

RESOLUTION NUMBER R- 313544

DATE OF FINAL PASSAGE MAY 18 2021

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO AUTHORIZING THE COASTAL
DEVELOPMENT PERMIT NO. 2287959 – FAY AVENUE AND
WEST MUIRLANDS DRIVE PUBLIC RIGHT OF WAY
SUMMARY VACATION – PROJECT NO. 545519

WHEREAS, City of San Diego Real Estate Assets Department, Owner and Permittee, filed an application with the City of San Diego for a Coastal Development Permit to summarily vacate unimproved portions of Fay Avenue known as the Fay Avenue and West Muirlands Drive Public Right of Way Vacation project, located at the south-east corner of Fay Avenue and West Muirlands Drive and is across the street from La Jolla High School and located north of 7021-7023 Fay Ave, and legally described as Lots 11 through 16, according to Map thereof No. 1750, filed in the office of the County Recorder on March 16, 1923, and a portion of Fay Avenue (formerly Fay Street) according to Map thereof no. 1307, filed in the office of the County recorder on January 26, 1911, both in the City of San Diego, County of San Diego, State of California, in the La Jolla Community Plan area, in the RS-1-7 base zone, non-appealable Coastal Overlay zone (as described in Exhibit A attached hereto); and

WHEREAS, on July 16, 2020, 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 and land use limitations); and

WHEREAS, on January 28, 2021; the Planning Commission of the City of San Diego considered Coastal Development Permit No. 2287959 and pursuant to Resolution No. 5125-PC voted to recommend City Council Approval of the Permit; and

WHEREAS, under San Diego 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 MAY 18 2021, 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. 2287959:

A. COASTAL DEVELOPMENT PERMIT [SDMC Section 126.0708]

Findings for all Coastal Development Permits:

- 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 project is an approximate 241 feet by 76 feet vacation of public right-of-way. The 0.42-acre (18,316 square feet [sf]) project site is located at the south-east corner of Fay Avenue and West Muirlands Drive and is across the street from La Jolla High School and located north of 7021-7023 Fay Avenue in La Jolla. The project site is zoned RS-1-7 and designated Low Medium Residential (9-15 density units/acre [du/ac]) in the La Jolla Community Plan and Local Coastal Land Use Plan (Community Plan). The project site is surrounded by existing multi-family, single-family, and institutional-school uses.

The proposed site does not contain any existing physical accessway utilized by the general public to and along the ocean and other scenic coastal areas. The proposed site is not identified in the Community Plan as a proposed accessway to be utilized by the general public for providing access to the ocean or other scenic coastal area, nor is the proposed site identified as a public view resource. The project site is approximately one-half mile east of the Pacific Ocean and the beaches and bluffs located there. The action is the vacation of unimproved portion of Fay Avenue, no obstruction to views to and along the ocean and other scenic coastal areas will occur as a result of the street vacation.

The Community Plan does not identify this segment of Fay Avenue for physical access to the beach and coastline, nor does it designate any public view resources along Fay Avenue relative to the project site. The unimproved portion of Fay Avenue proposed to be vacated is a remnant portion of improved Fay Avenue. The portions of vacated right-of-way will revert to the City of San Diego as the fee owner. The City acquired the property for public street purposes in the 1950 and 1960's to re-align Fay Avenue. The realignment was completed many years ago and this portion is not needed for Fay Avenue.

Therefore, 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.

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

The project is an approximate 241 feet by 76 feet vacation of public right-of-way. The 0.42-acre (18,316 sf) project site is located at the south-east corner of Fay Avenue and West Muirlands Drive and is across the street from La Jolla High School and located north of 7021-7023 Fay Avenue in La Jolla. The project site and immediately adjacent properties are zoned RS-1-7 and designated Low Medium Residential (9-15 du/ac) within the La Jolla Community Plan and Local Coastal Program Land Use Plan.

The proposed activity is exempt from CEQA section 15305 (Minor alterations and land use limitations) of the State CEQA Guidelines.

The proposed coastal development is the vacation of an existing public right-of-way. The vacation will not result in a physical change to the property underlying the public right-of-way. There are no Environmentally Sensitive Lands located on or adjacent to the project site, which is located in an urbanized and developed area. Therefore, the proposed coastal development will 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 project is an approximate 241 feet by 76 feet vacation of public Right-of-Way. The 0.42-acre (18,316 sf) project site is located at the south-east corner of Fay Avenue and West Muirlands Drive and is across the street from La Jolla High School and located north of 7021-7023 Fay Avenue in La Jolla. The project site and immediately adjacent properties are zoned RS-1-7 and designated Low Medium Residential (9-15 du/ac) within the La Jolla Community Plan and Local Coastal Program Land Use Plan.

The proposed coastal development is the vacation of unimproved public right-of-way. The vacation will not result in a physical change to the property. The adopted La Jolla Community Plan designates the site for residential use, and does not identify this portion of Right-of-Way as an arterial street, major street, nor coastal access facility. The right-of-way ownership will revert to the City of San Diego. The City-owned duplex and underlying land use within the right-of-way will retain its current zoning and Community Plan designations in compliance with the Fay Avenue Plan recommendations as noted per the Local Coastal program.

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.**

The project is an approximate 241 feet by 76 feet vacation of public right-of-way. The 0.42-acre (18,316 sf) project site is located at the south-east corner of Fay Avenue and West Muirlands Drive and is across the street from La Jolla High School and located north of 7021-7023 Fay Avenue in La Jolla. The project site and immediately adjacent properties are zoned RS-1-7 and designated Low Medium Residential (9-15 du/ac) within the La Jolla Community Plan and Local Coastal Program Land Use Plan.

The project site is not located between the nearest public road and the sea or the shoreline of any body of water; therefore, this finding does not apply. Therefore, the proposed coastal development does not require to demonstrate conformity with 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. 2287959 is granted to City of San Diego Real Estate Asset Department, 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 /s/ Shannon C. Eckmeyer

Shannon C. Eckmeyer
Deputy City Attorney

SCE:sc

04/09/2021

04/30/2021 COR. COPY

Or.Dept:DSD

CC No. N/A

Doc. No.: 2630819_2

Attachments – Exhibit A, Coastal Development Permit

Exhibit A

RECORDING REQUESTED
BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL
STATION 501

WHEN RECORDED MAIL
TO
CITY CLERK
MAIL STATION 2A

INTERNAL ORDER NUMBER: 21004216 SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 2287959
FAY AVENUE AND WEST MUIRLANDS DRIVE STREET VACATION PROJECT NO.
545519
CITY COUNCIL

This Coastal Development Permit No. 2287959 is granted by the City Council of the City of San Diego to the City of San Diego Real Estate Assets Department, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0707. The 0.42-acre project site is located at the south-east corner of Fay Ave and W. Muirlands Drive and is across the street from La Jolla High School and located north of 7021-7023 Fay Ave in the RS-1-7 Base zone, Coastal (Non-Appealable) Overlay Zone of the La Jolla Community Plan and Local Coastal Program Land Use Plan. The project site is legally described as Lots 11 through 16, according to Map thereof no. 1750, filed in the office of the County Recorder on March 16, 1923, and a portion of Fay Avenue (formerly Fay Street) according to Map thereof no. 1307, filed in the Office of the County Recorder on January 26, 1911, both in the City of San Diego, County of San Diego, State of California.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for a Public Right-of-Way Vacation for six parcels described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 18, 2021, on file in the Development Services Department.

The project shall include:

- The vacation of an approximate 241-foot x 76-foot of public right-of-way within Fay Avenue, as approved by Right-of-Way Vacation No. 2287960 and described on Exhibit "A" and as shown on Exhibit "B."
- A City-owned duplex will remain and the underlying land use within the right-of-way will retain its current zoning and Community Plan designations.

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 April 27, 2024.
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 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 condition in order to maintain the entitlements that are granted by this Permit.
10. This Permit herein is subject to the recordation of the Summary Public Right-of-Way Vacation No. 2287960

PLANNING REQUIREMENTS

1. No construction work or alterations are proposed for the existing building structures within the development site as part of this permit.

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 May 18, 2021 and as amended by
Resolution Number 2021-403. **R-313544**

Coastal Development Permit/PTS Approval No.: 545519
Date of Approval: May 18, 2021

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

Catherine Rom
Development Project Manager

APPROVED by the City Council of the City of San Diego
Resolution Number 2021-403

**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.

**REAL ESTATE ASSETS DEPARTMENT
OF THE CITY OF SAN DIEGO**
Owner/Permittee

By _____
MARY CARLSON
Program Manager

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

Passed by the Council of The City of San Diego on MAY 18 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 18 2021


(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:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California

313544

Resolution Number R-_____