

RESOLUTION NUMBER R- 301784  
DATE OF FINAL PASSAGE JUL 31 2006

WHEREAS, Stone Meadows, LLC, Applicant, and Ingenuity, Engineer, submitted an application to the City of San Diego for a 1-lot tentative map (Tentative Map No. 143420) for the purpose of subdividing a 0.32-acre site for a 5-unit residential condominium conversion known as the Third Avenue Project [Project], located on the east side of Third Avenue, between Redwood Street and Quince Street, at 3065 Third Avenue, and legally described as Lots A and B in Block 353 of Horton's Addition, according to the Map made by L.L. Locking, in the Uptown Community Plan area, in the RS-1-1 zone; and

WHEREAS, the applicant seeks to waive the requirement to underground existing overhead utilities, pursuant to Council Policy 600-25; and

WHEREAS this 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, on January 26, 2006, the Planning Commission of the City of San Diego considered Tentative Map No. 143420, and pursuant to Resolution No. 3941-PC voted to recommend City Council approval of the Tentative Map and waiver of the requirement to underground existing overhead utilities for the Project; 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 JUL 31 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 Tentative Map No. 143420:

1. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code [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 (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 Act 66452.9, written notification of intention to convert at least sixty days prior to the filing of a tentative map (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 (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 (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 (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 (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 (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 (LDC section 125.0440(b)).

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 (LDC section 125.0444(c)).

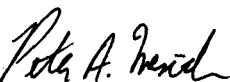
11. The requested underground waiver of the existing overhead facilities, qualifies under the guidelines of Council Policy No. 600 25 Underground Conversion of Utility Lines at Developers Expense in that:

- 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 Tentative Map No. 143420 and waiver of the requirement to underground existing overhead utilities are granted to Stone Meadows, LLC, Applicant and Ingenuity, 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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Peter Mesich  
Deputy City Attorney

SMT:PM:pev:cfq  
06/30/06  
Or.Dept:DSD  
R-2006-1143  
MMS #3447

CONDITIONS FOR TENTATIVE MAP NO. 143420

THIRD AVENUE PROJECT

ADOPTED BY RESOLUTION NO. R-301784 ON JUL 31 2006

**GENERAL**

1. This Tentative Map will expire July 31, 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 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 Subdivision 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 Final Map, the Subdivider shall pay an Inclusionary Affordable Housing In-Lieu Fee of \$9,231, 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 agreement with the Housing Commission prior to the recordation of the Final Map.

11. Prior to filing a final map, the applicant shall either show evidence that relocation assistance has been paid to eligible tenants or enter into an agreement with the San Diego Housing Commission to demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5, §144.0503). In addition, applicant must pay the appropriate fees incurred by the Housing Commission for compliance monitoring (Chapter 14, Article 4, Division 5, §144.0502), to the satisfaction of the City Manager and the Housing Commission.

### **ENGINEERING**

12. 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.

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

15. 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.

16. The Subdivider shall install a City standard driveway, sidewalk and a curb ramp along the Third Avenue frontage, north of the southerly right-of-way line of Redwood Street extended.

17. The Subdivider shall obtain an Encroachment Maintenance Removal Agreement, for an asphalt driveway, landscaping and a curb in the Redwood Street/Third Avenue intersection.

18. Prior to recordation of the Final Map, all existing on-site utilities serving the subdivision shall be undergrounded with appropriate permits. The applicant shall provide

written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.

### **MAPPING**

19. "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).

20. "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."

21. 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.

22. 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**

23. 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.

24. 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.

25. Prior to the recordation of the Street Vacation or any Final Map; issuance of any building permit, the Owner/Permittee will be required to provide an approved/accepted

engineering map which shows the reservation of an adequate water easement(s) for all affected water facilities. The reservation of water easements up to and around all public water facilities shall be a minimum of 24-feet in width. The access easement(s) shall be a minimum of 24-foot wide fully paved, in a manner which will receive approval from the Water Department Director.

26. Prior to the recordation of the Street Vacation or any Final Map; issuance of any building permit, no structures of any kind shall be installed in or over the new Water Easement prior to the applicant obtaining an encroachment maintenance and removal agreement. No trees, shrubs, or structures of any kind will be permitted within 10-feet of water facilities.

27. Prior to the recordation of the Street Vacation or the approval of any Final Map, issuance of any building permit, if a gated enclosure is desired, the gate must be removable with a minimum 12-foot wide keyed locked gate. Water Operations Division shall have keyed access, satisfactory to the Water Department Director. The City will not be held responsible for any issues that may arise relative to the availability of keys.

28. Prior to the recordation of the Street Vacation or the approval of any Final Map, issuance of any building permit the Owner/Permittee shall cut, plug, abandon, relocate and re-plumb all affected water facilities located within the vacated Third Avenue between Redwood Street and Quince Street and within Redwood Street, at the intersection of Third Avenue. The cut, plug, abandonment, relocation and re-plumb shall be in a manner which will receive operational acceptance by the Water Department, satisfactory to the Water Department Director.

**INFORMATION:**

- The approval of this Tentative Map by the Planning Commission 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.
- The Subdivider 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.

- 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 ninety 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.
- 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.