

RESOLUTION NUMBER R-304111

DATE OF FINAL PASSAGE SEP 09 2008

WHEREAS, Bruce Mckillican, Applicant/Subdivider, and Allen Turner, Surveyor, submitted an application with the City of San Diego for a Tentative Map, No. 301491, to convert eight existing apartment units to condominiums and to waive the requirement to underground existing overhead utilities. The project site is located at 909 Diamond Street, between Bayard and Cass Streets, legally described as Lots 3, 4, 5 and 6, Block 157 of Pacific Beach, Map No. 697, filed January 8, 1982, within the Pacific Beach Community Plan area; and

WHEREAS, the Map proposes the subdivision of a 0.29 acre site into one lot for condominiums; and

WHEREAS, on August 31, 2006, the Planning Commission of the City of San Diego considered Tentative Map No. 301491, including the waiver of the requirement to underground existing overhead utilities, and pursuant to Resolution No. 06-4128-2 – PC voted to recommend approval the map; and

WHEREAS, the project is exempt from environmental review pursuant to Article 19, Section 15301(k) 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 dwelling units is eight; 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 heard by City Council on September 9, 2008; 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. 301491:

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 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. 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. 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:

- A. The conversion involves a short span of overhead facility, less than 600 feet in length.
- B. The conversion is a requirement of a condominium conversion of an existing development and the conversion would not represent a logical extension to an underground facility.

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

BE IT FURTHER RESOLVED, that the appeal filed by Cory J. Briggs, Briggs Law Corporation, on behalf of Citizens for Responsible Equitable Environmental Development is denied, the decision of the Planning Commission is sustained, and Tentative Map No. 301491 is granted to Bruce Mckillican, Applicant/Subdivider and Allen Turner, 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

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CONDITIONS FOR TENTATIVE MAP NO. 301491

909 DIAMOND TENTATIVE MAP

ADOPTED BY RESOLUTION NO. R- 304111 ON SEP 09 2008

GENERAL

1. This Tentative Map will expire September 9, 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 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. A Final Map shall be recorded in the Office of the County Recorder, prior to the Tentative Map expiration date.
5. The Final Map shall conform to the provisions of Coastal Development Permit No. 302289.
6. The Subdivider shall ensure that all 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.
7. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
8. The Subdivider shall provide 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 State Map Act.
9. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRB), pursuant to Section 66427.1(a) of the Subdivision Map Act.
10. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior

to termination of tenancy due to the conversion or proposed conversion in conformance with Section 66427.1(c) of the Subdivision Map Act. The provisions of this subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.

11. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their 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, in conformance with Section 66427.1(d) of the State Map Act. 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.
12. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act.

AFFORDABLE HOUSING

13. Prior to recording the Final Map, the Subdivider shall pay an Inclusionary Affordable Housing In-Lieu Fee of \$10,905.00, pursuant to the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code).
14. Prior to recording 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.

ENGINEERING

15. 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.
16. A Final Map to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder, prior to the Tentative Map expiration date.

17. The Subdivider shall obtain an Encroachment Maintenance and Removal Agreement, for paving and landscaping in Diamond Street.
18. The Subdivider shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document No. 297376, filed November 25, 2002) and the amendment to Council Policy 200-18 approved by City Council on February 26, 2002 (Resolution R-296141) satisfactory to the City Engineer. This may require, but not be limited to, installation of new street light(s), upgrading light from low pressure to high pressure sodium vapor and/or upgrading wattage.
19. 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.
20. 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. 769830.

MAPPING

21. "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).
22. "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."
23. Every 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.
24. 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.

WATER and SEWER REQUIREMENTS:

25. The Subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services, e.g. domestic, irrigation, and fire, adjacent to the project site in a manner satisfactory to the Water Department Director.
26. The Subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.

INFORMATION:

- The approval of this 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.
- This development may be subject to payment of a park fee prior to the filing of the final map in accordance with the 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 90 days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.