

RESOLUTION NUMBER R- 301091

ADOPTED ON NOV 29 2005

WHEREAS, Dan Floint and State 27, LLC, Applicant/Subdivider, and Anthony-Taylor Consultants, Engineer, submitted an application to the City of San Diego for a tentative map (Tentative Map No. 92651) to subdivide a .066-acre site into two lots for a 27-unit residential condominium conversion with eleven units on Lot 1 and sixteen units on Lot 2, for the State Street Project [Project], located north of Walnut Avenue/Glenwood Drive at 3603, 3606, and 3613 State Street, and legally described as Lots 4,5,6, and 9 in Block 163 and Lots 7 and 8 in Block 162 of Middletown, according to Map thereof made by J.F. Jackson, in the Uptown Community Plan area, in the MR-1500 zone of the Mid-City Communities Planned District, Transit Area Overlay Zone, and the Airport Approach Overlay Zone; and

WHEREAS, on July 28, 2005, the Planning Commission of the City of San Diego trailed the project to their August 4, 2005, agenda due to the lack of a quorum; and

WHEREAS, on August 4, 2005, the Planning Commission considered Tentative Map No. 92651, and pursuant to Resolution No. 3819-PC voted to recommend City Council approval of the project; and

WHEREAS, the project is exempt from environmental review pursuant to Article 19, Section 15301(k) of the California Environmental Quality Act [CEQA], on the basis that the facilities are existing; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the Subdivision Map Act and San Diego Municipal Code section 144.0220; and

WHEREAS, the matter was set for public hearing on NOV 29 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. 92651:

1. The proposed subdivision complies with the applicable zoning and development regulations of the San Diego Municipal Code/Land Development Code [SDMC/LDC] (LDC section 125.0440(b)).

2. 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 (SDMC/LDC section 125.0440(h) and State Map Act Section 66412.3).

3. Each of the tenants of the proposed condominium project has received, pursuant to State Map Action Section 66452.9, written notification of intention to convert at least sixty days prior to the filing of a tentative map (SDMC/LDC section 125.0444 and State Map Act Section 66427.1(a)).

4. The project has been conditioned that the Subdivider will give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act (SDMC/LDC section 125.0444 and State Map Act Section 66427.1(a)).

5. The project has been conditioned that the Subdivider will give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request (SDMC/LDC section 125.0444 and State Map Act Section 66427.1(a)).

6. The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within ten days of approval of a final map for the proposed conversion (SDMC/LDC section 125.0444 and State Map Act Section 66427.1(b)).

7. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion (SDMC/LDC section 125.0444 and State Map Act Section 66427.1(c)).

8. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than ninety days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (SDMC/LDC section 125.0444 and State Map Act Section 66427.1(d)).

9. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (SDMC/LDC section 125.0440(a)).

10. For any project that was developed to provide housing for the elderly, disabled or to provide low income housing, provisions have been made to perpetuate the use for which the project was developed (SDMC/LDC section 125.0444(b)).

11. The requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600 25 Underground Conversion of Utility Lines at Developers Expense in that:

- a. The conversion involves a short span of overhead facility (less than 600 feet); and
- b. The conversion is a requirement of a condominium conversion of an existing development and the conversion would not represent a logical extension to an underground facility.

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), portions of State Street, located within the project boundaries as shown in Tentative Map No. 92651, shall be vacated, contingent upon the recordation of the approved

final map for the project, as it is no longer needed for public purpose for which it was granted and the City Council finds that:

- a. There is no present or prospective public use for the public right-of-way, either for the facility 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.

BE IT FURTHER RESOLVED, that, pursuant to California Government Code section 66445 (j), the existing sewer easement granted to the City of San Diego per Book 1647, Page 161, recorded June 5, 1929, within the project boundaries as shown in Tentative Map No. 92651, shall be vacated contingent upon the recordation of the approved Final Map for the project, and the City Council finds that:

- a. There is no present or prospective public use for the easement, either for the facility 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 utilization of the land made available by the abandonment;
- c. The abandonment is consistent with any applicable land use plan; and
- d. The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the abandonment or the purpose for which the easement was acquired no longer exists.

BE IT FURTHER RESOLVED, that Tentative Map No. 92651 is granted to Dan Floint and State 27, LLC, Applicant/Subdivider and Anthony-Taylor Consultants, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



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Douglas K. Humphreys  
Deputy City Attorney

DKH:pev  
11/04/05  
Or.Dept:DSD  
R-2006-463  
MMS #2736

CONDITIONS FOR TENTATIVE MAP NO. 92651

STATE STREET PROJECT

ADOPTED BY RESOLUTION NO. R-\_\_\_\_\_ ON \_\_\_\_\_

**GENERAL**

1. This Tentative Map will expire \_\_\_\_\_, 2008.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the Tentative Map expiration date, a Final Map to consolidate the existing lots into two lots shall be recorded in the Office of the County Recorder.
4. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
5. Reservation of access for a general utility easement will be required in connection with proposed vacation.
6. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.
7. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRB), pursuant to Section 66427.1(a) of the Subdivision Map Act.
8. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Section 66427.1(c) of the Subdivision Map Act. The provisions of this subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.
9. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Section 66427.1(d) of the State Map Act. The right shall run for a period of not less than 90 days

from the date of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

10. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act.

### **AFFORDABLE HOUSING**

11. Prior to the recordation of the Final Map, the Subdivider shall pay an Inclusionary Affordable Housing In-Lieu Fee of \$20,381.00 pursuant to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). If the Subdivider chooses to provide affordable housing units, the Subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.

12. Prior to the recordation of the Final Map, the Subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the City Manager and the Housing Commission.

### **ENGINEERING**

13. 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.

14. 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.

15. Pursuant to City Council Policy 600-20, the subdivider shall provide evidence to ensure that an affirmative marketing program is established.

16. The Subdivider shall dedicate additional right-of-way at the northwesterly corner of State Street and Walnut Street to provide a 10-foot curb to property line distance. The Subdivider shall relocate the apartment identification sign onto private property.

17. The Subdivider shall remove the brush and wall, extending from the northerly property line of Lot 1, into the State Street right-of-way.

18. The Subdivider shall remove the trash enclosure from the State Street right-of-way.

19. The Subdivider shall obtain an Encroachment Maintenance Removal Agreement for the non-standard driveways.

## **MAPPING**

20. "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).
21. "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."
22. The Final 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.
23. 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.

## **SEWER AND WATER**

24. The Subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.
25. The Subdivider shall provide a letter agreeing to prepare Covenants, Conditions, and Restrictions for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.

## **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.
- 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.
- • The applicant shall conform to Municipal Code provisions for “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 City Engineer.