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RESOLUTION NUMBER R- 302284

DATE OF FINAL PASSAGE JAN 09 2007

WHEREAS, Rainier Place, L.P., Applicant/Subdivider, and SB&O Inc., Engineering and Surveying, Surveyor, submitted an application to the City of San Diego for a tentative map [Tentative Map No. 323037], and Public Right-of-Way Vacation No. 236107 for the subdivision of a 0.688-acre site into one lot to create twenty-two residential condominium units; and to vacate a portion of Rainier Avenue for the Rainier Place project [Project], located at 4535-4549 Rainier Avenue, east of Mission Gorge Road and west of Holabird Street, and legally described as Lots 9 through 16 in Block 16 of the Grantville and Out Lots according to Map No. 776 filed on February 16, 1894, in the Navajo Community Plan area, in the RM-3-7 zone (previously referred to as the RM-1-1 zone); and

WHEREAS, the applicant seeks to waive the requirement to underground existing overhead utilities pursuant to Council Policy No. 600-25; and

WHEREAS, on October 5, 2006, the Planning Commission of the City of San Diego considered Tentative Map No. 323037, and Public Right-of-Way Vacation No. 236107, and pursuant to Resolution No. 4152-PC voted to recommend City Council approval of the 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, Section 8330 et seq. of the California Streets and Highways Code and San Diego Municipal Code section 125.0901 et seq. provides procedure to vacate a public right-of-way; 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 JAN 09 2007, 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. 323037 and Public Right-of-Way Vacation

No. 236107:

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 Action sections 66473.5, 66474(a), and 66474(b)).

2. The proposed subdivision complies with the applicable zoning and development regulations of the San Diego Municipal Code/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).

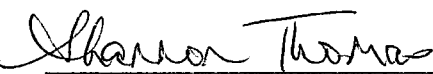
9. The requested underground waiver of the existing overhead facilities qualifies under the guidelines of Council Policy No. 600 25, Underground Conversion of Utility Lines at Developers Expense in that:

- a.) The conversion involves a short span of overhead facility (less than 600 feet in length) and it has been determined that such conversion is not a part of a continuing effort to accomplish a total undergrounding within a specific street or area.
- b.) The conversion would represent an isolated undergrounding with a minimum probability of extension in the future.

That said 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. 323037, and Public Right-of-Way Vacation No. 236107, is hereby granted to Rainier Place, L.P., Applicant/Subdivider, and SB&O Inc., Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Shannon M. Thomas  
Deputy City Attorney

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Or.Dept:DSD  
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CONDITIONS FOR TENTATIVE MAP NO. 323037

RAINIER PLACE- PROJECT NO. 75711

ADOPTED BY RESOLUTION NO. R-302284 ON JAN 09 2007

**GENERAL**

1. This Tentative Map will expire on JAN 09 2010.
2. 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.
3. 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.
4. The Final Map shall conform to the provisions of Planned Development Permit No. 278782.
5. The property contains a right-of-way which must be vacated to implement the Final Map in accordance with San Diego Municipal Code Section 125.0430.

**AFFORDABLE HOUSING**

6. 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).
7. Pursuant to City Council Policy 600-20, the subdivider shall provide evidence to ensure that an affirmative marketing program is established.

**ENGINEERING**

8. The subdivider shall close all non-utilized driveways with City standard curb, gutter and sidewalk on Rainier Avenue.
9. The subdivider shall replace the existing curb, gutter and sidewalk with City standard curb, gutter and sidewalk along the entire project frontage on Rainier Avenue.
10. The subdivider shall construct a full-width City standard alley, along the entire project site, per Standard Drawing G-21.

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11. The subdivider shall obtain an Encroachment Maintenance and Removal Agreement for the private curb outlets and sidewalk under drain located in Rainier Avenue's right-of-way.
12. The drainage system for this project shall be private and will be subject to approval by the City Engineer.
13. The subdivider shall obtain a bonded 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.
14. Prior to the issuance of any construction permit; the applicant shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance, satisfactory to the City Engineer.
15. Prior to the issuance of any construction permit, the applicant shall incorporate any construction BMP necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.
16. 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.
17. Prior to the issuance of any construction permit, the subdivider shall incorporate and show the type and location of all post construction BMP's on the final construction drawings, consistent with the approved Water Quality Technical Report.
18. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
19. Prior to recordation of the Certificate of Occupancy 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.
20. 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.

21. Prior to recordation of the Final Map, 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.

### MAPPING

22. "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].
23. "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."
24. 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 measure 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 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.
25. The property contains a public right-of-way which must be vacated pursuant to Municipal Code Section 125.0941
  - (a) There is no present or prospective public use for the public right-of-way, either for the facility for which it was originally acquired, or for any other public use of a like nature that can be anticipated;

- (b) The public will benefit from the action through improved use of the land made available by the vacation.
- (c) The vacation does not adversely affect any applicable land use plan or;  
and
- (d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

### **SEWER AND WATER**

- 26. All on-site sewer facilities shall be private.
- 27. All proposed public sewer facilities are to be designed and constructed in accordance with established criteria in the most current City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be private or redesigned.
- 28. The developer shall design and construct all proposed private sewer facilities to conform with the most current State, Federal and City Regulations, and to the requirements of the most current edition of the Metropolitan Wastewater Department Sewer Design Guide or the California Uniform Plumbing Code as adopted by the City of San Diego.
- 29. The developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director indicating that each lot will have its own sewer lateral or provide CC&R's for the operation and maintenance of on-site private sewer facilities that serve more than one lot.
- 30. 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.
- 31. The Subdivider shall disconnect at the water main of all existing unused services adjacent to the site and install new water services where appropriate, in a manner satisfactory to the Water Department Director and the City Engineer.

### **TRANSPORTATION**

- 32. The applicant shall close all non utilized driveways openings along Rainier Avenue and replace with standard curb, gutter and sidewalk, satisfactory to the City Engineer.

33. The applicant shall construct a 20 feet full width alley with City standard concrete along the project's frontage, satisfactory to the City Engineer.
34. A minimum of forty-six parking spaces are required on-site. The forty-six parking spaces to include forty-four spaces enclosed parking garages, one space and one accessible space on surface.

**INFORMATION:**

- The approval of this 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 Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- 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.
- 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.

\*Revised 01/26/07