

RESOLUTION NUMBER R-304768

DATE OF FINAL PASSAGE MARCH 24, 2009

A RESOLUTION DENYING ENVIRONMENTAL APPEAL OF CORY J. BRIGGS, BRIGGS LAW CORPORATION ON BEHALF OF THE AFFORDABLE HOUSING COALITION OF SAN DIEGO AND CITIZENS FOR RESPONSIBLE EQUITABLE ENVIRONMENTAL DEVELOPMENT OF TENTATIVE MAP NO. 242521 – 4711 BIONA DRIVE TENTATIVE MAP PROJECT, PROJECT NO. 78145.

WHEREAS, the M. S. Browar Family Trust, Owner, submitted an application to the City of San Diego for a condominium conversion, for the 4711 Biona Drive Tentative Map project [Project]; and

WHEREAS, on August 9, 2005 the City of San Diego, through the Development Services Department, determined that the application for the Project was complete and, therefore, was deemed complete on said date; and

WHEREAS, on August 18, 2005, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the 4711 Biona Drive Tentative Map project is Categorically Exempt from the California Environmental Quality Act [CEQA] (Public Resources Code section 21000 et. seq.) under CEQA Guideline section 15301(k) (California Code of Regulations section 15301(k)); and

WHEREAS, on October 9, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 242521, and pursuant to Resolution No. 4465-PC voted to approve the map; and

WHEREAS, the Affordable Housing Coalition of San Diego and Citizens for Responsible Equitable Environmental Development, represented by Briggs Law Corporation [Appellant], appealed the Environmental Determination for the 4711 Biona Drive Tentative Map project to the Council of the City of San Diego [City Council]; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter required the City Council to act as a quasi-judicial body 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 appeal was set for public hearing to be conducted by the City Council of the City of San Diego on January 13, 2009; and

WHEREAS, the City Council voted to continue the matter so it could be renoticed to include both a project and environmental appeal; and

WHEREAS, the matter was set for a public hearing on March 24, 2009; and

WHEREAS, the issues on appeal were heard, and evidence in the form of testimony and other evidence were accepted into the record, by the City Council on March 24, 2009; and

WHEREAS, the City Council considered, in light of the whole record, the Environmental Determination to Categorically Exempt the 4711 Biona Drive Tentative Map project, the potential environmental impacts associated with the 4711 Biona Drive Tentative Map project, and the issues raised on appeal and the issues brought up at the hearing through testimony and public participation; NOW, THEREFORE,

BE IT RESOLVED, that the City Council finds, based upon the representations of City staff, public testimony and the whole record before it, the following:

1. That the Environmental Determination has been completed in compliance with CEQA and the CEQA Guidelines, that the determination reflects the independent judgment of the City of San Diego as Lead Agency, and that the information contained in the Development Services Department staff report and testimony and comments received during the public

testimony process have been reviewed and considered by this City Council in connection with the appeal of the Environmental Determination.

2. That there is substantial evidence, in light of the whole record, supporting the Environmental Determination to Categorically Exempt the 4711 Biona Drive Tentative Map project under the provisions of CEQA Guidelines section 15301(k).


3. That a fair argument, based upon evidence found in the whole record, has not been established demonstrating that exceptions to the Categorical Exemption exist with respect to the 4711 Biona Drive Tentative Map project.

4. That based upon substantial evidence in light of the whole record, the 4711 Biona Drive Tentative Map project would not result in any significant or potentially significant impacts or effects on the environment.

BE IT FURTHER RESOLVED, that the Environmental Determination of the Development Services Department is sustained, and the appeal of the Affordable Housing Coalition of San Diego and Citizens for Responsible Equitable Environmental Development, represented by Briggs Law Corporation, is denied.

APPROVED: JAN I. GOLDSMITH, City Attorney

By


Keith Bauerle
Deputy City Attorney

KB:hm
04/07/2009
Or.Dept:City Clerk
R-2009-1027
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