

RESOLUTION NUMBER R- 304112

DATE OF FINAL PASSAGE SEP 09 2008

WHEREAS, Bruce McKillican, Owner/Permittee, filed an application with the City of San Diego for a permit to convert eight existing residential units to condominiums and to waive the requirement to underground existing utilities (as described in and by reference to the approved Exhibit "A" and corresponding conditions of approval for the associated Permit No. 302289, on portions of a 0.29 acre site, known as the 909 Diamond Tentative Map project, located at 909 Diamond Street, and legally described as Lots 3, 4, 5 and 6, Block 157 of Pacific Beach, Map No. 697, filed January 8, 1982, in the RM-1-1 zone of the Pacific Beach Community Plan area; and

WHEREAS, on August 31, 2006, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 302289, and pursuant to Resolution No. 06-4128-2-PC voted to recommend approval of the Permit; 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 the 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 Coastal Development Permit No. 302289:

COASTAL DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC]
SECTION 126.0708

1. **The proposed coastal development will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan; and the proposed coastal development will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the Local Coastal Program land use plan.** The 0.29 acre site is located approximately two blocks from the Pacific Ocean. No physical accessway legally used by the public or proposed public accessway will be compromised or encroached upon with the approval of the project. From the site at 909 Diamond Street no public views to or along the ocean or other scenic coastal areas presently exist and none will be impacted from the approval of the project.
2. **The proposed coastal development will not adversely affect environmentally sensitive lands.** The conversion of existing apartments to condominiums at 909 Diamond Street in the urbanized community of Pacific Beach will not adversely affect environmentally sensitive lands as none exist on the property. The site is developed with three apartment buildings containing a total of eight apartments constructed during the 1970's. No sensitive lands exist on the site.
3. **The proposed coastal development is in conformity with the certified Local Coastal Program land use plan and complies with all regulations of the certified Implementation Program.** The certified Local Coastal Program, the Pacific Beach Community Plan, designates this site for residential development. The existing developed apartment building complies with the certified Local Coastal Program and the regulations of the Implementation Program. The conversion of the apartment building to condominiums will continue to maintain conformance with these policies and regulations.
4. **For every Coastal Development Permit issued for any coastal development between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the coastal development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.** The site at 909 Diamond Street is not between the nearest public road and the sea or shoreline of any body of water within the Coastal Overlay Zone. The conversion of the eight unit apartment development to condominiums will have no affect upon the public's access to coastal resources or recreation policies of Chapter 3 of the Coastal Act. Being determined that the proposed project will have no affect upon the access or recreational policies of the

Coastal Act, the proposed project is therefore in conformance with the policies of such act.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this 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 Coastal Development Permit No. 302289 is granted to Bruce McKillican, Owner/Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Marianne Greene
Marianne Greene
Deputy City Attorney

MR:als
09/26/08
10/01/08 Cor.Copy
Or.Dept:DSD
R-2009-393

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 42-5873

COASTAL DEVELOPMENT PERMIT NO. 302289
909 DIAMOND TENTATIVE MAP
CITY COUNCIL

This Coastal Development Permit No. 302289 is granted by the Council of the City of San Diego to BRUCE McKILLICAN, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] §126.0701. The 0.29 acre site is located at 909 Diamond Street in the RM-1-1 zone of the Pacific Beach Community Plan. The project site is legally described as Lots 3, 4, 5 and 6, Block 157 of Pacific Beach, Map No. 697, filed January 8, 1982.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to convert eight existing residential units to condominiums and to waive the requirement to underground existing utilities, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated September 9, 2008, on file in the Development Services Department.

The project shall include:

- a. the subdivision of a 0.29 acre site into one lot for eight condominiums. No construction is authorized by the issuance of this permit; and
- b. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. Subdivision and filing of a final map must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City,

following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. No final map shall be granted, nor shall any other activity authorized by this Permit be conducted until:

- a. The Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder

3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.

4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.

5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

8. This Permit shall become effective with recordation of the corresponding final subdivision map.

9. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

10. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

INFORMATION ONLY:

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the Council of the City of San Diego on September 9, 2008, by Resolution No. R-304112.

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

BRUCE McKILLICAN
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**