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RESOLUTION NUMBER R-304591

DATE OF FINAL PASSAGE JANUARY 13, 2009

RESOLUTION DENYING THE APPEAL AND APPROVING  
TENTATIVE MAP NO. 347677 – 7827-67 STALMER STREET  
TENTATIVE MAP PROJECT.

WHEREAS, Mesa Villas Investors, LLC, a California Corporation, Applicant/Subdivider, and San Diego Land Surveying and Engineering, Inc., Engineer, submitted an application to the City of San Diego for a tentative map (Tentative Map No. 347677) for the condominium conversion of twenty existing residential units for the 7827-67 Stalmer Street Tentative Map Project [Project], located on the south side of Stalmer Street, between Baltic Street and Belden Street, at 7827-67 Stalmer Street, and legally described as Parcel 3, Map No. 2486, in the RM-2-5 zone, the Residential Tandem Parking Overlay Zone, and the Clairemont Mesa Height Limitation Overlay Zone, within the Clairemont Mesa Community Plan area; and

WHEREAS, the applicant seeks to waive the requirement to underground existing overhead utilities, pursuant to Council Policy 600-25; and

WHEREAS, the Map proposes the subdivision of a 0.79-acre site into one lot for a 20-unit residential condominium conversion; 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 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 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 twenty; and

WHEREAS, on October 9, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 347677, and pursuant to Resolution No. 4467-PC voted to approve the tentative map; and

WHEREAS, the Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation appealed the Planning Commission decision to the Council of the City of San Diego; 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;

WHEREAS, the matter was set for public hearing on January 13, 2009, 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. 347677:

1. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code [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 (LDC section 125.0440(h) and Subdivision Map Act Section 66412(3)).

3. Each of the tenants of the proposed condominium conversion project has received, pursuant to Subdivision Map Act section 66452(9), written notification of intention to convert at least sixty days prior to the filing of a tentative map (LDC 125.0444 and Subdivision Map Act section 66427.1(a)).

4. Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion at least ten days after the application was deemed complete (LDC section 25.0431(a)(3)).

5. 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 (LDC section 125.0431(a)(3)).

6. 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 (LDC section 125.0444 and Subdivision Map Act section 66427.1(a)).

7. The project has been conditioned that the subdivider will give each tenant ten 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 (LDC section 125.0444 and Subdivision Map Act section 66427.1(a)).

8. The project has been conditioned that the subdivider will give each tenant of the proposed condominium project written notification within ten days of approval of a final map for the proposed conversion (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.

9. 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 (LDC section 125.0444 and Subdivision Map Act section 66427.1(c)).

10. The project has been conditioned that the subdivider will give each tenant a notice of termination of tenancy sixty days prior to being required to vacate the property. (LDC section 125.0431(a)(4)).

11. 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 provided within five working days of the issuance of the Subdivision Public Report. The right shall run for a period of not less than ninety 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 (LDC section 125.0444 and State Map Act Section 66427.1(d)).

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

13. 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 (LDC section 125.0444(c)).

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 (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. (LDC section 144.0504(c)).

16. The project has been conditioned that the subdivider will provide relocation assistance to all tenants of the project whose tenancy has terminated due to the condominium conversion, to the satisfaction of the Development Services Department and the Housing Commission, prior to the recordation of the Final Map. (LDC Chapter 14, Article 4, Division 5). It has also been conditioned that subdivider will pay the appropriate fees incurred by the Housing Commission for compliance monitoring (Chapter 14, Article 4, Division 5).

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 in accordance with Land Development Code section 142.1306. (LDC section 144.0508).

19. The 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, 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.

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

BE IT FURTHER RESOLVED, that the appeal of the Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation is denied, the decision of the Planning Commission is sustained, and Tentative Map No. 347677 is granted to Mesa Villas Investors, LLC, a California Corporation, Applicant/Subdivider, and San Diego Land Surveying and Engineering, Inc., Engineer, subject to the conditions attached hereto and made a part hereof.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

  
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Keith Bauerle  
Deputy City Attorney

KB:hm  
01/20/09  
Or.Dept:DSD  
R-2009-789  
MMS#6906

CONDITIONS FOR TENTATIVE MAP NO. 347677

7827-67 STALMER STREET TENTATIVE MAP PROJECT NO. 104906

ADOPTED BY RESOLUTION NO. R-304591 ON JANUARY 13, 2009

**GENERAL:**

1. This Tentative Map will expire on January 13, 2012.
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. The subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
  - a. For existing tenants, within ten days of the project application for the *condominium conversion* being deemed complete; or
  - b. For prospective tenants, upon application for the rental of a unit in the proposed *condominium conversion*.
5. The subdivider shall provide the tenants a Notice of Application for a Public Report at least ten days prior to the submittal to the Department of Real Estate [DRE], pursuant to Section 66427.1(a) of the Subdivision Map Act.
6. The subdivider shall include in all notices required in Land Development Code [LDC] section 125.0431(a) a statement advising the tenants that should the *condominium conversion* be approved, tenants may be required to vacate the *premises* following any payment of benefits due (LDC section 144.0505).
7. The subdivider shall provide a 60-day Notice of Termination of Tenancy, consistent with the Land Development Manual, provided to each tenant sixty days prior to being required to vacate the property.
8. 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.

9. 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 Subdivision Map Act. The right shall run for a period of not less than ninety 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.
10. The subdivider shall provide to all tenants within five working days of the issuance of the Subdivision Public Report or ninety days prior to the initial public offer for sale if no Subdivision Public Report the Notice of First Right of Refusal to Purchase. Failure to provide the notice within the time period required shall extend the 90-day period of First Right of Refusal to Purchase to ninety days from the date the notice is provided to the tenant.
11. The subdivider shall provide the tenants of the proposed condominiums with written notification within ten days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act.
12. 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 Subdivision Map Act.

**AFFORDABLE HOUSING:**

13. Prior to the recordation of the Final Map, the applicant will provide ten percent or two units on site to satisfy the Inclusionary Housing requirement, 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 the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for tenant relocation assistance (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission. In addition, applicant must pay the appropriate fees incurred by the Housing Commission for compliance monitoring (Chapter 14, Article 4, Division 5, 144.0503).

**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 reconstruct the existing pedestrian ramp at the southwest corner of Stalmer Street and Linda Vista Road, with current City Standard pedestrian ramp Standard Drawing SDG-132 and SDG-133 with truncated domes.
18. 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.
19. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
20. The Subdivider shall obtain an Encroachment Maintenance Removal Agreement for the concrete steps in the Stalmer Street Right-of-Way.
21. Pursuant to City Council Policy 600-20, the Subdivider shall provide evidence to ensure that an affirmative marketing program is established.
22. This project 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.
23. Prior to the recordation of the Final Map, the Subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (LDC sections 144.0507), to the satisfaction of the City Engineer. The parking requirements in LDC sections 144.0507 and 142.0525(a) do not apply, since this project was deemed complete prior to the effective date of this ordinance (July 27, 2006).
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. 769830.

**LANDSCAPE:**

25. Prior to recordation of the Final Map, complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval. The construction documents shall be in substantial conformance with the Exhibit "A," Landscape Development Plan, on file in the Office of the Development Services Department.
26. Prior to recordation of the Final Map, and after Landscape and Irrigation Construction Documents have been approved by Development Services, the subdivider shall install all required landscaping consistent with the approved plans and the Land Development Manual, Landscape Standards.
27. Prior to recordation of the Final Map, it shall be the responsibility of the Permittee/Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
28. The Landscape Construction Plan shall take into account a forty square-foot area around each tree which is unencumbered by hardscape and utilities as set forth under LDC section 142.0403(b)(5).
29. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
30. The Permittee or subsequent owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.
31. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within thirty days of damage or prior to a Certificate of Occupancy or a Final Landscape Inspection.

**MAPPING:**

32. "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].
33. "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."
34. 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.
35. 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.

**SEWER AND WATER:**

36. Water and Sewer Requirements:
  - a. The Subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.

- b. 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 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 (24 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 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.