

RESOLUTION NUMBER R- 311320

DATE OF FINAL PASSAGE SEP 12 2017

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO GRANTING COASTAL DEVELOPMENT
PERMIT NO. 1775032 FOR MIRA MONTANA ALLEY –
RIGHT-OF-WAY VACATION – PROJECT NO. 491941.

WHEREAS, BROOKE BEROS, Owner/Permittee, filed an application with the City of San Diego for a Coastal Development Permit to vacate a paper alley located along the rear of the residences, between 13906-14072 Mira Montana Drive and 13903-14063 Boquita Drive, in the RS-1-6 Zone and legally described as Blocks 4 and 7 of Del Mar Heights Map No. 1, in the Torrey Pines Community Plan area; 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, this project is exempt from CEQA pursuant to State CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations); and

WHEREAS, the matter was set for public hearing on September 12, 2017, 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 City Council of the City of San Diego, that it adopts the following findings with respect to Coastal Development Permit No. 1775032:

Coastal Development Permit, 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 proposed coastal development is the vacation of an existing Public Right-Of-Way and as such no change to the land 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. In addition, 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 to the land will occur with the approval of the coastal development permit. The site is developed with landscaping, hardscaping and fences related to the 32 single-family residences abutting the proposed Public Right-Of-Way vacation. 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.

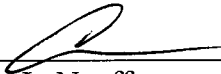
The proposed coastal development is the vacation of an existing Public Right-Of-Way and as such no change upon the land to the existing property, which contains the Public Right-Of-Way, will occur with the approval of the Coastal Development Permit. The adopted Torrey Pines Community Plan designates this site for residential uses and the vacation of the unused 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.

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 Permit is for the vacation of an existing Public Right-Of-Way, within the City Coastal Overlay Zone and no change to the land 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 are in conformity the public access and public recreation policies of Chapter 3 of the California Coastal Act.

BE IT FURTHER RESOLVED, that Coastal Development Permit No. 1775032 is granted to Brooke Berso, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Corrine L. Neuffer
Deputy City Attorney

CLN:dkr
August 14, 2017
Or.Dept:Planning
Doc. No.: 1560581

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: 24006887

COASTAL DEVELOPMENT PERMIT NO. 1775032
MIRA MONTANA ALLEY ROW VACATION- PROJECT NO. 491941
CITY COUNCIL

This Coastal Development Permit is granted by the City Council of the City of San Diego to BROOKE BEROS, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0708. The 0.41-acre site is located at 13906-14072 block of Mira Montana Drive and the 13903-14063 block of Boquita Drive in the RS-1-6 Zone, within the Torrey Pines Community Plan area. The project site is legally described as: Blocks 4 and 7 of Del Mar Heights, Map No. 157, together with those adjacent portions of vacated La Amatista Road and El Amigo Avenue.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to vacate the alley located along the rear of the residences between the 13906-14072 block of Mira Montana Drive and the 13903-14063 block of Boquita Drive to the East and West, and El Amigo Road and Lozana Road to the South and North, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated September 12, 2017, on file in the Development Services Department.

The project shall include:

- a. Public Right-Of-Way Vacation of the alley located along the rear of the residences between the 13906-14072 block of Mira Montana Drive and the 13903-14063 block of Boquita Drive to the East and West, and El Amigo Road and Lozana Road to the South and North.
- 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 September 26, 2020.
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. 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.
8. 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.

9. 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 permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary 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 September 12, 2017, pursuant to Resolution No. _____.

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES.
DEPARTMENT

Derrick Johnson (D.J.)
Development Project Manager

**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.**

Brooke Beros
Owner/Permittee

By _____
Brooke Beros
Owner/Permittee

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

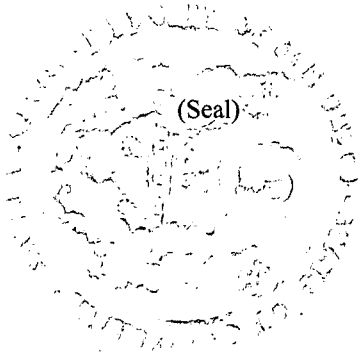
Passed by the Council of The City of San Diego on SEP 12 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<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"/>
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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 12 2017

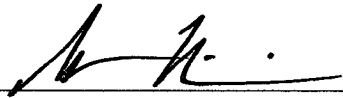
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

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.

By , Deputy

Office of the City Clerk, San Diego, California

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