

RESOLUTION NUMBER R- 304459

DATE OF FINAL PASSAGE DEC 01 2008

WHEREAS, Melvyn V. Ingalls, Applicant/Subdivider, and Leppert Engineering Corporation, Engineer, submitted an application to the City of San Diego for Vesting Tentative Map No. 314829) for the Ocean View Village [Project], for phased construction of a mixed use development for 143 residential units, 40 commercial units and 24 industrial units. The project site is located 996 Otay Valley Road in the AR-1-1 zone, Airport Influence Area, and Airport Environs Overlay Zone of the Otay Mesa Plan. The project site is legally described as the southeast quarter of the southwest quarter of the northeast quarter of Section 29, Township 18 South, Range 1 West, San Bernardino Base Meridian, County of San Diego; and

WHEREAS, the Map proposes the subdivision of a 10.4 acre site into 3 lots with 143 residential condominium units, and 64 commercial/industrial condominium units; and

WHEREAS, Addendum No. 96580 to Environmental Impact Report No. 98-0189 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) guidelines. A Mitigation, Monitoring and Reporting Program has been prepared and will be implemented which will reduce, to a level of insignificance, any potential impacts identified in the environmental review process; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; 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 are 143 residential condominium units, and 64 commercial/industrial condominium units; and

WHEREAS, on July 24, 2008, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 314829, and pursuant to Resolution No. 4430-PC, the Planning Commission voted to recommend City Council approval of 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, on DEC 01, 2008, the City Council of the City of San Diego considered Vesting Tentative Map No. 314829, and pursuant to Section 125.0440 of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, 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 of the City of San Diego, that it adopts the following findings with respect to Vesting Tentative Map No. 314829:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan San Diego Municipal Code/Land Development Code [SDMC/LDC] section 125.0440(a) and Subdivision Map Action Sections 66473.5, 66474(a), and 66474(b).
2. The proposed subdivision complies with the applicable zoning and development regulations of the SDMC/LDC (SDMC/LDC section 125.0440(b)).
3. The site is physically suitable for the type and density of development (SDMC/LDC section 125.0440(c) and Subdivision Map Act Sections 66474(c) and 66474(d)).

4. The design of the subdivision and the proposed improvements are likely not to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat (SDMC/LDC section 125.0440(d) and Subdivision Map Act Section 66474(e)).

5. The design of the subdivision and the type of improvements will not be detrimental to the public health, safety, and welfare (SDMC/LDC section 125.0440(e) and Subdivision Map Act Section 66474(f)).

6. The design of the subdivision and 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 (SDMC/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 (SDMC/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 (SDMC/LDC section 125.0440(h) and Subdivision Map Act Section 66412.3).

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. 314829 is granted to Melvyn V. Ingalls, Applicant/Subdivider, 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 VESTING TENTATIVE MAP NO. 314829

OCEAN VIEW VILLAGE – PROJECT NO. 96580

ADOPTED BY RESOLUTION NO. R304459 ON DEC 01 2008

GENERAL

1. This Vesting Tentative Map will expire DEC 01 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 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.
4. The Final Map shall conform to the provisions of Site Development Permit No. 320732 and Rezone No. 314830.
5. The Applicant/Subdivider 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.
6. Prior to recordation of the Final Map, the Subdivider shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration (FAA).

7. Prior to recordation of the Final Map, the Subdivider shall grant to the City of San Diego an aviation easement on the Final Map for the purpose of maintaining all aircraft approach paths to Brown Field. This easement shall permit the unconditioned right of flight of aircraft in the federally controlled airspace above the subject property. This easement shall identify the easement's elevation above the property and shall include prohibitions regarding use of and activity on the property that would interfere with the intended use of the easement. This easement may require the grantor of the easement to waive any right of action arising out of noise associated with the flight of aircraft within the easement.

ENGINEERING

8. The Subdivider shall dedicate and improve 30 feet of right-of-way width along the property's Vista Santo Domingo frontage.
9. The Subdivider shall construct half width street improvements for Vista Santo Domingo along the project's subdivision boundary frontage.
10. 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.
11. The drainage system proposed for this subdivision, as shown on the approved Vesting Tentative Map, is private and subject to approval by the City Engineer.
12. The Subdivider shall obtain a 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.
13. Prior to the issuance of any construction permit, the Subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.
14. Prior to the issuance of any construction permit, the Subdivider shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.
15. Prior to the issuance of any construction permit the Subdivider shall incorporate and show the type and location of all post-construction Best Management Practices (BMP's) on the final construction drawings, in accordance with the approved Water Quality Technical Report (WQTR).
16. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99-08 DWQ and the Municipal

Storm Water Permit, Order No. 2001-01(NPDES General Permit No. CAS000002 and CAS0108758), 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.

17. 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 SWRCB Order No. 99 08 DWQ.
18. All driveways shall comply with City Standard Drawings G14B, G-16 and SDG-100.
19. The Subdivider shall obtain a letter of permission from the adjacent property owner(s) for all offsite private drainage improvements located on private property.
20. Pursuant to City Council Policy 600-20, the Subdivider shall provide evidence to ensure that an affirmative marketing program is established.
21. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
22. The Subdivider shall underground existing and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.
23. 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.
24. 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

25. "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).
26. "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."
27. 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.

WASTEWATER

28. The Subdivider shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's sewer design guide. Proposed facilities that do not meet the current standards shall be private or re- designed.
29. The Subdivider shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved Vesting Tentative Map will require modification based on the accepted sewer study.
30. The proposed sewer laterals are located in the driveways, they shall be relocated or it shall be private and built according to Figure 2-6 of the City of San Diego Sewer Design Guide. Private sewer laterals require an Encroachment Maintenance and Removal Agreement. Therefore, eliminate the manhole

connection (8 inch lateral to 10 inch main in Vista Santo Domingo) and make a "Y" fitting or saddle type connection.

31. All on-site wastewater systems shall be private.
32. 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."
33. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.
34. The Subdivider shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each lot will have its own sewer lateral or provide CC&R's for the operation and maintenance of on site private sewer facilities that serve more than one lot.

WATER

35. The Subdivider shall be required to provide an acceptable Water Study to determine the appropriate public water facilities and pressure zones necessary to serve the proposed development. The study should include a construction phasing plan to ensure meeting the City's standards regarding redundancy. The study is a condition of the Vesting Tentative Map and must be accepted prior to the approval of any public improvement plans.
36. The Subdivider shall provide proof that the existing 12-inch water main in Vista Santo Domingo connects to the existing 16-inch water main in Exposition Way. If these water mains are not connected, then the Subdivider will be required as a condition of the Vesting Tentative Map and Site Development Permit to connect these water mains.
37. The Subdivider shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two (2) fire hydrants or thirty (30) dwelling units are located on a dead-end main then the Subdivider shall install a redundant water system satisfactory to the Water Department Director.
38. The Subdivider shall grant adequate water easements, including vehicular access to each appurtenance (meters, blow offs, valves, fire hydrants, etc.), for all public water facilities that are not located within fully improved public rights-of-way, satisfactory to the Water Department Director.
39. The Subdivider shall provide CC&R's for the operation and maintenance of all private water facilities that serve or traverse more than a single unit or lot.

40. The Subdivider shall provide keyed access to the Water Operations Division, in a manner satisfactory to the Water Department Director, on each gate located within any easement containing public water facilities.
41. The Subdivider agrees to design and construct all proposed public water facilities, including but not limited to services, meters and easements, 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. Water facilities shall be modified at final engineering to comply with standards.
42. Providing water for this development is dependent upon prior construction of certain water facilities in previously approved developments in this area. If these facilities have not been constructed when required for this development, then the construction of certain portions of these previously approved water facilities, as required by the City Engineer, will become off-site improvements required for this development.

GEOLOGY

43. 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."

LANDSCAPE/BRUSH MANAGEMENT

44. Prior to issuance of the Final Map, a "Recorded Easement(s)" shall be granted by the adjacent property owner(s) to the owner of the subject property to establish and maintain Brush Management Zone 2 on the adjacent northern and northeastern property(s) in perpetuity per Section 142.0412(c) of the Land Development Code.

PLANNING

45. In accordance with the requirements of San Diego Municipal Code, Sections 143.0140(a) and 143.0152(a) the Subdivider shall execute a covenant of easement prior to recordation of the Final Map, recorded against the title to the affected premises and executed in favor of the City. The Subdivider shall draft the covenant of easement as follows: a) To contain a description of the premises affected by the permit with a description of the Steep Slopes and Sensitive Biological Resources that will be preserved in the north central portion of the site, shown on the Vesting Tentative Map as the "area to remain un-disturbed;" and b) To impart notice to all persons to the extent afforded by the recording laws of the state regarding the restrictions affecting the use of the environmentally sensitive lands covered by the permit; and c) To insure that the burdens of the covenant shall be binding upon, and the benefits of the covenant shall inure to, all

successors in interest to the affected premises; and d) To ensure enforceability of the covenant of easement by the City.

TRANSPORTATION

46. Prior to the recordation of the first Final Map, the Subdivider shall designate a Class 3 Bike Route along Vista Santo Domingo Road for shared use with motor vehicle traffic. The Subdivider shall design the location and type of all required bikeway signage satisfactory to the City Engineer.
47. Prior to the recordation of the first Final Map, the Subdivider shall dedicate 30 feet along the property frontage for Vista Santo Domingo right-of-way, satisfactory to the City Engineer.
48. Prior to the recordation of the first Final Map, the Subdivider shall assure by permit and bond, half width improvements along the property frontage on Vista Santo Domingo. Improvements shall include 20 feet of pavement with the appropriate transition to connect to Exposition Way, curb, gutter and a 5 foot wide sidewalk within a 10 foot curb to property line distance, as shown on Exhibit "A," satisfactory to the City Engineer.
49. Prior to the recordation of the first Final Map, the Subdivider shall provide and assure by permit and bond, roadway striping on Exposition Way at the cul-de-sac location as shown on improvement plan Drawing No. 32542-D, satisfactory to the City Engineer.
50. Prior to the recordation of the first Final Map for the first Phase which includes 107 multi-family residential units, the following roadway improvement shall be assured: State Route 905 open between Otay Mesa Road and Otay Mesa border crossing, with all interchanges open except the Heritage Road interchange.
51. Prior to the recordation of the first Final Map for the first Phase which includes 107 multi-family residential units, The Subdivider shall assure by permit and bond the construction of a traffic signal at the intersection of Avenida De Las Vistas/Otay Valley Road, satisfactory to the City Engineer.
52. Prior to the recordation of the first Final Map for the second Phase which includes 36 multi-family dwelling units, and all commercial and industrial buildings, the following roadway improvements shall be assured: The Heritage Road/State Route 905 interchange is open; Otay Valley Road widened to a six lane prime arterial; and the following for Otay Mesa Road/Heritage Road: Provide a 12% fair share contribution toward one additional southbound left turn lane, re-stripe one southbound right turn lane to provide an exclusive through lane, and one additional northbound through lane.

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 Vesting Tentative Map, may protest the imposition within 90 days of the approval of this Vesting 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 per Municipal Code Section 142.0607.