

RESOLUTION NUMBER R-304781

DATE OF FINAL PASSAGE MARCH 30, 2009

A RESOLUTION DENYING THE APPEAL OF BRIGGS LAW CORPORATION, ON BEHALF OF THE AFFORDABLE HOUSING COALITION OF SAN DIEGO AND CITIZENS FOR RESPONSIBLE EQUITABLE ENVIRONMENTAL DEVELOPMENT, AND GRANTING COASTAL DEVELOPMENT PERMIT NO. 538143 – 8111 CAMINO DEL ORO TENTATIVE MAP PROJECT, PROJECT NO. 152137.

WHEREAS, the La Jolla Beach and Tennis Club Partners, CLP, Owner/Permittee, filed an application with the City of San Diego for a coastal development permit to convert seventeen existing residential units into fourteen condominiums on portions of a 0.30-acre site known as the 8111 Camino Del Oro Tentative Map project, located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay zones, and legally described as Lots 8 and 9, Block 13, La Jolla Shores Unit No. 1, Map No. 1913; and

WHEREAS, on February 5, 2009, the Planning Commission of the City of San Diego considered Coastal Development Permit No. 538143, and pursuant to Resolution No. 4489-PC voted to approve the permit; and

WHEREAS, Briggs Law Corporation, on behalf of the Affordable Housing Coalition of San Diego County and the Citizens for Responsible Equitable Environmental Development, 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; and

WHEREAS, the matter was set for public hearing on March 30, 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 Coastal Development Permit No. 538143:

**A. COASTAL DEVELOPMENT PERMIT SAN DIEGO MUNICIPAL CODE
[SDMC] SECTION 126.0708**

1. The proposed coastal development will not encroach upon any existing physical access way 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 0.30-acre project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project proposes to convert seventeen residential apartments to fourteen residential condominium units within one, 5-story, 24,185 square-foot building. The only other discretionary action proposed is the tentative map for condominium ownership. The proposed residential condominium project will not encroach upon any existing physical access way that is legally used by the public or any proposed public accessway identified in a Local Coastal Program land use plan. There are no public views on Camino Del Oro as identified in the La Jolla Community Plan and Local Coastal Program.

2. The proposed coastal development will not adversely affect environmentally sensitive lands. The 0.30-acre project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project proposes to convert seventeen residential apartments to fourteen residential condominium units within one, 5-story, 24,185 square-foot building. The only discretionary action proposed is

the condominium ownership. The site has been previously developed and there are no sensitive habitats on the site, nor is it adjacent to the City of San Diego's Multi-Habitat Planning Area. The proposed project for 8111 Camino Del Oro was determined to have no significant environmental effect and was found to be categorically exempt under the California Environmental Quality Act [CEQA]. No proposed additions or modifications are proposed, therefore having no adverse affect on environmentally sensitive lands.

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 0.30-acre project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project proposes to convert seventeen residential apartments to fourteen residential condominium units within one, 5-story, 24,185 square-foot building. The project is located in an area designated as Multi-family Residential at 30-45 dwelling units per acre in the La Jolla Community Plan. The existing development of seventeen units per acre is previously conforming; however the reduction in units would make this project consistent with existing parking regulations. The project does adhere to community goals since it was originally designed in a manner that does not intrude into any of the physical access ways used by the public and has a harmonious visual relationship between the bulk and sale of the existing structure and the adjacent structures as stated in the adopted Local Coastal Program land use plan.


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 0.30-acre project site is located at 8111 Camino Del Oro, approximately one block from the Pacific Ocean, north of Avenida de la Playa, in the MF-2 zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project proposes to convert seventeen residential apartments to fourteen residential condominium units within one, 5-story, 24,185 square-foot building. The nearest public road adjacent to this property is La Vereda to the west and Camino Del Sol to the east. This site is approximately one block from the Pacific Ocean. The proposed coastal development conforms to the public access and public recreation policies of Chapter 3 of the California Coastal 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 of Briggs Law Corporation, on behalf of the Affordable Housing Coalition of San Diego County and the Citizens for Responsible Equitable Environmental Development, is denied, the decision of the Planning Commission is

sustained, and Coastal Development Permit No. 538143 is granted to La Jolla Beach and Tennis Club Partners, CLP, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Keith Bauerle
Deputy City Attorney

KB:hm
04/09/09
Or.Dept:City Clerk
R-2009-1033
MMS#8008

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 43-0512

COASTAL DEVELOPMENT PERMIT NO. 538143
8111 CAMINO DEL ORO TENTATIVE MAP – PROJECT NO. 152137

CITY COUNCIL

This Coastal Development Permit No. 538143 is granted by the City Council of the City of San Diego to La Jolla Beach and Tennis Club Partners, CLP, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0804. The .30-acre site is located at 8111 Camino Del Oro in the MF-2 zone of La Jolla Shores Planned District within the La Jolla Community Plan, Coastal Overlay (non-appealable), Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones. The project site is legally described as Lots 8 and 9, Block 13, La Jolla Shores, Unit No. 1, Map No. 1913.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to convert 17 existing residential units into 14 condominiums, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated March 30, 2009, on file in the Development Services Department.

The project or facility shall include:

- a. The subdivision of a 0.30-acre site into one lot for 14 condominiums. No construction is authorized with this permit;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Twenty-one Off-street parking spaces; and
- d. 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. This permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/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 Owner/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 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 Owner/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. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. 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.

9. The applicant 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, relating to the issuance of this permit including, but not limited 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.

LANDSCAPE REQUIREMENTS:

10. All existing 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.

11. The Owner or Subsequent Owner shall be responsible for the maintenance of all existing landscape and irrigation in the right-of-way consistent with the Land Development Manual Landscape Standards.

12. If any existing landscape (including existing or new plantings, hardscape, landscape features, etc.) and/or irrigation indicated on the approved Landscape Development Plan (Exhibit "A") 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 City Manager within 30 days of damage.

PLANNING/DESIGN REQUIREMENTS:

13. No fewer than 21 off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the Development Services Department.

14. The Owner/Permittee shall post a copy of the approved discretionary permit or Tentative Map in the sales office for consideration by each prospective buyer.

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.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on March 30, 2009,
Resolution No. 304781.

AUTHENTICATED BY THE CITY MANAGER

By _____

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

LA JOLLA BEACH AND TENNIS CLUB
PARTNERS, CLP
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**