



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: June 13, 2013 **REPORT NO. PC-13-069**

ATTENTION: Planning Commission, Agenda of June 20, 2013.

SUBJECT: PINAR PLACE VACATION –
PROJECT NO. 294358. PROCESS 5.

**OWNER/
APPLICANT:** Sanjay Nigam, et al (Attachment 9)

SUMMARY

Issue(s) - Should the Planning Commission recommend the City Council approve the vacation of public right-of-way within the Torrey Pines Community Plan area?

Staff Recommendation: **Recommend** the City Council **Approve** Public Right-of-way Vacation No. 1044514 and Coastal Development Permit No. 1044519.

Community Planning Group Recommendation – The Torrey Pines Planning Group voted, no April 11, 2013, to recommended denial of the proposed Street Vacation and Coastal Development Permit. See Discussion section.

Environmental Review – This project is exempt from CEQA pursuant to State CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on December 14, 2012, and the opportunity to appeal that determination ended January 9, 2013.

Fiscal Impact Statement - No fiscal impact. All costs associated with the processing of the application are recovered through a deposit account funded by the applicant.

Code Enforcement Impact - None with this action.

Housing Impact Statement - None with this action.

BACKGROUND

The site is located in the Torrey Pines Community at the boundary between the City of San Diego and the City of Del Mar. The Torrey Pines Community Plan identifies the site for residential development at a density range of five to nine dwelling units per acre (Attachment 1). The application would affect seven properties located at 2144 through 2186 Pinar Place and 13610 Pine Needles Drive between Pine Needles Drive and Nob Avenue in the Torrey Pines community (Attachment 2). The neighborhood is developed with single family residential structures. Pinar Place was dedicated for circulation, access and public services in the year 1887, yet the street was never constructed for the purposes the right-of-way was dedicated (Attachment 3).

As the site is located within the Coastal Overlay Zone the proposed vacation action also requires a Coastal Development Permit. As such, the Public Right-of-way Vacation and Coastal Development Permit require the Planning Commission to make a recommendation to the City Council, in conformance with the process determined by the Land Development Code.

DISCUSSION

Project Description

The proposed action is the vacation of an unused, undeveloped public right-of-way (Attachment 4). The existing right-of-way measures approximately 109 feet in width at the easterly end and zero feet in width at the westerly end and measures an average of approximately 363 feet in length as shown on drawing 37279-B. The total area of the vacation is 0.447 acres. The southerly line of the public right-of-way is the boundary between the City of San Diego and the City of Del Mar. There is no corresponding public right-of-way within the City of Del Mar at this location. The public right-of-way is entirely within the City of San Diego.

The public right-of-way contains no public improvements. A ten foot wide easement for SDG&E and Cox Cable will be reserved over the easterly ten feet adjacent to Pine Needles Drive. The public right-of-way serves no other properties or any public use. No additional actions would result from the approval of the public right-of-way vacation.

Community Plan Analysis

The adopted Torrey Pines Community Plan identifies this property for residential development (Attachment 1). The vacation of the public right-of-way will facilitate the highest use of the land as designated by the community plan in that the land is designated for residential use. The Torrey Pines Community Plan does not identify this area for any circulation or other type of community facility. For these reasons the proposed vacation of the public right-of-way is consistent with the policies and goals of the adopted within the Torrey Pines Community Plan. All of the land uses surrounding the site are residential, both in the City of San Diego and the City of Del Mar (Attachment 3). The project is consistent with, and supports, the goals and policies of the Torrey Pines Community Plan.

Required Findings

The approval of the public right-of-way vacation requires four findings to be affirmed by a positive declaration of facts. Those findings are:

- (a) There is no present or prospective public use for the public right-of-way, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated;*
- (b) The public will benefit from the action through improved use of the land made available by the vacation;*
- (c) The vacation does not adversely affect any applicable land use plan; and*
- (d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.*

The draft Vacation Resolution with findings is provided as Attachment 5. The draft Coastal Development Permit Resolution with findings is Attachment 6. The draft findings present a positive declaration of facts affirming the proposed street vacation would be consistent with the required criteria.

Community Planning Group Recommendation

The Torrey Pines Planning Group (Group) voted, on April 11, 2013, to recommended denial of the proposed Street Vacation and Coastal Development Permit. The recommendation of the Group was provided with a written list of questions and concerns the Group has with the proposed street vacation (Attachment 8). The first three paragraphs of this list deal with historical information no longer available after 126 years. The fourth paragraph asks why the unusually shaped right-of-way was not developed into a street, the purpose for which it was dedicated. The answer is most likely the unusual shape itself precluded its improvement for right-of-way purposes.

The fifth paragraph asks why the City will not charge the applicant fair market value for vacating the right-of-way. The right-of-way was dedicated in fee in 1887 on a subdivision map at no cost to the city. The city has no financial interest in the right-of-way. Therefore, since the city paid nothing to acquire the right-of-way the city would not charge to vacate the right-of-way.

The final paragraph raises a concern about possible future development. Since the site is located within the Coastal Overlay Zone, any future development would require a Coastal Development Permit and possibly other actions.

Conclusion

Staff has reviewed the proposed project and all issues identified through the review process have been resolved in conformance with adopted City Council policies and regulations of the Land Development Code. Staff has provided draft findings to support approval of the proposed public right-of-way vacation (Attachments 5 and 6). Staff is recommending the Planning Commission recommend the City Council approve the project as proposed.

ALTERNATIVES

1. **Approve** Public Right-of-way Vacation No. 1044514 and Coastal Development Permit No. 1044519, **with modifications.**
2. **Deny** Public Right-of-way Vacation No. 1044514 and Coastal Development Permit No. 1044519, **if the findings required to approve the project cannot be affirmed.**

Respectfully submitted,



Mike Westlake
Assistant Deputy Director
Development Services Department



John S. Fisher
Development Project Manager
Development Services Department

BROUGHTON:JSF

Attachments:

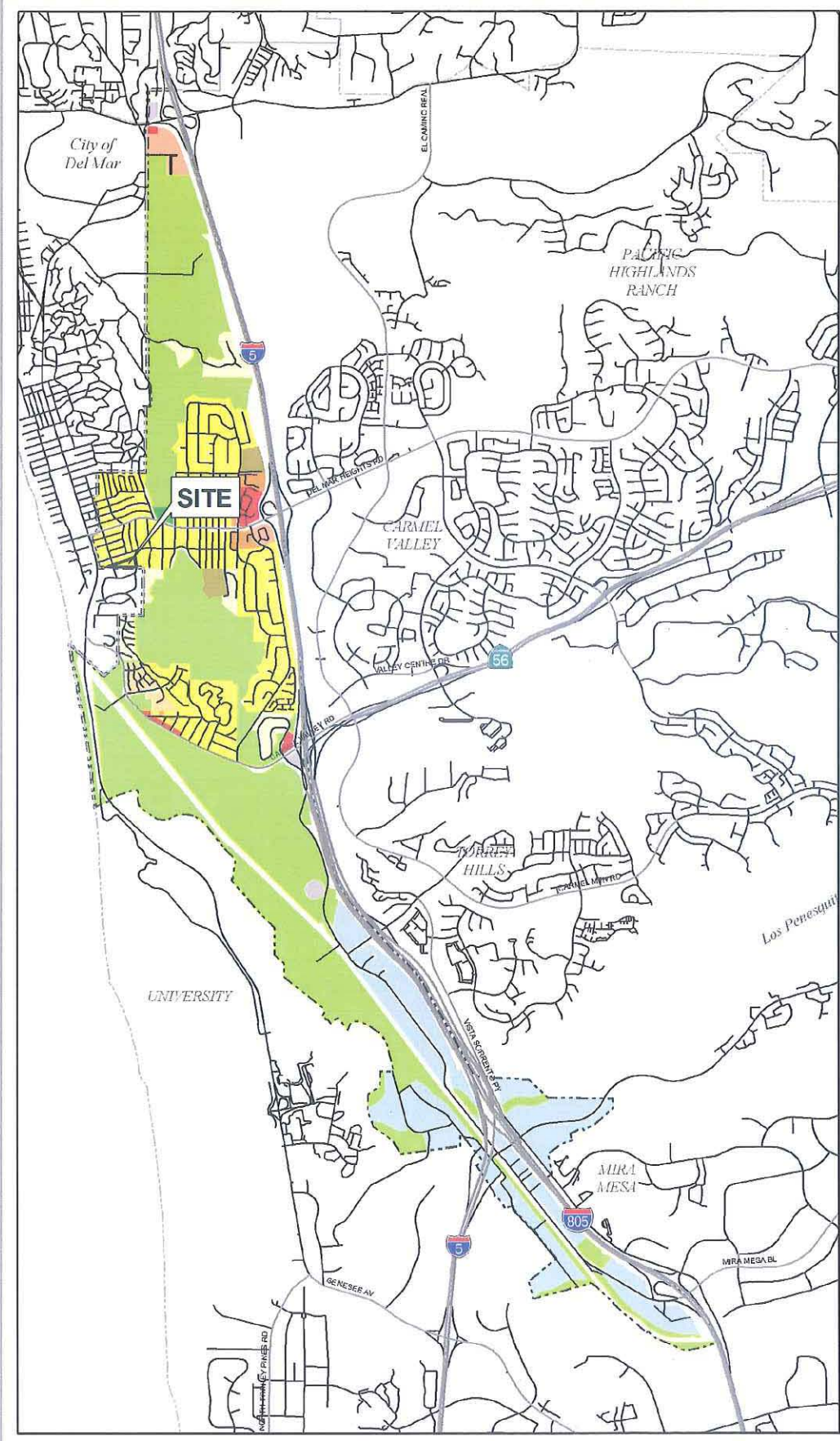
1. Community Plan Land Use Map
2. Project Location Map
3. Aerial Photograph
4. Public Right-of-way drawing 37279-B
5. Draft Public Right-of-way Vacation Resolution with Findings
6. Draft Coastal Development Permit Resolution with Findings
7. Draft Coastal Development Permit
8. Community Planning Group Recommendation
9. Ownership Disclosure Statement
10. Project Chronology



Torrey Pines Community Plan Land Use

Legend

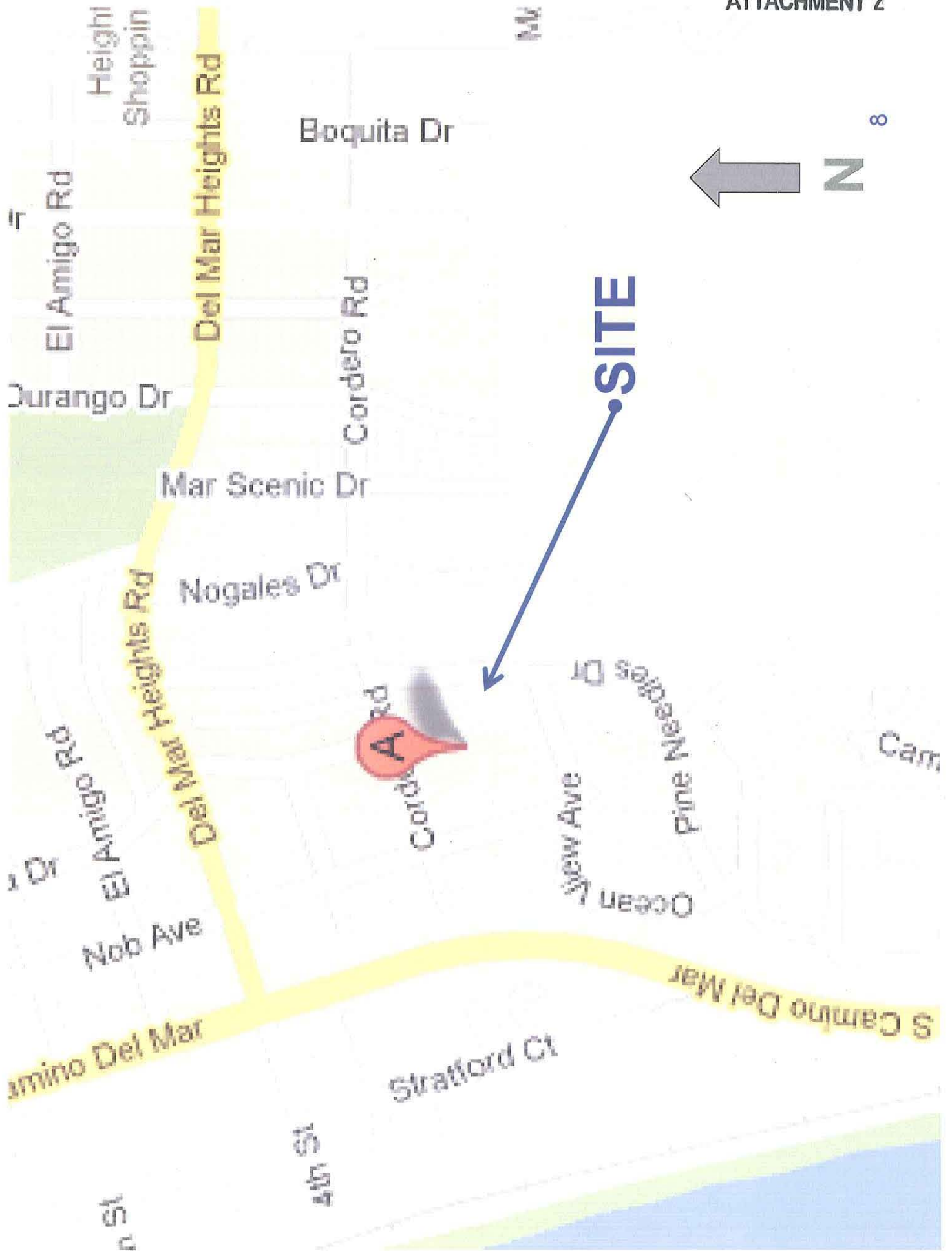
- VERY LOW DENS RES (0-4 DU/AC)
- LOW DENS RES (5-9 DU/AC)
- LOW-MED DENS RES (10-15 DU/AC)
- MEDIUM DENS RES (16-44 DU/AC)
- COMMERCIAL
- COMMERCIAL RECREATION
- INDUSTRIAL PARK
- PUBLIC UTILITY / FACILITY
- OPEN SPACE
- NEIGHBORHOOD PARK
- ELEMENTARY SCHOOL

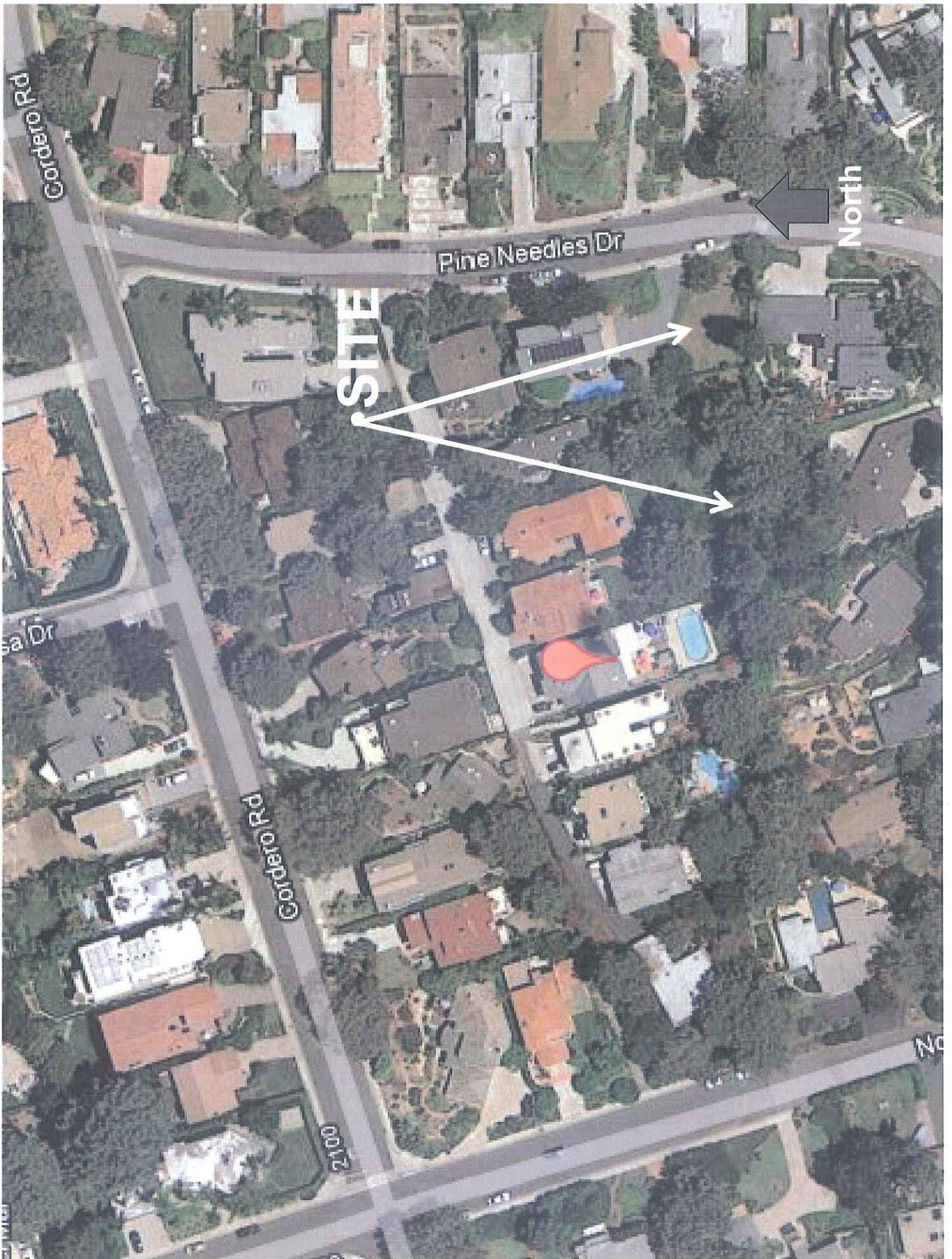


City of San Diego
Planning Department
February 19, 2004




THIS MAP IS PROVIDED WITHOUT WARRANTY OF ANY KIND. THE CITY OF SAN DIEGO, SANDAG, AND THE UNIVERSITY OF CALIFORNIA, SAN DIEGO, ARE NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE USER ASSUMES ALL LIABILITY FOR ANY DAMAGE, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM THE USE OF THIS MAP. THE CITY OF SAN DIEGO, SANDAG, AND THE UNIVERSITY OF CALIFORNIA, SAN DIEGO, SHALL NOT BE LIABLE FOR ANY DAMAGE, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM THE USE OF THIS MAP.





LEGEND

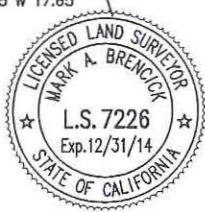
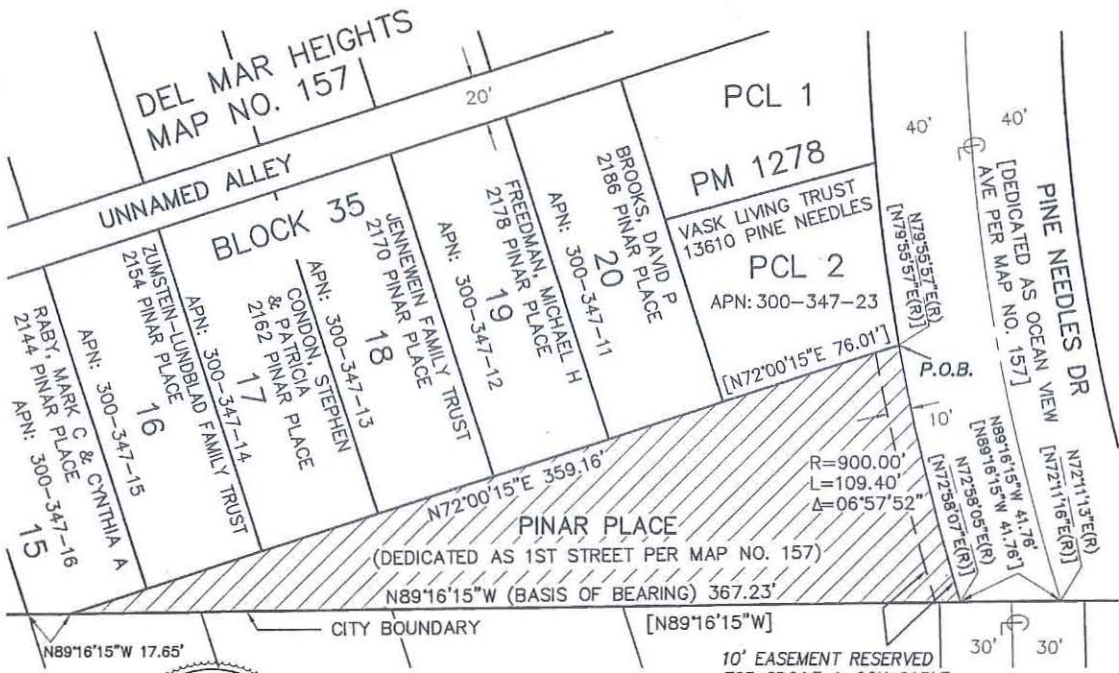
- P.O.B. INDICATES POINT OF BEGINNING
-  INDICATES STREET VACATION (0.447 ACRE)
- (R) INDICATES RADIAL BEARING
- [] INDICATES RECORD DATA FROM PM NO. 1278

REFERENCE DWGS.

- PARCEL MAP NO. 1278
- MAP NO. 157
- MAP NO. 2424



SCALE: 1" = 50'



CITY OF DEL MAR

10' EASEMENT RESERVED FOR SDG&E & COX CABLE

BASIS OF BEARINGS
 THE BASIS OF BEARINGS FOR THIS MAP IS THE CITY BOUNDARY LINE AS SHOWN ON PARCEL MAP NO. 1278, I.E. N 89°16'15" E

LANDMARK CONSULTING
 9555 GENESEE AVENUE, SUITE 200
 SAN DIEGO, CA 92121
 (858) 587-8070

Mark A. Brencick DATE: 4/12/13
 MARK A. BRENCICK L.S. 7226

STREET VACATION

PINAR PLACE (DEDICATED AS 1ST STREET PER MAP NO. 157 WEST OF PINE NEEDLES DRIVE)

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	I.O.
					SHEET 1 OF 1 SHEET	24003217
		CED	4/22/13		<i>Gregory P. Henderson</i> 4-22-13 FOR CITY ENGINEER DATE	P.T.S. 294358
						1922-6249
						CCS 83 COORDINATES
						282-1689
						LAMBERT COORDINATES
						37279-B

STATUS

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO FOR THE VACATION OF A PUBLIC RIGHT-OF-
WAY LOCATED AT 2144 THROUGH 2186 PINAR PLACE
AND 13610 PINE NEEDLES DRIVE BETWEEN PINE
NEEDLES DRIVE AND NOB AVENUE, SAN DIEGO,
CALIFORNIA (PUBLIC RIGHT-OF-WAY VACATION
NO. 1044514).

WHEREAS, California Streets and Highways Code sections 8320 *et seq.* and San Diego Municipal Code sections 125.1001 *et seq.* provide a procedure for the vacation of public easements by the Council of the City of San Diego resolution; and

WHEREAS, pursuant to San Diego Municipal Code Chapter 12, Article 5, Division 10, on November 8, 2012, San Jay Nigam submitted an application requesting the vacation of an approximately 0.447 acres, more or less, public right-of-way located at 2144 through 2186 Pinar Place and 13610 Pine Needles Drive between Pine Needles Drive and Nob Avenue, San Diego, California, described as being Public Right-of-way Vacation No. 1044514; and

WHEREAS, under Charter Section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and 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 project is exempt from CEQA pursuant to State CEQA Guidelines Section 15305; Minor Alterations in Land Use Limitations, the project is not pending an appeal of the environmental determination, the environmental exemption determination for this project

was made on December 14, 2012, and the opportunity to appeal that determination ended January 9, 2013; and

WHEREAS, the matter was set for public hearing on _____, testimony having been heard, evidence having been submitted, and the 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 with respect to Public Right-of-way Vacation No. 1044514, the Council finds that:

(a) There is no present or prospective public use for the public right-of-way, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated. The land is no longer needed as public right-of-way and is not needed to provide public circulation or services. The public right-of-way was originally acquired for circulation, access and public services in the year 1887, yet the street was never constructed for the purposes the right-of-way was dedicated. The neighborhood and community have several existing improved public rights-of-way that provide the public circulation necessary to the community and Pinar Place is not needed for providing public circulation. Public water and sewer services are provided throughout the community and Pinar Place is not needed for providing water or sewer services. Electricity, telephone, cable and other services are provided through other easements and rights-of-way in the community. Pinar Place is not needed for these other services.

As such, the existing public right-of-way will no longer be necessary and will have no prospective use. Further the unusual triangular shape of the right-of-way prohibits improvement of the right-of-way for the public purposes the right-of-way was originally dedicated to serve. There is no present or prospective public use for the public right-of-way, either for the purpose

for which it was originally acquired, or for any other public use of a like nature that can be anticipated.

(b) The public will benefit from the action through improved use of the land made available by the vacation.

Presently the public right-of-way limits the use of this land to only circulation purposes and public utility, those being the purpose for which the public right-of-way was originally acquired. The properties adjacent to the right-of-way will benefit by the vacation of the existing right-of-way as the properties will become larger and will control, maintain and be responsible for and liable for this area of land. The City of San Diego and the County of San Diego will benefit by the increase of property value by increasing the area of privately owned land subject to property tax and the incremental increase to the tax base. With an increase of tax revenue the general public will benefit by the vacation of the existing right-of-way by the increase of available public funds. The public will benefit by the reduction of liability to the City of San Diego from land it controls yet gains no benefit or use. The adopted Torrey Pines Community Plan designates the site for residential development. In that the use of the land for public right-of-way purposes has never materialized it is in the public interest to vacate the right-of-way and transfer responsibility of it to the adjacent property owners. Further the public will benefit by the vacation of the public right-of-way by the increase in property value. The public will benefit by the vacation of the public right-of-way.

(c) The vacation does not adversely affect any applicable land use plan.

The adopted Torrey Pines Community Plan identifies this public right-of-way for residential development. The vacation of the public right-of-way will facilitate the fullest and highest use of the property as designated by the community plan. For these reasons the proposed

vacation of the public right-of-way is consistent with the policies and goals of the adopted within the Torrey Pines Community Plan and will not adversely affect the Torrey Pines Community Plan.

(d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

The public right-of-way was originally acquired for circulation, access and public services in the year 1887, yet the street was never constructed for the purposes which the right-of-way was dedicated. The neighborhood and community have several existing improved public rights-of-way that provide circulation necessary to the public within and through the community and Pinar Place is not needed to provide public circulation. Public water and sewer services are provided throughout the community and Pinar Place is not needed to provide water or sewer services. Electricity, telephone, cable and other services are provided through other easements and rights-of-way in the community. An easement for public utilities will be reserved over the easterly ten feet adjacent to Pine Needles Drive. There is no other use of a like nature for this specific right-of-way which can be reasonably anticipated and the purpose for which the right-of-way was originally acquired will no longer exist.

BE IT FURTHER RESOLVED, that the public right-of-way located at 2144 through 2186 Pinar Place and 13610 Pine Needles Drive between Pine Needles Drive and Nob Avenue, described as being Public Right-of-way Vacation No. 1044514, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 37279-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the Office of the County Recorder.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
Shannon Thomas
Deputy City Attorney

HKV:cw
02/11/11
Or.Dept: DSD
PL#

DRAFT

(R-INSERT)

RESOLUTION NUMBER R-NUMBER

ADOPTED ON DATE

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 (to be filled in), the Planning Commission of the City of San Diego considered Coastal Development Permit No. 1044519, and pursuant to Resolution No. (to be filled in)-PC voted to recommend City Council (to be filled in) 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 _____, 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. 852961:

Coastal Development Permit - 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 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 University 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 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

Shannon Thomas
Deputy City Attorney

[Initials]:[Initials]
[Month]/[Day]/[Year]
Or.Dept:[Dept]
JO: 24001726
R-

DRAFT

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 (to be filled in). 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 (to be filled in), as San Diego Resolution Number RR-_____.

Permit Type/PTS Approval No.: Coastal Development Permit No. 1044519

Date of Approval: (to be filled in).

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT:

BY: _____
Mike Westlake
Program Manager

NOTE: NOTARY ACKNOWLEDGMENT MUST BE ATTACHED PER CALIFORNIA 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 ACKNOWLEDGMENT MUST BE ATTACHED PER CALIFORNIA CIVIL CODE SECTION 1189 *ET SEQ.*

Community Planning Committee

Distribution Form Part 1

Project Name – **Pinar Place Vacation** Project Number: 294358

Project Issues: **The Right of Way (ROW)**

Development Services (DS) has been unable to provide the TPCPB any details as to the purpose and reason for the creation of this ROW bordering the City of Del Mar. In the book, *Del Mar Looking Back* by Nancy Hanks Ewing, a subdivision called Del Mar Heights was created in 1887. This subdivision was platted and streets graded. Streets were laid out including 1st through 6th, Nob and Cordero street .

On July 5th, 1887, 1st Street was dedicated. At some future date, the western most end of 1st street was closed off by narrowing the land. This created what today is Pinar Place. The City has not provided any information about how and why this 1st Street conversion happened.

At one meeting the Applicant showed the Board an old map (not the Landmark Consulting document) that showed a strangely configured western end of ROW with jagged border. From this map it appeared that some of the land was not within the ROW. Board was not provided with a copy of this document. The Landmark map did not provide the square footage of the ROW or Mr. Nigam section. This data was provided upon request at a later date.

The residents along the ROW use a narrow alley (12-14 ft wide) called Pinar Drive to access their homes and garages. Until a few years ago this was a dirt pathway. Why was Pinar Place not used as a public street as it was dedicated for (1st Street) ?

The TPCPB has been told by the City of San Diego that the City cannot charge for this ROW land since it was free to the City. No documents have been provided that support the assertion that the land was 'free'. Without the origin and history of this land, we can also presume that the property was part of a land swap or other consideration(s) which pinched off the western most section of 1st street. At today's market rates this property is estimated to be worth around a \$1 million dollars. The Board was told by the applicant's attorney that no property taxes needed to be paid to the city.

The ROW is approximately 19,453 sq. ft. and could allow, after the vacation of the ROW, for several 'new' lots that could be split for multiple home sites. The TPCPB has learned that a deed restriction cannot be placed on these new lots. At one meeting Mr. Nigam submit a letter to the Board that talked about a possible deed restriction. Mr. Brencick objected to this letter and took it back at the end of the meeting unbeknownst to the Chair. Mr. Brencick was contacted but will not provide a copy of Mr. Nigam's letter for the Board's records.

Distribution Form Part 2

Project Number: 294358 Project Name: Pinar Place Vacation

Applicant Name: Mark Brencick

Project Manager : John Fisher JSFisher@sandiego.gov

Committee Recommendation: from Board meeting April 11, 2013

Vote to Deny _____ Members yes 7 (seven); Members No 1 (one); Members Abstain 3 (three)

Three abstain due to either working with or friends of Mr. S. Nigam. Applicant is attorney for Mr. Nigam.

Dennis Ridz, Chair TPCPB



Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment Other Right of Way Vacation

Project Title: Pineat Place Street Vacation **Project No. For City Use Only:** _____

Project Address:
13610 Pine Needles Dr Del Mar

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process

Additional pages attached Yes No

Name of Individual (type or print):
SANJAY NIGAM
 Owner Tenant/Lessee Redevelopment Agency
 Street Address:
13610 Pine Needles Dr
 City/State/Zip:
Del Mar CA 92014
 Phone No: _____ Fax No: _____
 Signature: [Signature] Date: 8/16/12

Name of Individual (type or print):

 Owner Tenant/Lessee Redevelopment Agency
 Street Address:

 City/State/Zip:

 Phone No: _____ Fax No: _____
 Signature: _____ Date: _____

Name of Individual (type or print):

 Owner Tenant/Lessee Redevelopment Agency
 Street Address:

 City/State/Zip:

 Phone No: _____ Fax No: _____
 Signature: _____ Date: _____

Name of Individual (type or print):

 Owner Tenant/Lessee Redevelopment Agency
 Street Address:

 City/State/Zip:

 Phone No: _____ Fax No: _____
 Signature: _____ Date: _____

APN: 300-347-23
OWNER: VASK LIVING TRUST
13610 PINE NEEDLES DR
DEL MAR, CA 92014

APN: 300-347-11
OWNER: BROOKS, DAVID P
2186 PINAR PLACE
DEL MAR, CA 92014

APN: 300-347-12
OWNER: FREEDMAN, MICHAEL H
2178 PINAR PLACE
DEL MAR, CA 92014

APN: 300-347-13
OWNER: JENNEWEIN FAMILY TRUST
2170 PINAR PLACE
DEL MAR, CA 92014

APN: 300-347-14
OWNER: CONDON, STEPHEN AND PATRICIA
2162 PINAR PLACE
DEL MAR, CA 92014

APN: 300-347-15
OWNER: ZUMSTEIN-LUNDBLAD FAMILY TRUST
2154 PINAR PLACE
DEL MAR, CA 92014

APN: 300-347-16
OWNER: RABY, MARK C & CYNTHIA A
2144 PINAR PLACE
DEL MAR, CA 92014

DEVELOPMENT SERVICES
Project Chronology
Pinar Place - PTS# 294358

Date	Action	Description	City Review Time	Applicant Response
11/08/12	First Submittal	Project Deemed Complete		
01/07/13	First Assessment Letter		42 days	
01/23/13	Second Submittal			12 days
02/14/13	Second Review Complete		16 days	
03/27/13	Third Submittal			29 days
04/23/13	Third Review Complete		19 days	
04/23/13	Issues Complete			
06/20/13	Public Hearing		42 days	
TOTAL STAFF TIME			119 days	
TOTAL APPLICANT TIME				41 days
TOTAL PROJECT RUNNING TIME		Deemed Complete to Issues Complete	5 months and 10 days	

Note: Days tallied are business days and do not include holidays or weekends.