

RESOLUTION NUMBER R- 302479

DATE OF FINAL PASSAGE MAR 26 2007

A RESOLUTION APPROVING MAP WAIVER NO. 305268 TO ALLOW THE CONVERSION OF TWO EXISTING RESIDENTIAL UNITS TO CONDOMINIUMS AND WAIVER OF THE REQUIREMENT TO UNDERGROUND THE EXISTING OVERHEAD UTILITIES FOR THE ROBINSON CONDOMINIUMS PROJECT

WHEREAS, Elise Quinn and Joseph James Quinn, III, Owners/Subdividers, and Craig & Associates, Engineer, submitted an application to the City of San Diego to waive the requirement for a Tentative Map and a Parcel Map to convert two existing detached dwelling units into condominiums for the Robinson Condominiums [Project], located at 1501 and 1505 Robinson Avenue, in the Mid-City Communities Planned District within the Uptown Community Plan area, in the MR-3000 zone; and

WHEREAS, the applicants seek to waive the requirement to underground existing overhead utilities, pursuant to San Diego Municipal Code [SDMC] section 144.0240(5) and Council Policy 600-25 because the conversion involves a short span of overhead utilities (less than 600 feet in length) and the Project is a condominium conversion with no proposed construction; and

WHEREAS, on December 7, 2006, the Planning Commission of the City of San Diego considered Map Waiver No. 305268 and the request to waive the requirement to underground existing overhead utilities, and pursuant to Resolution No. 4188-PC voted to recommend City Council approval of Map Waiver No. 305268 and the request to waive the requirement to underground existing overhead facilities and easement vacation; and

WHEREAS, the 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, a preliminary soils and geological reconnaissance report are waived by the City Engineer pursuant to California Government Code section 66410 et seq. [the Subdivision Map Act] and San Diego Municipal Code section 144.0220; and

WHEREAS, the subdivision is a common interest condominium project as defined in California Civil Code section 1350 et seq. and filed pursuant to the Subdivision Map Act. The total number of condominium units is two; 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, a public hearing was required by law implicating due process rights of individuals affected by the decision, and 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 MAR 26 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 Map Waiver No. 305268 and waiver of requirement to underground existing utilities pursuant to the San Diego Municipal Code, Council Policy, and the Subdivision Map Act [California Government Code section 66410 et seq.]:

A. FINDINGS FOR MAP WAIVER—SAN DIEGO MUNICIPAL CODE [SDMC]
SECTION 125.0122 AND SUBDIVISION MAP ACT SECTION 66428(b):

1. The proposed subdivision of land complies with requirements of the Subdivision Map Act and the Land Development Code [Chapters 11-14 of the SDMC] as to area, improvement and design, floodwater drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of the Subdivision Map Act or the San Diego Municipal Code enacted pursuant thereto. SDMC § 125.0120(b)(2); Subdivision Map Act § 66428(b).

B. FINDINGS FOR ALL TENTATIVE MAPS—SDMC SECTION 125.0440 AND
SUBDIVISION MAP ACT SECTION 66474 AND 66412.3:

2. The proposed *subdivision* and its design or improvement are consistent with the policies, goals, and objectives of the applicable *land use plans*. SDMC § 125.0440(a); Subdivision Map Act §§ 66473.5, 66474(a), and 66474(b).
3. The proposed *subdivision* complies with the applicable zoning and development regulations of the Land Development Code. SDMC § 125.0440(b).
4. The site is physically suitable for the type and *density of development*. SDMC § 125.0440(c); Subdivision Map Act §§ 66474(c) and 66474(d).
5. The design of the *subdivision* or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. SDMC § 125.0440(d); Subdivision Map Act § 66474(e).
6. The design of the *subdivision* or the type of improvements will not be detrimental to the public health, safety, and welfare. SDMC § 125.0440(e); Subdivision Map Act § 66474(f).
7. 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 § 125.0440(f); Subdivision Map Act § 66474(g).
8. The design of the proposed *subdivision* provides, to the extent feasible, for future passive or natural heating and cooling opportunities. SDMC § 125.0440(g).
9. 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 § 125.0440(h); Subdivision Map Act § 66412.3.

C. FINDINGS FOR TENTATIVE MAPS FOR CONDOMINIUM CONVERSIONS—
SDMC SECTION 125.0440 AND SUBDIVISION MAP ACT SECTION 66427.1:

10. Each of the tenants of the proposed condominium project has received, pursuant to Subdivision Map Action Section 66452.9, written notification of intention to convert at least sixty days prior to the filing of a tentative map. SDMC § 125.0444(a); Subdivision Map Act § 66427.1(a).
11. 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. SDMC § 125.0444(a); Subdivision Map Act §§ 66427.1(a) and 66452.8.
12. 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. SDMC § 125.0444(a); Subdivision Map Act § 66427.1(a).
13. 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. SDMC § 125.0444(a); Subdivision Map Act § 66427.1(b). If the subdivider chooses to provide affordable housing units, the subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.
14. 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. SDMC § 125.0444(a); Subdivision Map Act § 66427.1(c).
15. 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. SDMC § 125.0444(a); Subdivision Map Act § 66427.1(d).
16. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or *low income* housing. SDMC § 125.0444(b).
17. 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. SDMC § 125.0444(c).

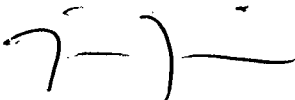
D. FINDINGS FOR WAIVER OF THE REQUIREMENT TO UNDERGROUND THE EXISTING OVERHEAD UTILITIES UNDER THE GUIDELINES OF COUNCIL POLICY NO. 600-25 UNDERGROUND CONVERSION OF UTILITY LINES AT DEVELOPERS EXPENSE:

1. 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.
2. The conversion would represent an isolated undergrounding with a minimum probability of extension in the future.
3. 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 Map Waiver No. 305268 and the request to waive undergrounding of existing overhead utilities are granted to Elise Quinn and Joseph James Quinn, III, Owners/Subdividers and Craig & Associates, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 

 Nina M. Fain
 Deputy City Attorney

NMF:pev
 03/05/07
 Or.Dept:DSD
 R-2007-864
 MMS #4445

CONDITIONS FOR MAP WAIVER NO. 305268

ROBINSON CONDOMINIUMS PROJECT

ADOPTED BY RESOLUTION NO. R 302479 ON MAR 26 2007

GENERAL

1. This Map Waiver will expire on: MAR 26 2010.
2. A Consolidation Parcel Map shall be recorded in the Office of the County Recorder, prior to the Map Waiver expiration date.
3. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
4. 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 [California Government Code section 66410 et seq.].
5. 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 [DRE], pursuant to Section 66427.1(a) of the Subdivision Map Act.
6. 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.
7. 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 90 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.
8. The subdivider shall provide the tenants of the proposed condominiums with written notification within ten days or approval of Certificate of Compliance for

the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act.

ENGINEERING

9. 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.
10. 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 Map Waiver and covered in these special conditions will be authorized.
11. 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.

INFORMATION:

- The approval of this Map Waiver 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 Map Waiver 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 Map Waiver, may protest the imposition within ninety days of the approval of this Map Waiver 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.