

RESOLUTION NUMBER R-301984

DATE OF FINAL PASSAGE OCTOBER 10, 2006

WHEREAS, Voltaire Partners, LLC, Applicant/Subdivider, and Robert J. Bateman, Surveyor, submitted an application to the City of San Diego for a 1-lot vesting tentative map (Vesting Tentative Map No. 341372) to construct twenty-eight new residential condominiums and six new commercial condominiums, including the provision to relocate and underground a 12kV SDG&E distribution line along Nimitz and Voltaire, for the Upper Voltaire Mixed Use project [Project], located on a triangular shape between Whittier and Voltaire Streets at the Nimitz Boulevard overcrossing where Wabaska Drive and San Clement Streets join Voltaire Street at 4104-64 Voltaire and 4105-07 Whittier Street, and legally described as: Parcel A: Lots 13 and 14, Block 6, Loma Alta No. 1, City of San Diego, County of San Diego, State of California, according to map thereof No. 1078, filed in the office of the County Recorder of San Diego County, August 28, 1907; Parcel B: Parcel 1 of Parcel Map No. 18318, City of San Diego, County of San Diego, State of California, filed in the office of the County Recorder of San Diego County, August 6, 1999; and Parcel C: Lot 12 in Block 6 of Loma Alta Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to the partition map thereof No. 078, filed in the office of the County Recorder of San Diego County, August 28, 1907; in the Peninsula Community Planning area, in the CC-3-5 and RM-2-5 zones; and

WHEREAS, the project proposes a subdivision map as a condominium project as defined in Section 1350 *et sequens* of the Civil Code of the State of California and is filed pursuant to the Subdivision Map Act and the number of condominium dwelling units proposed is twenty-eight

and the number of commercial condominium units proposed is six. The five existing lots on the 0.97-acre site would be consolidated into one lot pursuant to the Vesting Tentative Map; and

WHEREAS, on July 13, 2006, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 341372, and pursuant to Resolution No. 4104-PC voted to approve the project; and

WHEREAS, Cynthia Conger, Chair for the Peninsula Community Planning Board appealed the Planning Commission decision to the Council of the City of San Diego; 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 developer will continue to be required to underground any new service run to the proposed structures within the subdivision; 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 October 10, 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. 341372:

1. The proposed subdivision and its design or improvements 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 Land Development Code (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).

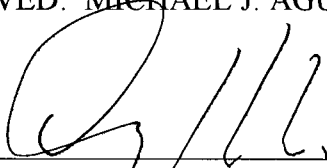
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the appeal of Cynthia Conger, Chair for the Peninsula Community Planning Board is denied , the decision of the Planning Commission is sustained, and Vesting Tentative Map No. 341372 is granted to Voltaire Partners, LLC,

Applicant/Subdivider, and Robert J. Bateman, Surveyor, subject to the conditions attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Douglas K. Humphreys
Deputy City Attorney

DKH:pev
10/17/06
Or.Dept:Clerk
R-2007-432
MMS #3923

CONDITIONS FOR VESTING TENTATIVE MAP NO. 341372

UPPER VOLTAIRE MIXED USE PROJECT

ADOPTED BY RESOLUTION NO. R-301984 ON OCTOBER 10, 2006

GENERAL REQUIREMENTS

1. This Vesting Tentative Map will expire on October 10, 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 Planned Development Permit No. 254753/Site Development Permit 172879.
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 for payment of an in-lieu fee in compliance 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 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

7. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
8. The 12 kV SDG&E distribution line serving and crossing the subdivision shall be undergrounded with appropriate permits. The overhead 69 kV SDG&E regional distribution power line required by SDG&E to remain overhead. 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.

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.

9. 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.
10. Prior to the issuance of any construction permit, the subdivider shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.
11. Prior to the issuance of any construction permit, the subdivider shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.
12. Prior to the issuance of any construction permit the subdivider shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
13. Prior to the issuance of any construction permit the subdivider shall incorporate and show the type and location of all post-construction BMPs on the final construction drawings, in accordance with the approved Water Quality Technical Report.
14. The subdivider shall close all existing non-utilized driveways with full height curb, gutter, and sidewalk, and construct two new 24' City Standard driveways, adjacent to the site on Voltaire Street & Whittier Street.
15. The subdivider shall construct new curb, gutter, and sidewalk, maintaining the existing sidewalk scoring pattern and preserving any contractor's stamp, adjacent to the site on Voltaire Street and Whittier Street.
16. The drainage system proposed for this subdivision, as shown on the approved tentative map, is private and subject to approval by the City Engineer.
17. The subdivider shall obtain an Encroachment Maintenance and Removal Agreement, for the private 12" RCP Storm Drain pipe in the Nimitz Boulevard right-of-way.

18. The subdivider shall obtain a grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer
19. Prior to the issuance of grading permits, a geotechnical investigation report shall be required that specifically addresses the proposed grading plans and cites the City's Job Order No. and Drawing No. The geotechnical investigation shall provide specific geotechnical grading recommendations and include geotechnical maps, using the grading plan as a base, that depict recommended location of subdrains, location of outlet headwalls, anticipated removal depth, anticipated over-excavation depth, and limits of remedial grading.
20. The subdivider shall underground existing 12KV power lines, between Voltaire Street and Nimitz Boulevard, and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.
21. Pursuant to City Council Policy 600-20, the subdivider shall provide evidence to ensure that an affirmative marketing program is established.
22. This project proposes to export 10,830 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC Section 141.0620(i).

MAPPING REQUIREMENTS

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 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."
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.

SEWER REQUIREMENTS

27. All on-site wastewater systems shall be private.
28. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.
29. The developer shall provide CC&Rs, satisfactory to the Metropolitan Wastewater Department Director, for the operation and maintenance of private sewer facilities that serve more than one ownership.
30. The developer shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

WATER REQUIREMENTS

31. 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 commercial unit or common area.
32. The Subdivider shall install fire hydrants at locations satisfactory to the Fire department, the Water Department Director and the City Engineer.
33. 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:

- This development may be subject to payment of a park fee prior to the filing of the final map in accordance with the San Diego Municipal Code, which specifies park fees applicable in the Peninsula Community Plan

area. This property is also subject to a building permit park fee in accordance with the San Diego Municipal Code.

- This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.
- This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by Education Code Section 17620, in accordance with procedures established by the Director of Building Inspection.
- The approval of this Vesting Tentative Map 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.).
- 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 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.

Passed by the Council of The City of San Diego on OCT 10 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 OCT 10 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 *R. Stevenson Cruz*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 301984