RESOLUTION NUMBER R-303336

DATE OF FINAL PASSAGE JANUARY 15, 2008

WHEREAS, William G. Clarke, Trustee of the Clarke Trust, Owner/Permittee, filed an

application with the City of San Diego for a permit to divide an existing 2-story apartment

complex with eleven dwelling unit apartments into eleven residential condominium units to be

known as the 835 Thomas Avenue project, located at 835 Thomas Avenue and east of Mission

Boulevard, and legally described as Lots 11 and 12, Block 262, Pacific Beach, Map Nos. 697,

854 and 932, in the Pacific Beach Community Plan area, in the RM-1-1 zone, Coastal Overlay

Zone (non-appealable), Coastal Height Limitation Overlay Zone, and Beach Parking Impact

Overlay Zone; and

WHEREAS, on August 30, 2007, the Planning Commission of the City of San Diego

considered Coastal Development Permit [CDP] No. 269513, and pursuant to Resolution

No. 4295-1-PC voted to grant the Permit with additional conditions; and

WHEREAS, Robert J. Bateman, San Diego Land Surveying & Engineering, Inc.

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 15, 2008, 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. 269513:

A. COASTAL PLANNED 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 0.143-acre project site is currently developed with an existing apartment complex which includes eleven residential apartment units. The development proposes to divide the existing eleven dwelling units into residential condominiums and is located approximately three blocks from the coastline. The proposed development is existing and is contained within the existing legal lot area, which will not encroach upon any existing or proposed physical access to the coast. The project site is not located on or adjacent to an identified visual access corridor as identified within the Pacific Beach Local Coastal Program. The project site is situated along Thomas Avenue, within a developed multi-family residential neighborhood. The proposed division into condominiums met the development setbacks and height limit required at the time it was built and the proposed structure will not block any identified visual corridor.

2.   The proposed coastal development will not adversely affect environmentally sensitive lands. The 0.143-acre project site is currently developed with an eleven dwelling unit apartment complex and does not contain environmentally sensitive lands. The environmental review determined that the project would not have a significant environmental effect on environmentally sensitive lands and was found to be exempt from environmental review under California Environmental Quality Act [CEQA] Guidelines. The project does not propose any grading on any portion of the property and does not propose any encroachment into Environmentally Sensitive Lands.

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 division of the existing apartment complex with eleven dwelling units into condominium units is located on a site which has a Multi-Family Residential land use designation. During environmental review, it was determined that the project was exempt under the CEQA Guidelines. The project design was also determined to be in compliance with all of the applicable development regulations at the time it was constructed. Due to these factors the proposed condominium conversion was found to be in compliance with the City of San Diego adopted Pacific Beach Community Plan and the Progress Guide and General Plan and the certified Local Coastal Program Land Use Plan.

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 0.143-
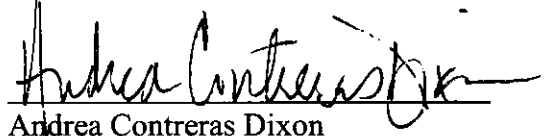
R-303336

acre site, currently developed with an existing apartment complex that includes eleven dwelling units, is located within a well developed multi family residential neighborhood. The project site is not located between the first public road and the sea or coastline. Development of the project will be fully within the private property. The project site is approximately three blocks away from the Pacific Ocean. There is no identified public access and public recreation area on or adjacent to the project site and these stated resources will not be impaired by the development of this site. The proposed condominium conversion project is designed to take access off the existing public alley, with all eleven existing off street parking spaces off the alley. The existing character and pedestrian design of the street will remain unaltered.

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 Robert J. Bateman, San Diego Land Surveying & Engineering, Inc. is granted; the decision of the Planning Commission is overruled as to the requirement for the implementation of the Building Condition Report and landscape concept plan; and Coastal Development Permit No. 269513 is granted to William G. Clarke, Trustee' of the Clarke Trust, 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 _____
Andrea Contreras Dixon
Deputy City Attorney

ACD:pev
03/18/08
Or.Dept:Clerk
R-2008-608
MMS #5822
L:\Dixon, Andrea\Resos\2008\R-2008-608 835 Thomas Street Appeal Permit Reso.doc

303336

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-5278

COASTAL DEVELOPMENT PERMIT NO. 269513
835 THOMAS AVENUE TENTATIVE MAP PROJECT NO. 84312
CITY COUNCIL

This Coastal Development Permit No. 269513 is granted by the City Council of the City of San Diego to William G. Clarke, Trustees of the Clarke Trust, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0702. The 0.25-acre site is located at 835 Thomas Avenue east of Mission Boulevard, in the RM-1-1 zone, Coastal Overlay Zone (non-appealable), Coastal Height Limit Overlay Zone, and the Beach Parking Impact Overlay Zone within the Pacific Beach Community Plan. The project site is legally described as Lots 11 and 12, Block 262, Pacific Beach, Map Nos. 697, 854, and 932.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to divide an existing 11-unit apartment complex to be converted into 11 residential condominium units, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated January 15, 2008, on file in the Development Services Department.

The project or facility shall include:

a.   Division of an existing 2-story, 11-unit apartment complex into 11 residential condominium units on a 6,250 square-foot property;

b.   Existing Landscaping (planting, irrigation and landscape related improvements);

c.   Existing off-street parking facilities, eleven parking spaces; 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

1

ₗ- 303336

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 the existing units to condominium ownership 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 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. This Permit shall become effective with recordation of the corresponding final parcel map for and approval of the project site.

8. 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.

R-303336

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.

ENGINEERING REQUIREMENTS:

9.   The Coastal Development Permit shall comply with all conditions of the associated Tentative Map No. 266188 to the satisfaction of the City Engineer.

PLANNING/DESIGN REQUIREMENTS:

10.   No fewer than eleven off-street parking spaces 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.

11.   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.

12.   Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Inclusionary Housing Regulations (Chapter 14, Article 2, Division 13), to the satisfaction of the City Manager and the Housing Commission.

13.   Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the City Manager and the Housing Commission.

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.

APPROVED by the City Council of the City of San Diego on January 15, 2008 by Resolution No. R-303336.

3

R-303336

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.

William G. Clarke,
Co-Trustee of the Clarke 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

4

ℓ-303336