

RESOLUTION NUMBER R-302329

DATE OF FINAL PASSAGE JANUARY 30, 2007

WHEREAS, Matthew S. Browar and Nancy A. Browar, Trustees of the M.S. Browar Family Trust, Owners/Permittees, filed an application with the City of San Diego for a coastal development permit to convert eight existing residential units to condominium ownership to be known as the 734 Sapphire Street project, located at 734 Sapphire Street, and legally described as Lots 13 and 14 in Block 1 of Ocean Villa Tract, Map No. 977, filed March 14, 1906, in the Pacific Beach Community Plan area, in the RM-1-1 zone; and

WHEREAS, on November 16, 2006, the Planning Commission of the City of San Diego considered Coastal Development Permit [CDP] No. 255712, and pursuant to Resolution No. 4175-PC voted to deny the permit; and

WHEREAS, Scott Peters 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 January 30, 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 Coastal Development Permit No. 255712:

**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 is for the subdivision of eight existing residential units into eight condominium units. No construction or grading is permitted by Coastal Development Permit No. 255712. The project does not encroach upon any existing physical access way that is legally used by the public or any proposed public access way in the Local Coastal Program land use plan. The project does not interfere with public views to and along the ocean and other scenic coastal areas as identified in the Local Coastal Program land use plan.

2. **The proposed coastal development will not adversely affect environmentally sensitive lands.** The project site is located within an urbanized area of the Pacific Beach community. The project proposes the conversion of eight existing residential units into eight condominium units. The site is developed and there is no new construction proposed as part of this action. The project does not have environmentally sensitive lands on the site. Therefore, the existing development does not adversely affect environmentally sensitive lands. The City staff has reviewed this project and determined it is exempt from the California Environmental Quality Act [CEQA] pursuant to State CEQA Guidelines, Article 18, Section 15301 (existing facilities).

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 0.14 acre site is zoned RM-1-1 within the Pacific Beach Community Plan and Local Coastal Program Land Use Plan. The site is developed with eight residential units in one building and was built in 1970. The development complied with all zoning and development standards in effect at that time. The requested action will permit a change in ownership only to enable the eight dwelling units to be sold as condominiums. This action is in conformity with the certified Local Coastal Program Land Use Plan as existing previously conforming development and complies with all regulations of the certified Implementation Program.

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 project at 734 Sapphire Street is not located between the mean high tide line and the first public roadway. There is no identified public access and public recreation area on or adjacent to the project site nor will these resources be impaired by the development of this site. The project will

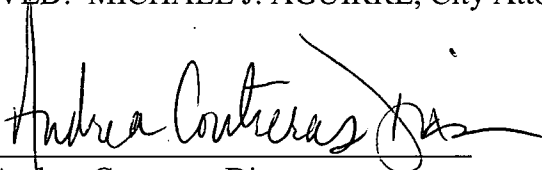
conform to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

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 Scott Peters is granted; the decision of the Planning Commission is overruled; and Coastal Development Permit No. 255712 is granted to Matthew S. Browar and Nancy A. Browar, Trustees of the M.S. Browar Family Trust, Owners/Permittees, 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


Andrea Contreras Dixon
Deputy City Attorney

ACD:pev
03/08/07
Or.Dept:Clerk
R-2007-837
MMS #4375
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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 42-5044

COASTAL DEVELOPMENT PERMIT NO. 255712
734 SAPPHIRE TENTATIVE MAP – PROJECT NO. 80627
CITY COUNCIL

This coastal development permit is granted by the Council of the City of San Diego to Matthew S. Browar and Nancy A. Browar, Trustees of the M.S. Browar Family Trust, Owners/Permittees, pursuant to San Diego Municipal Code [SDMC] section 126.0701. The 0.14-acre site is located at 734 Sapphire Street in the RM-1-1 zone of the Pacific Beach Community Plan area. The project site is legally described as Lots 13 and 14 of Block 1 of Ocean Villa Tract, Map No. 977, filed March 14, 1906.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owners/Permittees to convert eight existing residential units to condominium ownership and to waive the requirement to underground existing utilities, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated January 30, 2007, on file in the Development Services Department.

The project or facility shall include:

- a. Eight existing residential units for conversion to condominium ownership.

STANDARD REQUIREMENTS:

1. Conversion of the eight existing residential units to condominiums and filing of the Final Map must 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 Final Map herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

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- 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.
 9. Prior to recording the Final Map, the Owner/Permittee shall comply with the City's Inclusionary Housing Regulations and Coastal Overlay Zone Affordable Housing Replacement Regulations.

10. This Coastal Development Permit No. 255712 shall conform to Tentative Map No. 251996.

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 January 30, 2007, by Resolution No. 302329.

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AUTHENTICATED BY THE CITY MANAGER

By _____

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.

MATTHEW S. BROWAR,
Trustee of the M.S. Browar Family Trust
Owner/Permittee

By _____

By _____

NANCY A. BROWAR,
Trustee of the M.S. Browar Family Trust
Owner/Permittee

By _____

By _____

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

PERMIT/OTHER – Permit Shell 11-01-04

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