

RESOLUTION NUMBER R- 304688

DATE OF FINAL PASSAGE FEB 24 2009

RESOLUTION APPROVING TENTATIVE MAP NO. 42906 –
PETRIE RESIDENCES – PROJECT NO. 18262.

WHEREAS, John R. Petrie, Trustee of the John R. Petrie Trust Agreement dated July 21, 2004, Subdivider/Applicant, and CDS Civil Engineers, Engineer, submitted an application to the City of San Diego for a tentative map (Tentative Map No. 42906) for the creation of two lots, construction of one new single-family residence and the construction of an addition to an existing single-family residence to be know as the Petrie Residences Project [Project], located on the south side of Dove Court, west of Bear Drive/Walnut Avenue, at 3520 Dove Court, and legally described as Lot 4, Inspiration View, Map No. 1854, including a portion of vacated Eagle Street (Parcel “A”) and a portion of lot 5, Inspiration View, Map No. 1854 and a portion of vacated Walnut Street (Parcel “B”), in the Uptown Community Plan area in the RS-1-1 and RS-1-7 zones and the FAA Part 77 Noticing Area, which are proposed to be rezoned to the RS-1-4 and RS-1-7 zones; and

WHEREAS, the Map proposes the subdivision of a 0.63-acre site into two lots for residential development; and

WHEREAS, on October 9, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 42906, and pursuant to Resolution No. 4470-PC voted to recommend City Council approval of the map; 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, 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 FEB 24 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. 42906:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code [LDC] section 125.0440(a) and Subdivision Map Act sections 66473(5), 66474(a), and 66474(b)). The proposed subdivision would provide for a balanced community and equitable development within the community through the provision of housing that provides varying levels of architectural styles, size and affordability through residential development. The proposed subdivision is consistent with the recommended residential land use and density prescribed in the Uptown Community Plan. Therefore, the proposed subdivision and its design or improvement would be consistent with the policies, goals, and objectives of the applicable land use plan

2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (LDC section 125.0440(b)). The proposed subdivision would comply with the development regulations of the underlying RS-1-4 and RS-1-7 zones and all of the applicable development regulations of the LDC. No deviation or variance is requested with this application.

3. The site is physically suitable for the type and density of development (LDC section 125.0440(c) and Subdivision Map Act sections 66474(c) and 66474(d)). The proposed subdivision would be consistent with the recommended residential land use and density range of the Uptown Community Plan and would comply with the applicable development of the underlying RS-1-4 and RS-1-7 zones. Therefore, the bulk, scale and siting of the proposed development would be compatible with the existing and future surrounding land uses and the site is physically suitable for the type and density of the proposed development.

4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or

wildlife or their habitat (LDC section 125.0440(d) and Subdivision Map Act section 66474(e)). An initial Environmental Initial Study [EIS] was conducted for the proposed subdivision in accordance with the California Environmental Quality Act [CEQA] that determined that a Negative Declaration should be prepared for the proposed project. No adverse environmental impacts would result from this development and therefore no mitigation would be required. The site does not include sensitive biological resources. Steep slopes do exist on the site, however, the new residence avoids these areas entirely and only minor portions of the additions to the existing residence are located within the natural, undisturbed portion of the steep slopes; the minimal impact area conforms with Land Development Code regulations. The proposed subdivision will be safe from geologic hazards according to the geotechnical investigation report prepared for the project. Proper engineering design of a retaining wall on the site will also improve the site's factor-of-safety. Finally, a Building Restricted Easement for the areas of the site determined to have a factor-of-safety of less than 1.5 is required, in addition to a Notice of Geologic and Geotechnical Conditions which has been recorded against the property and functions as a disclosure and hold harmless agreement. Therefore, the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (LDC section 125.0440(e) and Subdivision Map Act section 66474(f)). The proposed subdivision and improvements have been designed to comply with all applicable Federal, State and local land use policies including the California Subdivision Map Act and the City of San Diego Land Development Code. Further, the proposed subdivision and improvements would be permitted, constructed and inspected in accordance with the California Building Code. Therefore, the design of the subdivision or the proposed improvements would not be detrimental to the public health, safety, and welfare.

6. The design of the subdivision or 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 (LDC section 125.0440(f) and Subdivision Map Act section 66474(g)). The project includes vacation of portions of Eagle Street and Walnut Avenue which are no longer required for public right-of-way purposes, as supported by the Resolution adopted by the City Council accompanying this Tentative Map Resolution as a companion project. The remainder of the proposed subdivision would maintain and, as required, improve the existing public rights-of-ways and general utility easements therefore, the design of the subdivision and the associated improvements would not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (LDC section 125.0440(g) and Subdivision Map Act section 66473(1)). The design of the proposed subdivision through building materials, site orientation, architectural treatments and the placement and selection of plant materials provide to the extent feasible, for future passive or natural heating and cooling opportunities.

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 (LDC section 125.0440(h) and State Map Act section 66412.3). The decision maker has reviewed the administrative record including the project plans, technical studies, environmental documentation and public testimony to determine 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 and found that the addition of one residential unit would assist the housing needs of the Uptown community.

9. The property contains a right-of-way which must be vacated to implement the Parcel Map in accordance with San Diego Municipal Code section 125.0430, and more fully described in Resolution No. R-304689 and "Legal Description" Exhibit "A" and "Drawing" Exhibit "B" (B-Sheet Nos. 20313-1, 20313-2-B, and 20313-3-B). The project includes proposed vacation of portions of the Eagle Street and Walnut Avenue rights-of-way, which conform with Resolution No. R-304689 and "Legal Description" Exhibit "A" and "Drawing" Exhibit "B" (B-Sheet Nos. 20313-1, 20313-2-B, and 20313-3-B).

That 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. 42906 is granted to John R. Petrie, Trustee of the John R. Petrie Trust Agreement dated July 21, 2004, Applicant/Subdivider and CDC Civil Engineers, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon Thomas
Shannon Thomas
Deputy City Attorney

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CONDITIONS FOR TENTATIVE MAP NO. 42906

THE PETRIE RESIDENCES, PROJECT NO. 18262

ADOPTED BY RESOLUTION NO. R-304688 ON FEB 24 2009

GENERAL:

1. This Tentative Map will expire FEB 24, 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 Parcel Map, unless otherwise noted.
3. Prior to the issuance of the Parcel 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 Parcel Map shall conform to the provisions of Site Development Permit No. 42924 and Public Right-of-Way Vacations specified in Resolution No. R-304688 and "Legal Description" Exhibit "A" and "Drawing" Exhibit "B" (B-Sheet Nos. 20313-1, 20313-2-B, and 20313-3-B).
5. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against any Indemnified Party to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, and defends the action in good faith. Subdivider shall not be required to pay or perform any settlement unless such settlement is approved by the Subdivider.
6. Prior to recordation of the Parcel Map, subdivider shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration [FAA].

ENGINEERING:

7. Prior to the issuance of a grading permit and recordation of the Easement Vacation, the Applicant/Permittee shall demonstrate to the satisfaction of the City of San Diego that the same has obtained clear title to ownership of the entire property within, upon, and below the public right-of-way that are the subject of Easement Vacation No. 42923.

8. Prior to the recordation of the Parcel Map, the owner shall grant and relinquish to the City of San Diego, a municipal corporation, in the County of San Diego, State of California, any right to construct, erect, or maintain any habitable structure (as defined in the Uniform Building Code) within the Building Restricted delineated on the Tentative Map because of the existence of a possible geologic/geotechnical hazard (slope instability). This easement may be terminated or adjusted by recorded instrument at any time the City engineer finds that said easement is no longer needed for the purpose for which it was granted and that it is in the public interest and safe to do so.
9. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
10. 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.
11. Prior to the issuance of a building permit the applicant shall obtain a bonded 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.
12. Prior to the issuance of any building permit, the applicant shall enter into an agreement to indemnify, protect and hold harmless City, its officials and employees from any and all claims, demands, causes or action, liability or loss because of, or arising out of private drainage system within this development.
13. The drainage system proposed for this development is private and shall be privately maintained and is subject to approval by the City Engineer.
14. The subdivider shall underground existing and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.
15. 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.
16. The subdivider shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.
17. Prior to the issuance of any construction permit, the subdivider shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

18. Prior to the issuance of any construction permit the subdivider shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.
19. This project proposes to export approximately 230 cubic yards of material from the project site. All export material shall be discharged into a legal disposal site. The approval of this project does not allow the onsite processing and sale of the export material unless the underlying zone allows a construction and demolition debris recycling facility with an approved Neighborhood Use Permit or Conditional Use Permit per LDC section 141.0620(i).
20. Voluntary Construction Parameters from Applicant. The conditions below were voluntarily agreed to be included within this Tentative Map and referenced Site Development Permit by the applicant at the October 9, 2008, Planning Commission hearing. To the satisfaction of the City Engineer, all of the following recommendations will be followed during the construction of improvements, as proposed for one new single family home to be constructed at the end of Bear Drive and as referred to as Lot B of Tentative Map No. 42906.
 - a. A Traffic Control plan taking into account traffic safety and road capacity shall be prepared, submitted and approved by the City Engineer prior to the commencement of any grading operations.
 - b. No construction vehicles, equipment or supplies will be stored or parked on Bear Drive unless directly adjacent to the property being improved.
 - c. All heavy equipment and materials will be off-loaded from Torrance Ave or Dove Court and then transported in smaller batches, 1 ton or less, by way of a rubber tired forklift or smaller truck, not in excess of 12,000 lbs GVW, to the construction site. The only exception shall be for awkward sized loads such as lumber or steel which may be transported on a limited basis by trucks not exceeding 45,000 lbs. GVW.
 - d. All wet concrete will be off-loaded and pumped down the hill from the end of Dove Court, not Walnut Avenue or Bear Drive.
 - e. Earth moving equipment and dirt hauling trucks shall be of the smallest and lightest variety practically useful and locally available for the job required but shall not exceed 55,000 lbs. GVW under any circumstances.
 - f. At no time shall any construction vehicle loads exceed the safe weight limit for any street as may be determined and notified or posted by the City Engineer.

It is hereby agreed that the above measures shall be followed during construction at all times. These measures shall be a part of the Development Permit and shall endure to and be enforceable upon the

applicant and any future owner or builder of the improvements as referenced above.

21. 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:

22. "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].
23. "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."
24. The Parcel 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.

SEWER AND WATER:

25. Wastewater Requirements:
 - a. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

- b. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.
- c. All onsite sewer facilities shall be private.

26. Water Requirements:

- a. The subdivider shall execute the Hold Harmless and Release Agreement for the new water meter to serve the subject project.
- b. The subdivider shall design and construct new water service(s) outside of any driveway, and the disconnection at the water main of all existing unused services adjacent to the site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.
- c. The subdivider shall apply for a plumbing permit for the installation of appropriate private back flow prevention devices(s) on each water service (domestic, fire, and irrigation), in a manner satisfactory to the Director of Public Utilities, the City Engineer, and the Cross Connection Supervisor in the Customer Support Division of the Water Department.
- d. Prior to the issuance of any Certificates of Occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.
- e. The subdivider agrees to design and construct all public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Design Guide and City regulations, standards and practices pertaining thereto. Water facilities, as shown on the approved tentative map, will be modified in accordance with standards and requirements at final engineering.

TRANSPORTATION:

- 27. The applicant shall construct a modified hammer-head vehicle turn-around area at the west end of Bear Drive, and within the hammer head area the applicant shall paint the curb red and install the "No Parking" sign (R8-3a), to the satisfaction of the City Engineer.

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 (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 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.
- 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 Municipal Code Section 142.0607.

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