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(R-2005-1034)

RESOLUTION NUMBER R- 300348

ADOPTED ON APR 19 2005

WHEREAS, Burgener-Clark LLC, a California Limited Liability Company, Craig W. Clark, Applicant, and Latitude 33 Planning and Engineering, Engineer, submitted an application to the City of San Diego for a two-lot tentative map (Tentative Map No. 179620) for the Bay View Plaza project [Project], located 2509-2591 Clairemont Drive, and, and legally described as bounded by Clairemont Drive to the north, Denver Street to the east, Ingulf Street to the south and Morena Blvd. to the west, legally described as Lots 1 and 2 of West Claremont Plaza Unit. 1, Map No. 3780, in the CC-1-3 Zone of the Clairemont Mesa Community Plan;

WHEREAS, on January 27, 2005, the Planning Commission of the City of San Diego considered Tentative Map No. 179620, and pursuant to Resolution No. 3646.1-PC voted to recommend approval by the City Council of a Tentative Map, Planned Development Permit and Site Development Permit; and

WHEREAS, the matter was set for public hearing on APR 19 2005, 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 Tentative Map No.179620:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code section 125.0440.a and State Map Action sections 66473.5, 66474(a), and 66474(b)).
2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code section 125.0440.b).

3. The site is physically suitable for the type and density of development (Land Development Code section 125.0440.c and State Map Act sections 66474(c) and 66474(d)).
4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat (Land Development Code section 125.0440.d and State Map Act section 66474(e)).
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (Land Development Code section 125.0440.e and State Map Act section 66474(f)).
6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (Land Development Code section 125.0440.f and State Map Act section 66474(g)).
7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (Land Development Code section 125.0440.g and State Map Act section 66473.1).
8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (Land Development Code section 125.0440.h and State Map Act section 66412.3).
9. The Subdivider shall underground existing and/or proposed utility systems and service facilities in accordance with the San Diego Municipal Code.
10. The property contains right-of-way which must be vacated and public service easements which must be modified and abandoned to implement the final map in accordance with San Diego Municipal Code section 125.0430.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), all easements and portions of public rights-of-way located within the project boundaries as shown in Tentative Map No.179620, shall be modified, abandoned or vacated as appropriate, contingent upon the recordation of the approved final map for the project.

BE IT FURTHER RESOLVED, that said easements and portions of public rights-of-way shall be modified, abandoned or vacated, contingent upon easement reservations or relocations of gas and electric facilities satisfactory to the San Diego Gas and Electric Company.

BE IT FURTHER RESOLVED, that said easements and portions of public rights-of-way shall be modified, abandoned or vacated, contingent upon the relocation of water facilities satisfactory to the City Engineer.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), the following public service easements, located within the project boundaries as shown in Tentative Map No. 179620, shall be modified and vacated, contingent upon the recordation of the approved final map for the project:

- a. A portion of the building restricted easement granted on Parcel Map No. 3780.
- b. A portion of the general access and utility easement dedicated by Document recorded 9-20-2001 as File No. 2001-0678260. Said easement shall be vacated upon realignment and dedication of a general access and utility easement, satisfactory to the City Engineer.
- c. A portion of the pedestrian and non-motor vehicular right of way dedicated on Map No. 3780. Said easement shall be vacated upon realignment and dedication of a pedestrian and non-motor vehicular right of way, satisfactory to the City Engineer.
- d. A portion of the open space easement granted on Map 3780. Said easement shall be vacated upon realignment and dedication of an open space easement, satisfactory to the City Engineer.

The property contains right-of-ways and public service easements which must be vacated to implement the parcel map in accordance with San Diego Municipal Code section 125.0430.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66445 (j), a portion of Clairemont Drive, a portion of Morena Boulevard and portions of certain

public service easements, located within the project boundaries as shown in Tentative Map No. 1-79620, shall be vacated, contingent upon the recordation of the approved parcel map for the project.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66445 (j) the following public service easements, located within the project boundaries as shown in Tentative Map No. 1-79620, shall be vacated, contingent upon the recordation of the approved final map for the project:

- a. Portions of the sewer, drainage and unnamed easements dedicated on Map No. 3780.
- b. The drainage easement recorded February 17, 1960 as File No. 36258 of Official Records.
- c. The public utilities easement recorded June 29, 1969 as File No. 115490 of Official Records.

That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 179620, is hereby granted to Burgener-Clark LLC, a California Limited Liability Company, Craig W. Clark, Managing Member, Applicant/Subdivider, subject to the following conditions:

APPROVED: MICHAEL J. AGUIRRE/City Attorney

By



Douglas K. Humphreys
Deputy City Attorney

DKH:ai
04/04/05
Or.Dept:DSD
R-2005-1034
MMS 1706

CONDITIONS FOR TENTATIVE MAP NO. _____

_____ PROJECT

ADOPTED BY RESOLUTION NO. R-_____ ON _____

GENERAL

1. This Tentative Map will expire _____.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
3. A Parcel Map shall be recorded in the Office of the County Recorder, prior to the Tentative Map expiration date.
4. This Parcel Map shall comply with the conditions of Site Development Permit No. 9100 and Planned Development Permit No. 179619.
5. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.

ENGINEERING

6. Prior to building occupancy, the applicant shall conform to section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.
7. The drainage system proposed for this development, as shown on the approved plans, is subject to approval by the City Engineer.
8. The subdivider shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
9. Prior to the issuance of grading permits, a geotechnical investigation report shall be required that specifically addresses the proposed grading plans and cites the City's Job Order No. and Drawing No. The geotechnical investigation shall provide specific geotechnical grading recommendations and include geotechnical maps, using the grading plan as a base, that depict recommended location of subdrains, location of outlet headwalls, anticipated removal depth, anticipated over-excavation depth, and limits of remedial grading.
10. The subdivider shall vacate portions of Clairemont Drive and Morena Boulevard, and portions of drainage easements and sewer easements.

R- 300348

11. The subdivider shall obtain an Encroachment Maintenance and Removal Agreement, from the City Engineer, for private drains in Clairemont Drive and Morena Boulevard, for a private drain connection to the public drain in Morena Boulevard south of Ingulf Street and for landscaping in Denver Street, Ingulf Street and Morena Boulevard.

12. Prior to the issuance of any construction permits, the applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance, satisfactory to the City Engineer.

13. Prior to the issuance of any construction permits, the applicant shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, consistent with the approved Water Quality Technical Report.

14. Prior to the issuance of any construction permits, the applicant shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

15. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in section C.7 of SWRCB Order No. 99-08-DWQ.

16. The subdivider shall close all unused driveways on each adjoining street, install a 30-foot driveway and a 12-foot driveway on Ingulf Street, drain pipes in Clairemont Drive and Morena Boulevard, a 24-foot driveway on Morena Boulevard and curb, gutter, sidewalk, a 20-foot driveway and a 14-foot driveway at the proposed entrance on Clairemont Drive. This work shall be shown on the grading plan and included in the grading permit.

17. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the tentative map and covered in these special conditions will be authorized.

R- 300348

All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. 769830.

MAPPING

18. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD 83).

19. "California Coordinate System" means the coordinate system as defined in section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."

20. Every Parcel Map shall:

a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.

b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of Third Order accuracy or better. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

21. The design of the subdivision shall include private easements, if any, serving parcels of land outside the subdivision boundary or such easements must be removed from the title of the subdivided lands prior to filing any parcel or final map encumbered by these easements.

WASTEWATER

22. The developer shall relocate all on-site public sewer mains to a public right-of-way, satisfactory to the Metropolitan Wastewater Department Director. Any associated on-site public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director.

23. The developer shall grant adequate sewer, and/or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within public rights-of-way, satisfactory to the Metropolitan Wastewater Department Director.

R- 300348

24. No structures or landscaping that would inhibit vehicular access shall be installed in or over any sewer access easement.

25. No approved structures or landscaping shall be installed in or over any easement prior to the Applicant obtaining an Encroachment Maintenance and Removal Agreement.

26. No trees or shrubs exceeding three-feet in height at maturity shall be installed within ten-feet of any public sewer facilities.

27. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

WATER

28. The Subdivider shall design and construct public 16-inch water facilities within the Morena Boulevard right-of-way, from Ingulf Street to the northerly project boundary, replacing the existing water facilities adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

29. The Subdivider shall install and/or replace fire hydrants at locations satisfactory to the Fire Marshal, the Water Department Director and the City Engineer. All on-site fire hydrants shall be private.

30. The Subdivider agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities as shown on the approved tentative map shall be modified at final engineering to comply with standards.

GEOLOGY

31. Prior to the issuance of a grading permit, a geotechnical report shall be submitted and approved by the City Engineer in accordance with the City of San Diego's Technical Guidelines for Geotechnical Reports.

LANDSCAPING

32. Prior to the recordation of the parcel map, the subdivider shall submit complete landscape construction documents, including plans, details, and specifications (including a permanent automatic irrigation system unless otherwise approved), for the required right-of-way and median (if applicable) improvements, slope revegetation and hydroseeding of all disturbed land in accordance with the Landscape Standards and to the satisfaction of the City Manager. The landscape construction documents shall be in substantial conformance with Exhibit 'A,' Landscape Development Plan, on file in the Office of the Development Services Department. The applicant shall assure by permit and bond the installation of landscaping per landscape construction documents.

R- 300348

33. Prior to the recordation of the parcel map, the Permittee or subsequent Owner/Developer shall submit for review, a Landscape Maintenance Agreement for all landscape improvements within the public right-of-way area consistent with Exhibit 'A.' The approved Landscape Maintenance Agreement shall be recorded and bonded prior to recordation of the parcel map.

INFORMATION:

- The approval of this Tentative Map by the City Council of the City of San Diego does not authorize the subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC section 1531 *et seq.*).
- If the subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), then the subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.
- This development may be subject to payment of a park fee prior to the filing of the Parcel Map in accordance with San Diego Municipal Code.
- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within 90 days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code section 66020.