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(R-2008-678)  
MEET 2/05/08

RESOLUTION NUMBER R-303405

DATE OF FINAL PASSAGE FEBRUARY 5, 2008

WHEREAS, Terrace Partners, L.P., a Limited California Partnership, Applicant/  
Subdivider, and Pasco Engineering, Inc., Surveyor, submitted an application to the City of San Diego for a vesting tentative map (Vesting Tentative Map No. 360180) for the demolition of the existing structures and construction of a mixed-use development consisting of 16,255 square feet of office, 16,550 square feet of retail and 19,614 square feet of residential in nine residential units to be known as the Kensington Terrace project [Project], located at 4142, 4166, and 4178 Adams Avenue and 4708 Edgeware Road, and legally described as Lots 9, 10, 11, 12, and 13 in Block 15 of Kensington Park, in the City of San Diego, County of San Diego, State of California, According to Map Thereof No. 1245 filed in the Office of the County Recorder of San Diego County, April 8, 1910, in the Central Urbanized Planned District within the Kensington-Talmadge Neighborhood of the Mid-City Communities Plan area, in the CU-3-3 and CN-1-3 zones; and

WHEREAS, on November 15, 2007, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 360180, and pursuant to Resolution No. 4333-PC-2 voted to approve the Vesting Tentative Map; and

WHEREAS, Margaret B. McCann appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, the Map proposes the subdivision of a 0.78-acre site into thirteen separate condominium ownerships; nine residential and four commercial; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium units is thirteen (nine residential and four commercial); 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 February 5, 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 Vesting Tentative Map No. 360180:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code [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 (LDC section 125.0440(b)).
3. The site is physically suitable for the type and density of development (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 (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 (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 (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 (LDC section 125.0440(g) and Subdivision Map Act Section 66473.1).

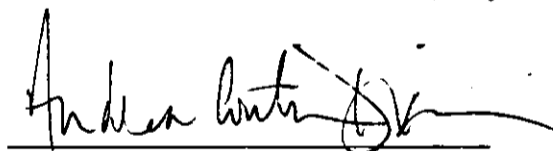
8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (LDC section 125.0440(h) and Subdivision Map Act Section 66412.3).

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 Margaret B. McCann is denied, the decision of the Planning Commission is sustained, and Vesting Tentative Map No. 360180 is granted to Terrace Partners, L.P., a Limited California Partnership, Applicant/Subdivider, and Pasco Engineering, Inc., Surveyor, subject to the conditions attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
Andrea Contreras Dixon  
Deputy City Attorney

ACD:pev  
02/28/08  
Or.Dept:Clerk  
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CONDITIONS FOR VESTING TENTATIVE MAP NO. 360180

KENSINGTON TERRACE PROJECT

ADOPTED BY RESOLUTION NO. R-303405 ON FEBRUARY 5, 2008

**GENERAL**

1. This Vesting Tentative Map will expire February 5, 2011.
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. Prior to the issuance of the Final Map taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition
4. The Final Map shall conform to the provisions of Planned Development Permit No. 360181.
5. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

**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 Affordable Housing Regulations (Chapter 14, Article 2, Division 13 of the Land Development Code.

## **ENGINEERING**

7. Prior to building occupancy, the applicant shall dedicate and improve an additional 2.5 feet of the adjacent alley, satisfactory to the City Engineer.
8. Whenever street rights-of-way are required to be dedicated, it is the responsibility of the subdivider to provide the right-of-way free and clear of all encumbrances and prior easements. The subdivider must secure "subordination agreements" for minor distribution facilities and/or "joint-use agreements" for major transmission facilities.
9. The applicant shall reconstruct the existing curb ramp(s) adjacent to the project to meet current City standards.
10. Prior to building occupancy, the applicant shall construct City standard curb ramps on both sides of the adjacent alley at its intersection with Marlborough Drive.
11. Prior to building occupancy, the applicant shall construct a new alley apron, adjacent to the project site, along Marlborough Drive.
12. Prior to building occupancy, the applicant shall replace the existing curb, gutter, and sidewalk with new City standard curb, gutter, and sidewalk, maintaining any existing sidewalk scoring pattern and preserving any contractor's stamp, adjacent to the site on Adams Avenue, and Marlborough Drive, satisfactory to the City Engineer.
13. Prior to building occupancy, the applicant shall obtain an Encroachment Maintenance and Removal Agreement, for private improvements located in the public right-of-way including above ground balconies, enhanced paving, and sidewalk underdrains/curb outlets.
14. Prior to the building occupancy, the applicant shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.
15. Prior to the issuance of any construction permit, the applicant 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.
16. Prior to the issuance of any construction permit the applicant 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 permits the applicant shall incorporate and show the type and location of all post-construction BMP's on the final

construction drawings, in accordance with the approved Water Quality Technical Report and any other treatment BMP's identified by the City Engineer.

18. This project proposes to export excavated 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).
19. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
20. The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The subdivider 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.
21. 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. RR-297376.

#### **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. The 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.

#### **SEWER AND WATER**

25. The developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of onsite private sewer mains that serve more than one ownership.
26. No permanent structures, substructures, trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.
27. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

#### **TRANSPORTATION**

28. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, construction of a traffic signal at the intersection of Adams Avenue and Kensington Drive, satisfactory to the City Engineer.
29. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, full width improvements along project frontage on Marlborough Drive including 36 feet of pavement, curb, gutter and sidewalk as shown on exhibit "A," satisfactory to the City Engineer.
30. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, half width improvements along project frontage on Edgeware Road including 16 feet of pavement, curb, gutter and sidewalk as shown on exhibit "A," satisfactory to the City Engineer.
31. Prior to the recordation of the first final map, subdivider shall assure by permit and bond, restriping of Adams Avenue from SR15 east to Aldine Drive as a 3-lane facility including a class III bicycle facility, one westbound lane, one eastbound lane and a two-way center left turn lane as shown in Kensington Terrace traffic study, satisfactory to the City Engineer.
32. Prior to the recordation of the first final map the subdivider shall assure by permit and bond, the construction of a raised center median on Adams Avenue between the SR-15 northbound ramp and mid-block between Terrace Drive and Kensington Drive, satisfactory to the City Engineer.

## **INFORMATION**

- The approval of this Vesting Tentative Map by the Planning Commission 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 Vesting 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.
- Where in the course of development of private property, public facilities are damaged or removed the property owner shall at no cost to the City obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer. San Diego Municipal Code section 142.0607.