



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: March 4, 2024

TO: Antoinette Gibbs, Hearing Officer, Department Services Department

FROM: Robin MacCartee, DPM II, Department Services Department

SUBJECT: Update to Permit and Presentation for 3/6/24 Hearing Officer meeting.

Dear Officer Gibbs,

Per a correspondence from the California Coastal Commission, the Planning Conditions of Permit No. 3231459 have been updated. Specifically, Condition 14 has been added to the Planning Requirements. Subsequently, Engineering Condition 14 has changed to 15, changing all the following numbers accordingly. The updated permit is attached for reference, with Condition 14 underlined.

Thank you,
Robin

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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24009612

SPACE ABOVE THIS LINE FOR RECORDER'S USE

COASTAL DEVELOPMENT PERMIT NO. 3231459
NICHOLS STREET PIER - PROJECT NO. 1097375
HEARING OFFICER

This Coastal Development Permit No. 3231459 is granted by the Hearing Officer of the City of San Diego to The Peckham House, LLC, a California limited liability company, Owner/ Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0708. The 0.0034-acre site is located at the unimproved intersection of Nichols Street and San Antonio Avenue and associated with the adjacent Hildreth R. and Marion M. Peckham House located at 2905 Nichols Street, also known as Assessor's Parcel Numbers 532-452-10 and 2900 Nichols Street, also known as Assessor's Parcel Number 532-365-05 in the Residential-Single (RS-1-7) zone, the Airport Land Use Compatibility Overlay Zone, the Coastal Height Limit Overlay Zone, the Coastal Overlay (appealable) Zone, the Coastal Overlay Zone First Public Roadway, the Parking Impact Overlay Zone, the ALUCP Airport Influence Area, and the FAA Part 77 Noticing Area of the Peninsula Community Plan. The project site is legally described as:

LOT 3 IN BLOCK 137 OF LA PLAYA PER POODLE MAP SURVEYED IN 1856, TOGETHER WITH A PORTION OF THE WESTERLY 25 FEE OF SAN ANTONIO AVENUE ADJOINING SAID LOT 3 ON THE EAST AS CLOSED MAY 25TH, 1914 BY RESOLUTION NO. 17359 OF THE COMMON COUNCIL OF THE CITY OF SAN DIEGO (APN 532-452-10).

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to construct a new public access stairway with a 30-square-foot concrete landing to an existing private wooden pier, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated, March 6, 2024, on file in the Development Services Department.

The project shall include:

- a. Construction of a new public access stairway to an existing private wooden pier.
- b. Construction of a concrete landing at the base of the stairs, which would be approximately 0.5 feet thick, 6 feet by 5 feet (30 square feet).

- c. 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 March 20, 2027.
2. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action or following all appeals.
3. 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.
4. 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.
5. 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.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. 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.).
8. 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.

9. 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.

10. 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.

11. 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.

CLIMATE ACTION PLAN REQUIREMENTS:

12. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

PLANNING REQUIREMENTS:

13. Public access will be granted to the private pier, stairs and concrete landing, which will be maintained by the property owner through the Encroachment Maintenance and Removal Agreement (EMRA).

14. Stairs are not to interfere with access to the existing path along San Antonio Avenue and will be properly signed. Stairs cannot be protected in the future if threatened by sea level rise and would instead be removed.

ENGINEERING REQUIREMENTS:

15. Prior to the issuance of any construction permit the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

16. Prior to the issuance of any building permit the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement (EMRA), from the City Engineer, for the stairway and concrete pad in San Antonio Avenue right-of-way.

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 Hearing Officer of the City of San Diego on March 6, 2024, and **[Approved Resolution Number]**.

ATTACHMENT 5

Coastal Development Permit No. 3231459
Date of Approval: March 6, 2024

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Robin MacCartee
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.

**Peckham House, LLC,
a California limited liability company
Owner/Permittee**

By _____
NAME
TITLE

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