

RESOLUTION NUMBER R- 303101

DATE OF FINAL PASSAGE MAY 27 2008

WHEREAS, Burgener-Clark, LLC, a California Limited Liability Company, Craig W. Clark, Managing Member, Applicant/Subdivider, and Partners Planning and Engineering, Engineer, submitted an application to the City of San Diego for a tentative map (Tentative Map No. 525789) amending Tentative Map No. 179620, for the reconfiguration of an existing 2-lot subdivision, for the Bay View Plaza project [Project], located at 2509-2591 Clairemont Drive, bounded by Clairemont Drive to the north, Denver Street to the east, Ingulf Street to the south and Morena Boulevard to the west, and legally described as Lots 1 and 2 of West Clairemont Plaza Unit No. 1, Map No. 3780, in the Clairemont Mesa Community Plan area, in the CC-1-3 zone; and

WHEREAS, on April 3, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 525789, and pursuant to Resolution No. 4394-PC voted to recommend City Council approval of the tentative map; and

WHEREAS, the Map proposes the subdivision of a 4.43-acre site into four parcels; 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, 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 City 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 MAY 27 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 City Council, that it adopts the following findings with respect to Tentative Map No. 525789:

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 Subdivider shall underground existing and/or proposed utility systems and service facilities in accordance with the San Diego Municipal Code.

10. The property contains right-of-way which must be vacated and public service easements which must be modified and abandoned to implement the final map in accordance with San Diego Municipal Code section 125.0430.

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

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), all easements and portions of public rights-of-way located within the project boundaries as shown in Tentative Map No. 525789, shall be modified, abandoned or vacated as appropriate, contingent upon the recordation of the approved final map for the project.

BE IT FURTHER RESOLVED, that said easements and portions of public rights-of-way shall be modified, abandoned or vacated, contingent upon easement reservations or relocations of gas and electric facilities satisfactory to the San Diego Gas and Electric Company.

BE IT FURTHER RESOLVED, that said easements and portions of public rights-of-way shall be modified, abandoned or vacated, contingent upon the relocation of water facilities satisfactory to the City Engineer.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), the following public service easements, located within the project boundaries as shown in Tentative Map No. 525789, shall be modified and vacated, contingent upon the recordation of the approved final map for the project:

- a. A portion of the building restricted easement granted on Parcel Map No. 3780.
- b. A portion of the general access and utility easement dedicated by Document recorded 9-20-2001 as File No. 2001-0678260. Said easement shall be vacated upon realignment and dedication of a general access and utility easement, satisfactory to the City Engineer.

- c. A portion of the pedestrian and non-motor vehicular right of way dedicated on Map No. 3780. Said easement shall be vacated upon realignment and dedication of a pedestrian and non-motor vehicular right of way, satisfactory to the City Engineer.
- d. A portion of the open space easement granted on Map 3780. Said easement shall be vacated upon realignment and dedication of an open space easement, satisfactory to the City Engineer.

The property contains right-of-ways and public service easements which must be vacated to implement the parcel map in accordance with San Diego Municipal Code section 125.0430.

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

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66435(j), a portion of Clairemont Drive, a portion of Morena Boulevard and portions of certain public service easements, located within the project boundaries as shown in Tentative Map No. 525789, shall be vacated, contingent upon the recordation of the approved final map for the project.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66445 (j) the following public service easements, located within the project boundaries as shown in Tentative Map No. 525789, shall be vacated, contingent upon the recordation on the approved final map for the project:

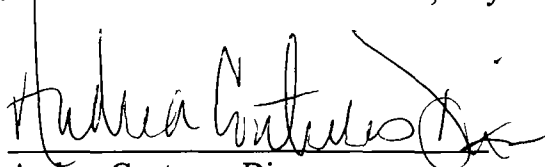
- a. Portions of the sewer, drainage and unnamed easements dedicated on Map No. 3780.
- b. The drainage easement recorded February 17, 1960 as File No. 36258 of Official Records.
- c. The public utilities easement recorded June 29, 1969 as File No. 115490 of Official Records.

The property contains rights-of-ways and public service easements which must be vacated to implement the parcel map in accordance with San Diego Municipal Code section 125.0430.

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

BE IT FURTHER RESOLVED, that Tentative Map No. 525789 is granted to Burgener-Clark, LLC, a California Limited Liability Company, Craig W. Clark, Managing Member, Applicant/Subdivider and Partners Planning and Engineering, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Andrea Contreras Dixon  
Deputy City Attorney

ACD:pev  
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05/13/08 COR.COPY  
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CONDITIONS FOR TENTATIVE MAP NO. 525789

BAY VIEW PLAZA PROJECT

ADOPTED BY RESOLUTION NO. R-303784 ON MAY 27 2008

**GENERAL**

1. This Tentative Map will expire MAY 27 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 Parcel Map, unless otherwise noted.
3. A Parcel Map shall be recorded in the Office of the County Recorder, prior to the Tentative Map expiration date.
4. This Parcel Map shall comply with the conditions of Site Development Permit No. 525777, Amending SDP No. 9100/Planned Development Permit No. 525776, Amending PDP No. 179619.
5. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.

**ENGINEERING**

6. A Parcel Map shall be recorded in the Office of the County Recorder, prior to the Tentative Map expiration date.
7. Compliance with all conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
8. The subdivider shall vacate a portion of Clairemont Drive and Morena Boulevard rights-of-way and portions of sewer, drainage and unnamed easements.
9. The subdivider shall construct new City standard curb, gutter and sidewalk adjacent to the newly vacated portions of the right-of-way on Clairemont Drive and Morena Boulevard.
10. The subdivider shall install a maximum 30-foot wide City standard driveway, on Clairemont Drive, per Standard Drawings SDG-114, G-16 and SDG-100.
11. The subdivider shall install one 28-foot wide City standard driveway, on Denver Street, per Standard Drawings SDG-114, G-16 and SDG-100.

12. The subdivider shall install two separate 30-foot wide City standard driveways on Ingulf Street, per Standard Drawing SDG-114, G-16 and SDG-100.
13. The subdivider shall construct one 24-foot wide City standard driveway, on Morena Boulevard, per Standard Drawings SDG-114, G-16 and SDG-100.
14. The subdivider shall reconstruct the existing curb ramps with City standard curb ramps with truncated domes, at the following street intersections: Clairemont Drive and Denver Street, Denver Street and Ingulf Street and at Ingulf Street and Morena Boulevard.
15. Prior to the issuance of any construction permit, the subdivider shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance, satisfactory to the City Engineer.
16. Prior to the issuance of any construction permit, the subdivider shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.
17. Prior to the issuance of any construction permit, the subdivider shall incorporate and show the type and location of all post construction BMP's on the final construction drawings, consistent with the approved Water Quality Technical Report.
18. The drainage system for this project shall be private and will be subject to approval by the City Engineer.
19. The subdivider shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
20. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99 08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.
21. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent

amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99 08 DWQ.

22. The subdivider shall obtain an Encroachment Maintenance and Removal Agreement for landscape and irrigation located in the City's right-of-way.

### **MAPPING**

23. "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].
24. "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."
25. Every Parcel 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.
26. The design of the subdivision shall include private easements, if any, serving parcels of land outside the subdivision boundary or such easements must be removed from the title of the subdivided lands prior to filing any parcel or final map encumbered by these easements.

### **WASTEWATER**

27. The developer shall relocate all onsite public sewer mains located in the west portion of this site to the public right of way, satisfactory to the Metropolitan Wastewater Department Director. All associated onsite public easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director. The onsite 10 inch public sewer main that traverses this site from east to west is excluded from this requirement.



28. All proposed onsite sewer facilities shall be private.
29. The developer shall install all sewer facilities necessary to serve this development, satisfactory to the Metropolitan Wastewater Department Director.
30. 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.
31. Public sewer and water mains shall be installed with 10 feet edge to edge separation between them.
32. No structures or landscaping shall be installed in or over any sewer easement that would inhibit vehicular access to replace a section of main or provide access to any manhole or isolated section of main.
33. No approved improvements or landscaping, including private sewer facilities, grading and enhanced paving, shall be installed in or over any public easement prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.
34. No trees shall be installed within ten feet of any sewer facilities or in any sewer access easement. No shrubs exceeding three feet in height at maturity shall be installed within 10 feet of any public sewer main or within access easements.
35. No other utilities, including gas, electric, telephone and fiber optic cable, shall be located within 10 feet of any public sewer main when these utilities are installed parallel to the sewer main. General Utility Easements [GUE] in private roads and driveways shall be sized with sufficient width to provide for other agencies facilities. In side yards or other non street areas, a GUE must be dedicated for the exclusive use of the City of San Diego or the Metropolitan Wastewater Department. Other agencies will require separate easements.
36. The developer shall grant a private easement to the adjacent hotel lot to the east for their private sewer lateral.

### **GEOLOGY**

37. Prior to the issuance of a grading permit, a geotechnical report shall be submitted and approved by the City Engineer in accordance with the City of San Diego's Technical Guidelines for Geotechnical Reports.

### **INFORMATION:**

- The approval of this 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.
- This development may be subject to payment of a park fee prior to the filing of the Parcel Map in accordance with San Diego Municipal Code.
- Subsequent applications related to this 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.