone within the Coastal (non-appealable), Coastal Height Limit, Airport Approach and FAA Part 77 overlay zones, within the Peninsula Community Plan area; and

WHEREAS, the Project site is legally described as Lots 3, 4, and 5 in Block 5 of Golden Park, Map No. 958, September 12, 1905; and

WHEREAS, on October 17, 2013, the Planning Commission of the City of San Diego considered and approved Coastal Development Permit No. 857839, Site Development Permit No. 1191916, and Neighborhood Development Permit No. 1191918 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, the Peninsula Community Planning Board ("PCPB") appealed the Planning Commission's 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 July 14, 2014, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, members of the public stated they would have filed an appeal of the Project if PCPB did not; and

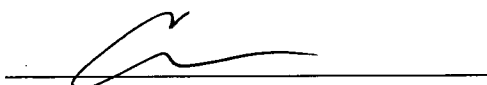
WHEREAS, the City Council found the Project was not in compliance with the San Diego Municipal Code and should not have been approved. Furthermore, they could not make the finding that the Project complies with the development regulations of the San Diego Land Development Code. Specifically, Section 144.0211(a) states that all lots shall have frontage on a street that is open to and usable by vehicular traffic. Three of the proposed new lots would not have frontage on a street that is open to and usable by vehicular traffic. These three lots would be situated behind the two lots on Harbor View Drive and would solely abut Martinez

Street. In 1982, this portion of Martinez Street was closed to vehicle traffic. Therefore, the proposed three back lots do not comply with this code section; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the City Council, having heard the arguments both in favor and opposition to the proposed permits, and having reviewed all the available documentation, hereby determines to grant the appeal of PCPB, overturn the Planning Commission's decision to grant the Permits, and deny Coastal Development Permit No. 857839, Site Development Permit No. 1191916, and Neighborhood Development Permit No. 1191918.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Corrine L. Neuffer
Deputy City Attorney

CLN:dkr
7/14/2014
Or.Dept:Clerk
Doc. No. 827376

Passed by the Council of The City of San Diego on JUL 14 2014, 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"/>
Ed Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input type="checkbox"/>	<input checked="" 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 JUL 14 2014

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

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

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

(Seal)

By *Mary Ferran*, Deputy

Office of the City Clerk, San Diego, California

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