

RESOLUTION NUMBER R- 304106

DATE OF FINAL PASSAGE SEP 09 2008

WHEREAS, The Browar Family Trust, Applicant/Subdivider, and Sterling Land Services, Inc., Engineer, submitted an application to the City of San Diego for a Tentative Map No. 245495, to allow the conversion of nine existing residential units to condominiums for the 4176 Oregon Street [Project]. The project site is located at 4176 Oregon Street, and legally described as Lots 43 and 44, Block 150 of University Heights, according to Map by G.A. D' Hemecourt, Book 8, Page 36, in the Greater North Park Community Plan area, in the MR-1250B zone of the Mid-City Communities Planned District Ordinance, the Transit Overlay zone, the FAA Part 77 Notification area in the North Park Redevelopment Project area; and

WHEREAS, the map proposes the subdivision of a 0.16-acre site into one lot for a 9-unit residential condominium subdivision; and

WHEREAS, the applicant seeks to waive the requirement to underground existing overhead utilities, pursuant to Council Policy 600-25; 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 Project is exempt from environmental review pursuant to Section 15301 of the California Environmental Quality Act [CEQA] on the basis that the facilities are existing; 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 nine; and

WHEREAS, on July 24, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 245495, and pursuant to Resolution No. 08-095-PC voted to approved the map; 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 September 9, 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 Tentative Map No. 245495:

1. The proposed subdivision complies with the applicable zoning and development regulations of the San Diego Municipal Code and Land Development Code [SDMC/LDC] Section 125.0440(b).
2. 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/LDC Section 125.0440(h) and Subdivision Map Act Section 66412.3).
3. Each of the tenants of the proposed condominium project has received, pursuant to State Map Action Section 66452.9, written notification of intention to convert at least 60 days prior to the filing of a tentative map (SDMC/LDC Section 125.0444 and Subdivision Map Act Section 66427.1(a)).

4. 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/LDC Section 125.0444 and Subdivision Map Act Section 66427.1(a)).

5. The project has been conditioned that the Subdivider will give each tenant 10 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/LDC Section 125.0444 and Subdivision Map Act Section 66427.1(a)).

6. The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within 10 days of approval of a final map for the proposed conversion (SDMC/LDC Section 125.0444 and Subdivision Map Act Section 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.

7. 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/LDC Section 125.0444 and Subdivision Map Act Section 66427.1(c)).

8. 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, which notice shall be provided within 5 working days of the issuance of the Subdivision Public Report. 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 (SDMC/LDC Section 125.0444 and Subdivision Map Act Section 66427.1(d)).

9. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (SDMC/LDC Section 125.0444(b)).

10. 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/LDC Section 125.0444(c)).

11. Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete (SDMC/LDC Section 125.0431(a)(3)).

12. The project has been conditioned that the Subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete (SDMC/LDC Section 125.0431(a)(3)).

13. The project has been conditioned that the Subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (SDMC/LDC Section 125.0431(a)(4)).

14. A Building Conditions Report has been prepared in accordance with the Land Development Manual by a registered architect or engineer licensed by the State of California (SDMC/LDC Section 144.0504(b)).

15. The project has been conditioned that the Subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (SDMC/LDC Section 144.0504(c)).

16. The project has been conditioned that the Subdivider will provide a relocation assistance payment to all tenants of the project whose tenancy has terminated due to the condominium conversion. (SDMC/LDC Section 144.0505).

17. The project has been conditioned for the Subdivider to complete the physical improvements as outlined in Land Development Code Section 144.0507, to the satisfaction of the City Engineer prior to final map approval.

18. The project has been conditioned for the Subdivider to satisfy the inclusionary housing requirements on-site in accordance with Land Development Code Section 142.1306. (SDMC/LDC Section 144.0508).

19. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

20. 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 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.

BE IT FURTHER RESOLVED, that the appeal of the Citizens for Responsible Equitable Environment Development c/o Cory J. Briggs, Briggs Law Corporation is granted, the decision of the Planning Commission is overruled, and Tentative Map No. 245495 is denied.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Marianne Greene  
Marianne Greene  
Chief Deputy City Attorney

MR:als  
10/08/08  
Or.Dept:DSD  
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