

RESOLUTION NUMBER R- 301201

DATE OF FINAL PASSAGE JAN 24 2006

WHEREAS, Vista Court, Ltd., a California Limited Partnership, Applicant/Subdivider, and Michael Knapton, Engineer, submitted an application to the City of San Diego for a vesting tentative map, for the Milazzo Condominiums project [Project], for the condominium conversion of 250 existing residential units to condominiums. The 10.16-acre site is located at 10024 Paseo Montril, and legally described as Parcel 1 and 2 of Parcel Map No. 12388, filed in the Office of the County Recorder, San Diego, State of California, within the Rancho Penasquitos Community Plan in the CV-1-1 zone; and

WHEREAS, on October 13, 2005, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 128329, and pursuant to Resolution No. 3856-PC voted to recommend City Council approval of the Map; 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, Karen Grube appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived by the City Engineering pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and is filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is 250; 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, on January 24, 2006, the City Council of the City of San Diego considered Vesting Tentative Map No. 128329, and 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 City Council of the City of San Diego, that it adopts the following findings with respect to Vesting Tentative Map No. 128329:

1. The proposed subdivision complies with the applicable zoning and development regulations of San Diego Municipal Code/Land Development Code [SDMC/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 Subdivision Map Act section 66412.3)).
3. Each of the tenants of the proposed condominium project has received, pursuant to Subdivision 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 Subdivision 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 Subdivision Map Act (SDMC/LDC section 125.0444 and Subdivision Map Act Section 66427.1(a)).
5. The project has been conditioned that the Subdivider will give each tenant ten 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 Subdivision 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 Subdivision 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 Subdivision 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 Subdivision Map Act Section 66427.1(d)).

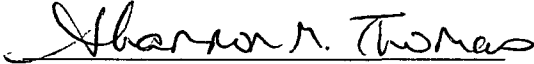
9. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled or low income housing (SDMC/LDC section 125.0444(b)); and

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(c)); and

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

BE IT FURTHER RESOLVED, that the appeal of Karen Grube is denied, the decision of the Planning Commission is sustained, and Vesting Tentative Map No. 128329 is granted.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Shannon M. Thomas  
Deputy City Attorney

SMT:als  
02/06/06  
Or.Dept:DSD  
R-2006-669  
MMS#3016

CONDITIONS FOR TENTATIVE MAP NO. 128329

MILAZZO CONDOMINIUMS- PROJECT NO. 43646

ADOPTED BY RESOLUTION NO. R- 301201 ON JANUARY 24, 2006

**GENERAL**

1. This Vesting Tentative Map will expire January 24, 2009.
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 Vesting Tentative Map expiration date, a Final Map to consolidate the existing lots into one lot 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. 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 Subdivision Map Act.
6. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least ten days prior to the submittal to the Department of Real Estate [DRB], pursuant to Section 66427.1(a) of the Subdivision Map Act.
7. 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.
8. 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 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.

9. The Subdivider shall provide the tenants of the proposed condominiums with written notification within ten 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**

10. Prior to the recordation of the Final Map, the Subdivider shall comply with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). Prior to the recordation of the Final Map, the Subdivider shall either pay an Inclusionary Affordable Housing In-lieu Fee of \$200,819 or enter into an agreement with the San Diego Housing Commission to assure payment of the fee. In addition, the Subdivider has agreed to sell six 1-bedroom units and four 2-bedroom units to, and at prices affordable to, households earning no more than 100 percent of Area Median Income [AMI]. Prior to the recordation of the Final Map, the Subdivider must enter into an agreement with the San Diego Housing Commission to assure that the ten units are sold to eligible households at restricted prices.
11. 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.
12. The property is subject to a bond regulatory agreement ["Bond Regulatory Agreement"] that requires 20% of all units located within the project (fifty units and hereafter referred to as the "Restricted Units") to be occupied by and affordable to persons earning no more than 80% of AMI ["Rent Restrictions"] until the bonds are repaid in full. The applicant has agreed to comply with certain provisions of the Government Code which provide that at least twelve months and six months prior to the termination of the Rent Restrictions for the Restricted Units ["Notice Periods"] a notice of the proposed termination of the Rent Restrictions be given to each affected tenant household residing in the project in a form to be agreed upon with the Housing Commission ["Notices"]. As a condition of the approval of the vesting tentative map and filing of the final map, a restriction running with the land as approved and drafted by general counsel for the Housing Commission ["Rent Restriction Agreement"] must be recorded against the project which will at said time identify the fifty Restricted Units by address and unit number and provide that no low income tenant's occupancy in the identified Restricted Units may be unilaterally terminated during the term of the Bond Regulatory Agreement and/or the Notice Periods. Further the Rent Restriction Agreement shall provide that, while the project as a whole may be sold during the term of the Regulatory Agreement, no low income unit in the project shall be individually sold during the term of the Regulatory Agreement. Further said Rent Restriction Agreement shall be binding on any subsequent owner of any of the Restricted Units. The enforceability of the Rent Restriction Agreement shall be secured by a junior deed of trust in favor of the Housing Commission, which deed of trust shall be reconveyed and the Rent Restriction Agreement released in connection with each Restricted Unit upon both (y) the

termination of the Bond Regulatory Agreement and also (x) the earlier of (a) any existing tenant voluntarily terminating the leasehold interest held by said tenant in any Restricted Unit, (b) any existing tenant defaulting under any lease evidencing said leasehold interest and as a result thereof said leasehold interest is terminated or (c) the expiration of the Notice Periods. Nothing contained within this condition, however, shall preclude the applicant/subdivider from filing a final map and/or making application to the Department of Real Estate for a final public report, provided that the Final Public Report makes reference to the Rent Restriction continuing until the expiration of the Bond Regulatory Agreement and the Notice Periods.

### **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 vesting tentative map and covered in these special conditions will be authorized. 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.
14. The subdivider shall replace the driveways on Paseo Montril and Rancho Penasquitos Boulevard to meet current Americans with Disabilities Act [ADA] standards for wheel chair accessibility.
15. The subdivider shall replace a portion of the sidewalk (currently asphalt) on Paseo Montril west of the curb inlet, approximately 150 feet west of Rancho Penasquitos Boulevard.
16. The subdivider shall reconstruct the curb ramp at the corner of Rancho Penasquitos Boulevard and Paseo Montril to current standards, providing sufficient platform to provide access to the pedestrian button.
17. The subdivider shall replace a portion of the sidewalk adjacent to the SDG&E vault on Paseo Montril, to eliminate a tripping hazard.
18. The subdivider shall adjust two water meter boxes on Rancho Penasquitos Boulevard to match the existing sidewalk, to eliminate a tripping hazard.
19. Compliance with all conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.

A Final Map to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder, prior to the Map Waiver expiration date.

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

21. This project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer. This may require (but not be limited to) installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.
22. Water and Sewer Requirements:
  - a. 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.
  - b. The subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.

### **MAPPING**

23. "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].
24. "California Coordinate System means the coordinate system as defined in Sections 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."
25. Every 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.

26. 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.
27. 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.

**INFORMATION:**

- The approval of this Vesting 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 Final Map in accordance with San Diego Municipal Code.
- Subsequent applications related to this Vesting 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 Vesting Tentative Map, may protest the imposition within ninety days of the approval of this Vesting Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.