

RESOLUTION NUMBER R-301891

DATE OF FINAL PASSAGE SEPTEMBER 12, 2006

WHEREAS, Grand Avenue Promenade Apartments, LLC, a California Limited Liability Corporation, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit to convert forty existing residential dwelling units to condominium ownership to be known as the 2201 Grand Tentative Map project, located at 2201 Grand Avenue, and legally described as Lots 1-10, Block 245, Pacific Beach, Map No. 854, in the Pacific Beach Community Plan area, in the RM-2-5 zone; and

WHEREAS, on June 15, 2006, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] No. 275075, and pursuant to Resolution No. 4067-PC voted 6-0 to deny the Permit; and

WHEREAS, Nassir Ebrahimi appealed the Planning Commission decision to the Council of the City of San Diego; 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 September 12, 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 Coastal Development Permit No. 237075:

**A. COASTAL DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE  
[SDMC] SECTION 126.0708**

**1. The proposed coastal development will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.** The proposed project will consolidate ten existing subdivided lots containing forty residential apartments into one parcel for the creation of forty condominium ownership interests. All development is existing on private property, and is within the 30-foot coastal height limit. Additionally, the proposed project will not encroach upon the adjacent existing physical access way used by the public nor will it adversely affect any proposed physical public accessway identified in the Local Coastal Program Land Use Plan. The subject property is not located within or near any designated public view corridors. Accordingly, the proposed project will not impact any public views to or along the ocean or other scenic coastal areas as specified in the Local Coastal Program land use plan.

**2. The proposed coastal development will not adversely affect environmentally sensitive lands.** The site, located at 2201 Grand Avenue, is rectangular in shape and is a relatively flat lot located within an urbanized area of the Pacific Beach Community Plan area and Local Coastal Program, surrounded by a fully developed residential neighborhood. The City of San Diego conducted a complete environmental review of this site and determined the project to be exempt from the California Environmental Quality Act [CEQA] in accordance with State CEQA Guidelines. The project does not contain Environmentally Sensitive Lands [ESL]; therefore the proposed project would not adversely affect these resources.

**3. The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.** The proposed project conforms with the certified Pacific Beach Community Plan and Local Coastal Program which designates the site for multi-family residential use, and is consistent with the design guidelines, and development standards in effect for this site per the Coastal Overlay Zone (Non-Appealable Area), and Coastal Height Overlay Zone.

**4. For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.** The proposed project site at 2201 Grand Avenue is not within the area between the first public road and the sea or shoreline of any body of water within the Coastal Overlay Zone. All development would occur on private property, therefore, the proposed project will not encroach upon the existing physical access way used by the public. Twenty-eight off-street parking spaces will be provided on-site. No deviations or variances from the development regulations are required to

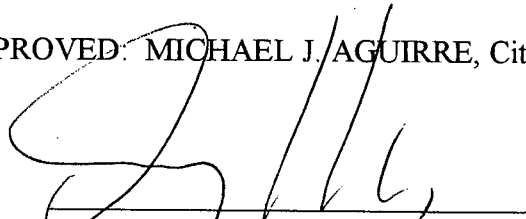
implement the proposed project. The proposed coastal development will conform to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

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

BE IT FURTHER RESOLVED, that the appeal of Nassir Ebrahimi is granted; the decision of the Planning Commission is overruled; and Coastal Development Permit No. 237075 is granted to Grand Avenue Promenade Apartments, LLC, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Douglas K. Humphreys  
Deputy City Attorney

DKH:pev

09/22/06

Or.Dept:Clerk

R-2007-324

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**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES DEPARTMENT  
PERMIT INTAKE, MAIL STATION 501

**WHEN RECORDED MAIL TO**  
**CITY CLERK**  
**MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-4746

**COASTAL DEVELOPMENT PERMIT NO. 237075**  
**2201 GRAND TENTATIVE MAP – PROJECT NO. 76049**  
**CITY COUNCIL**

This Coastal Development Permit No. 237075 is granted by the City Council of the City of San Diego to Grand Avenue Promenade Apartments, LLC, a California Limited Liability Corporation, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0701. The 0.76-acre site is located at 2201 Grand Avenue on the south side between Olney and Quincy Streets in the RM-2-5 zone of the Pacific Beach Community Plan area, Coastal Overlay Zone (non-appealable area), and the Coastal Height Limit Overlay Zone. The project site is legally described as Lots 1-10, Block 245, Pacific Beach, Map No. 854.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to convert forty existing residential apartments to condominium ownership, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated September 12, 2006, on file in the Development Services Department.

The project or facility shall include:

- a. Forty existing residential dwelling units for conversion to condominium ownership;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities; and
- d. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City

Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. Conversion of forty existing residential units to condominium ownership shall commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/ Permittee of this Permit, is found or held by a court of competent jurisdiction to be

invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

8. This Permit shall become effective with recordation of the corresponding final subdivision map for and approval of the project site.

9. This Coastal Development Permit shall become effective on the eleventh working day following receipt by the California Coastal Commission of the Notice of Final Action following all appeals.

**AFFORDABLE HOUSING REQUIREMENTS:**

10. Prior to the issuance of any building permits, the developer 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).

**ENGINEERING REQUIREMENTS:**

11. This Coastal Development Permit shall conform to the provisions of Tentative Map No. 234237.

**PLANNING/DESIGN REQUIREMENTS:**

12. No fewer than twenty existing parking spaces accessed from the abutting alley, shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

13. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

14. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

**INFORMATION ONLY:**

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
- This development may be subject to impact fees at the time of building/engineering permit issuance.

APPROVED by the City Council of the City of San Diego on September 12, 2006 by Resolution No. R-301891.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

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The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

GRAND AVENUE PROMENADE  
APARTMENTS, LLC,  
A California Limited Liability Corporation  
Owner/Permittee

By \_\_\_\_\_

By \_\_\_\_\_

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**

PERMIT/OTHER – Permit Shell 11-01-04



Passed by the Council of The City of San Diego on SEP 12 2006, 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 12 2006

AUTHENTICATED BY:

(Seal)

JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By *Debbie Severson-Cruz*, Deputy

Office of the City Clerk, San Diego, California

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