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(R-2006-469)
COR.COPY 2

RESOLUTION NUMBER R- 301320
DATE OF FINAL PASSAGE MAR 21 2006

WHEREAS, Constellation Property Group (Hancock), a Delaware Limited Partnership, Applicant/Subdivider, and Feyzi Design Group, Engineer, submitted an application with the City of San Diego for a vesting tentative map (Vesting Tentative Map No. 240730) and easement abandonment (Easement Abandonment No. 272689 to demolish an existing 35,650 square-foot warehouse (30,700 square feet of warehouse and 4,950 square feet of office on a mezzanine) and to construct eighty-five residential condominium units (nine Affordable), consisting of fourteen single-level condominiums and seventy-one attached townhouses and to waive the requirement to underground existing overhead utilities for the Stella Project [Project], located at 2015 Hancock Street, and legally described as Parcel 1 of Parcel Map No. 17813 in Block 208 of Middletown, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, January 16, 1996 as instrument no. 96-0021400 of official records. Excepting all oil, gas and other hydrocarbon and mineral substances (except water) lying not less than 100 feet below the surface of said real property, provided that Santa Fe, it's successors and/or assigns, shall not have the right to go upon the surface of said real property for the purpose of extracting said oil, gas or other hydrocarbon and mineral substances, nor for any purpose in connection therewith, but shall have the right to extract and remove said oil, gas or other hydrocarbon and mineral substances together with that portion of Wright Street adjoining said land on the west as vacated and closed by resolution recorded November 3, 1983 as File No. 83-399390 of official records, in the Midway/Pacific Highway

Corridor Community Plan area, in the IS-1-1 zone which is proposed to be rezoned to the RM-4-10 zone; and

WHEREAS, the Map proposes the subdivision of a 0.89-acre site into eighty-five separate condominium ownerships; and

WHEREAS, on October 27, 2005, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 240730, and Easement Abandonment No. 272689, and pursuant to Resolution No. 3869-PC voted to recommend City Council approval of the Vesting Tentative Map; 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, California Streets and Highways Code section 8333 allows for the summary vacation of public service easements where (a) the easement has not been used for the purpose for which it was dedicated or acquired for more than five consecutive years immediately following the proposed vacation, (b) the date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date, or (c) the easement has been superseded by relocation and there are no other public facilities located within the easement; and

WHEREAS, the public service easement located within the project boundaries as shown in Vesting Tentative Map No. 240730, in particular a public utility easement granted per documents 83-399390, Official Records, filed November 3, 1983, has been superseded by relocation and there are no other public facilities located within the easement; 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 MAR 21 2006, 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 Vesting Tentative Map No. 240730:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (San Diego Municipal Code/Land Development Code [SDMC/LDC] section 125.0440(a) and Subdivision Map Act Sections 66473.5, 66474(a), and 66474(b)).
2. The proposed subdivision complies with the applicable zoning and development regulations of the SDMC/LDC (SDMC/LDC section 125.0440(b)).
3. The site is physically suitable for the type and density of development (SDMC/LDC section 125.0440(c) and Subdivision 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 (SDMC/LDC section 125.0440(d) and Subdivision 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 (SDMC/LDC section 125.0440(e) and Subdivision 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 (SDMC/LDC section 125.0440(f) and Subdivision 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 (SDMC/LDC section 125.0440(g) and Subdivision 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 (SDMC/LDC section 125.0440(h) and Subdivision Map Act Section 66412.3).

9. 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 project involves a major street already scheduled as a utility company financed project;

b. The conversion would involve an inordinate cost to the development. Such a determination is to be made where practical on the basis of the cost estimates supplied or confirmed by the utility companies or a utility consultant and should be considered with regard with the type of development, the aesthetic benefits, and the relative costs if the facilities were to remain overhead. Generally in residential projects, the conversion cost prorated to the entire development should not exceed 1% of the average sales price of the living units within the development; and

c. The conversion would involve a significant amount of investment in temporary facilities (cables, poles, temporary re-circuiting, etc.) or involve a significant amount of work considered to be off site to the development which is financing the conversion.

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

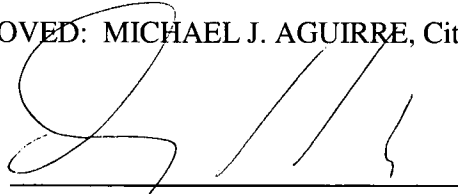
BE IT FURTHER RESOLVED, that this abandonment shall be listed as such on the Map pursuant to California Government Code section 66434(g).

BE IT FURTHER RESOLVED, that Vesting Tentative Map No. 240730 and Easement Abandonment No. 272689, including the waiver of the requirement to underground existing overhead utilities is granted to Constellation Property Group (Hancock), a Delaware Limited

Partnership, Applicant/Subdivider and Feyzi Design Group, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Douglas K. Humphreys
Deputy City Attorney

DKH:pev
11/07/05
01/31/06 Cor.Copy
02/27/06 Cor.Copy 2
Or.Dept:DSD
R-2006-469
MMS #2735

CONDITIONS FOR TENTATIVE MAP NO. 240730

STELLA PROJECT

301320

MAR 21 2006

ADOPTED BY RESOLUTION NO. R-_____ ON _____

GENERAL REQUIREMENTS

1. This Vesting Tentative Map will expire on MARCH 21, 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. A Final Map shall be recorded in the Office of the County Recorder, prior to the Vesting Tentative Map expiration date.
4. The Final Map shall conform to the provisions of Site Development Permit No. 240731.
5. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.

AFFORDABLE HOUSING REQUIREMENTS

6. Prior to the recordation of the Final Map, the subdivider shall enter into an affordable housing agreement with the Housing Commission to provide nine affordable housing units in compliance with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the San Diego Municipal Code/Land Development Code).

ENGINEERING REQUIREMENTS

7. Prior to Occupancy, 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.
8. Pursuant to City Council Policy 600-20, the subdivider shall provide evidence to ensure that an affirmative marketing program is established.
9. The drainage system proposed for this subdivision, as shown on the approved Vesting Tentative Map, is private and subject to approval by the City Engineer.
10. Prior to the Recordation of the Final Map, the subdivider shall Record a Building Restrictive Easement, granted by and between the Metropolitan Transit Development

Board and Constellation Property Group (Hancock) LP, a Delaware limited partnership, for that portion of Metropolitan Transit System land adjacent to and South of the Project site. This Grant shall not be amended, revoked or altered without the prior written consent of the owner of the Benefited Property, the Owner of the Burdened Property, and the City of San Diego by and through its Building Officer or his/her designee; and recorded in the Official Records for the County of San Diego.

11. Prior to the Recordation of the Final Map, the subdivider shall Record an Emergency Vehicle Access Easement, granted by and between the Metropolitan Transit Development Board and Constellation Property Group (Hancock) LP, a Delaware limited partnership, for that portion of Metropolitan Transit System land adjacent to and Northwest of the Project site. This Grant shall not be amended, revoked or altered without the prior written consent of the owner of the Benefited Property, the Owner of the Burdened Property, and the City of San Diego by and through its Fire Marshall or his/her designee; and recorded in the Official Records for the County of San Diego.

12. At the same time, or prior to the Recordation of the Final Map, the subdivider shall Record an Access Easement, granted by and between the Metropolitan Transit Development Board and Constellation Property Group (Hancock) LP, a Delaware limited partnership, for that portion of Metropolitan Transit System land adjacent to and Northwest of the Project site.

13. The Subdivider shall not dissolve the existing cross easement with the neighboring property to the southeast, during the life of the Stella Five Points project, without prior written approval from the City of San Diego Fire Marshall.

14. Prior to the recordation of the Final Map, the applicant shall record a covenant running with the land requiring that a notice be provided to all perspective buyers of units in this development disclosing:

- a. That the project is adjacent to a light industrial area and is therefore is subject to possible noise, lights, and odors consistent with the land use; and
- b. That the project is in the proximity of State Highway I-5, rail lines, and the San Diego Airport and residents may experience noise or other impacts consistent with those activities.

The notice shall be approval of the City Engineer and shall stipulate that the buyer is aware of the enumerated impacts and will hold harmless the seller, the City of San Diego, and other parties responsible for the production of the normal impacts resulting from the above activities.

15. 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.

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 REQUIREMENTS

16. "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).
17. "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."
18. 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.
19. 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 REQUIREMENTS

20. All on-site wastewater systems shall be private.
21. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.
22. The developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each lot/condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of on-site private sewer mains that serve more than one lot/condominium.

23. The developer shall design and construct all proposed private sewer facilities serving more than one lot to the most current edition of the City of San Diego's sewer design guide. Improvement drawings are required for private sewer facilities serving more than one lot:

24. Prior to the issuance of any building permits, the applicant shall process and record a NOTICE & AGREEMENT for each ownership being served by a private pump station/sewer facilities which serves more than one ownership, which indemnifies the City and contains an agreement that the applicant, and successors in interest, will be responsible for the operation and maintenance of the private sewer systems.

25. The developer shall obtain a building permit for any private pump station serving a condominium project or more than one lot.

26. The proposed sewer lateral is located in a driveway, it shall be relocated or it shall be private and built according to Figure 2-6 of the City of San Diego Sewer Design Guide. Private sewer laterals require an Encroachment Maintenance and Removal Agreement.

WATER REQUIREMENTS

27. The Subdivider shall design and construct new 12-inch water facilities, including fire hydrants, in Hancock Street right-of-way from Coutts Street to Noell Street, in a manner satisfactory to the Water Department Director and the City Engineer.

28. The Subdivider shall design and construct new 12-inch public water facilities, including fire hydrants, within the Noell Street right-of-way from Hancock Street to Kurtz Street, in a manner satisfactory to the Water Department Director and the City Engineer.

29. The Subdivider shall cut, plug, and abandon the existing public water facilities, located within the easement to be vacated in Wright Street, from Hancock Street to Kurtz Street, in a manner satisfactory to the Water Department Director and the City Engineer.

30. The Subdivider shall provide CC&Rs for the operation and maintenance of any on-site private water facilities that serve or traverse more than a single dwelling or common area.

31. 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.

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.
- 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.

MAR 21 2006

Passed by the Council of The City of San Diego on _____, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

MAR 21 2006

Date of final passage _____.

AUTHENTICATED BY:

JERRY SANDERS
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By *Mary-Cepeda*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number *R-301320*