

RESOLUTION NUMBER R- 309950

DATE OF FINAL PASSAGE AUG 04 2015

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO GRANTING COASTAL DEVELOPMENT PERMIT
NO. 1383345.

WHEREAS, Houshang and Shahla Nahavadian, Owner/Permittee, filed an application with the City of San Diego for a Coastal Development Permit to vacate the 0.05-acre unimproved alley known as Right-of-Way Vacation No. 1383347, located between National Avenue and Logan Avenue, west of 16th Street in the CCDC-AWAITS-CCC-APPR Zone, and the Coastal (non-appealable) Overlay Zone within the Downtown Community Plan Area and legally described as: Lots 21-24 and portions of Lots 25-27, Block 137, Map No. 209; and

WHEREAS, Section 126.0702(a) of the San Diego Land Development Code requires a Coastal Development Permit for vacation of public rights-of-way within the Coastal Overlay Zone; 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, on May 27, 2015, 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 Section 112.0520; and

WHEREAS, the matter was set for public hearing on August 4, 2015, 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. 1383345:

COASTAL DEVELOPMENT PERMIT- SECTION 126.0708(a)

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 access way 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 public right-of-way vacation is for a 0.05-acre unimproved alley located on 16th Avenue between Logan Avenue and National Avenue in the Centre City Development Corporation-AWAITS-CCC-APPR Zone, Coastal (Non-appealable) Overlay Zone within the Downtown Community Plan Area. The southern end of the alley is accessible by 16th Street but dead ends on the northern end and does not provide through circulation for vehicular or pedestrian traffic. The site is over two miles from the ocean, separated by the Harbor Terminal and does not include or encroach upon any existing or proposed physical or public access way identified in a Local Coastal Program land use plan. The proposed development is the vacation of an alley only and will therefore not encroach upon any existing or proposed physical access way identified in the Local Coastal Program, and it will enhance and protect public views as specified in the Local Coastal Program land use plan.

2. The proposed coastal development will not adversely affect environmentally sensitive lands.

The public right-of-way vacation is for a 0.05-acre unimproved alley is located within an existing developed urban in-fill residential and commercial area and does not contain any environmentally sensitive lands. The total area to be vacated is 5,162 square-feet and is surrounded by development. The sites adjacent to the alley at 1540 National Avenue is currently being used for vehicle storage and maintenance and the site at 924 16th Street is currently vacant. The proposed development will therefore not adversely affect 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 vacation of the alley is consistent with the General Plan, the Downtown Community Plan, and the goals and policies of any other applicable land use plan. The vacation of the alley would

facilitate the growth of the adjacent property in a manner that would be harmonious with the applicable land use plans. The proposed project is for the vacation of a 0.05-acre unimproved alley and complies with the Coastal Overlay Zone, the certified Local Coastal Program land use plan and 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.

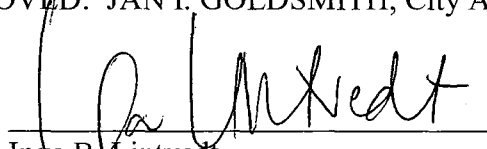
The 0.05-acres site is located within an existing developed urban in-fill residential and commercial area and is not located between the nearest public roadway and the sea or the shoreline of any body of water located within the Coastal Overlay Zone. The site is not within any area identified for public access and complies with the public recreation policies of Chapter 3 of the California Coastal Act. Therefore, the proposed project is in conformance with 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. 1383345 is granted to Houshang and Shahla Nahavadian, 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



Inga B. Lintvedt
Deputy City Attorney

IBL: mm
July 21, 2015
Or.Dept: DSD
Doc. No.: 1066919

ATTACHMENT: Coastal Development Permit

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: 24005299

COASTAL DEVELOPMENT PERMIT NO. 1383345
NAHAVANDIAN VACATION - PROJECT NO. 396209

This COASTAL DEVELOPMENT PERMIT NO. 1383345 is granted by the City Council of the City of San Diego to Houshang and Shahla Nahavadian, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] sections 125.0901 and 126.0702. The 0.05-acres site is located between National Avenue and Logan Avenue, west of 16th Street in the CCDC-AWAITS-CCC-APPR Zone, and the Coastal (non-appealable) Overlay Zone within the Downtown Community Plan Area. The project site is legally described as: Lots 21-24 and portions of Lots 25-27, Block 137, Map No. 209.

Subject to the terms and conditions set forth in this Permit, permission is granted to the Owner/Permittee to vacate a public right-of-way (unimproved alley) described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated August 4, 2015, on file in the Development Services Department.

The project shall include:

- a. Vacation of the unimproved alley;
- b. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. 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. This permit must be utilized by August 18, 2018.
2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be 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. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
4. 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.
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 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.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.
8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. 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.

10. 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.

ENGINEERING REQUIREMENTS

11. Prior to the issuance of any construction permit, the Owner/Permittee shall assure by permit and bond the closure of the existing alley entrance with City standard curb, gutter and sidewalk, satisfactory to the City Engineer.

12. Prior to the issuance of any construction permit, the Owner/Permittee shall assure by permit and bond the replacement of the damaged sidewalk with City standard sidewalk, on 16th Street from the existing alley entrance to the northerly boundary line of lot 25, satisfactory to the City Engineer.

13. Prior to the issuance of any construction permit, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement for the proposed curb outlet located within 16th Street right-of-way, satisfactory to the City Engineer.

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.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on August 4, 2015 and Resolution No. **R-309950.**

Passed by the Council of The City of San Diego on AUG 04 2015, 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"/>
Lorie Zapf	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 AUG 04 2015.

(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  Deputy

Office of the City Clerk, San Diego, California

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