

(R-2008-704)
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RESOLUTION NUMBER R- 303499
DATE OF FINAL PASSAGE MAR 11 2008

WHEREAS, Pearl & Herschel, LLC, Applicant/Subdivider, and Nasland Engineering, Surveyor, submitted an application to the City of San Diego for a vesting tentative map (Vesting Tentative Map No. 431879) and an easement vacation (Easement Vacation No. 468619) to demolish an existing office building and six residential apartments and construct twenty-four residential condominium units for the Pearl Street Townhomes project [Project], located at 1030 Pearl Street and 7522-32 Herschel Avenue, and legally described as Lots 20, 21, 22, and 23, Block 1, Center Addition to La Jolla Park, Map No. 915 and Parcel 1, Map No. 18804, in the La Jolla Community Plan area, in the RM-3-7 zone, Coastal Overlay Zone (non-appealable), Coastal Height Limit Overlay Zone, Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone; and

WHEREAS, the applicant seeks to waive the requirement to underground existing overhead utilities, pursuant to Council Policy 600-25; and

WHEREAS, on February 7, 2008, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 431879 and Easement Vacation No. 468619, and pursuant to Resolution No. 4367-PC voted to recommend City Council approval of the map; and

WHEREAS, the Map proposes the subdivision of a 0.636-acre site into one lot for a 24-unit residential condominium development and an easement vacation granted to the City of San

Diego on June 13, 1923 in Book 934, Page 458 Deeds and February 17, 1948 in Book 2674, Page 301 of Official Records; 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, 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 twenty-four; 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 MAR 11 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. 431879 and Easement Vacation No. 468619:

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).
9. The proposed subdivision complies with the parking regulations of the Land Development Code (LDC section 142.0505).
10. The storm drain easement granted to the City of San Diego on June 13, 1923 in Book 934, Page 458 Deeds and February 17, 1948 in Book 2674, Page 301 of Official Records, is no longer needed for the public purpose for which it was granted. The storm drain must be vacated on the Final Map in accordance with San Diego Municipal Code section 125.0430.
11. Pursuant to California Government Code section 66434(g) the storm drain granted to the City of San Diego on June 13, 1923 in Book 934, Page 458 Deeds and February 17, 1948 in Book 2674, Page 301 of Official Records, located within the project boundaries as shown on Vesting Tentative Map No. 431879, shall be vacated, contingent upon the recordation of the approved Final Map for the project.
12. 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 the conversion involves a short span of overhead facility (less than a full block 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. The conversion would represent an isolated undergrounding with a minimum probability of extension in the future.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that Vesting Tentative Map No. 431879 and Easement Vacation No. 468619 are granted to Pearl & Herschel, LLC, Applicant/Subdivider and Nasland

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Engineering, Surveyor, subject to the attached conditions which are made a part of this resolution
by this reference.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Marianne Greene
Marianne Greene
Deputy City Attorney

MG:pev
02/20/08
Or.Dept:DSD
R-2008-704
MMS #5930

CONDITIONS FOR TENTATIVE MAP NO. 431879/
EASEMENT VACATION NO. 468619

PEARL STREET TOWNHOMES PROJECT

ADOPTED BY RESOLUTION NO. R- 303499 ON MAR 11 2008

GENERAL

1. This Tentative Map will expire MAR 11 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 Vesting 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.
4. 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
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 receiving a final map, the Subdivider 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). The applicant has elected to pay an in-lieu fee to meet these requirements. Prior to receiving a final map/certificate of compliance, the applicant must either pay the entire in-lieu fee amount or enter into an agreement with the San Diego Housing Commission to assure the payment of the in-lieu fee.

ENGINEERING

7. The Final Map shall comply with the provision of the Coastal Development Permit No. 431859.
8. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
9. 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.
10. Compliance with all conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
11. The Subdivider shall terminate the existing development permits and void out the existing grading and improvement plans. A new Subdivision Improvement Agreement is required prior to the termination of the existing agreement.
12. The Subdivider shall replace the existing curb with full height City standard curb and gutter, along the project frontage on Pearl Street, per Standard Drawing G-2 and SDG-100.
13. The Subdivider shall replace the existing pedestrian ramps with City standard pedestrian ramps with truncated domes, at the northwest corner of the Herschel Avenue and Pearl Street and on both sides of the alley entrance on Pearl Street.
14. The Subdivider shall construct City standard alley apron at the alley entrance on Pearl Street.
15. The Subdivider shall replace the existing asphalt pavement in the alley with full width City standard alley, adjacent to the project site, per Standard Drawing G-21.

16. The Subdivider shall obtain an Encroachment Maintenance and Removal Agreement for the private landscape and irrigation located within Herschel Avenue and Pearl Street rights-of-way.
17. The Subdivider shall replace the existing sidewalk with City Standards sidewalk along the entire project frontage on Herschel Avenue and Pearl Street.
18. 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

19. "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].
20. "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."
21. 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

22. All proposed public sewer facilities shall be designed and constructed in accordance with established criteria in the most current City of San Diego sewer design guide.
23. The Subdivider 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.
24. All on-site wastewater systems shall be private.
25. Sewer lateral connections shall be made in accordance with Table 2-6 Of the City of San Diego sewer design guide. Remove the connection @ SMHs and show lateral connections through a "Y" fitting or saddle type connections. (two private laterals connections to existing public sewer in the alley).
26. 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. Public water facilities, as shown on approved Exhibit "A" shall be modified at final engineering to comply with standards.

INFORMATION:

- The approval of this Vesting 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 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 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.
- 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.