

(B)
(R-2009-1115) 334
MEET 6/02/09

RESOLUTION NUMBER R- 304954

DATE OF FINAL PASSAGE JUN 02 2009

RESOLUTION APPROVING SITE DEVELOPMENT PERMIT
NO. 578890 AND EXTENSION OF TIME TO SITE
DEVELOPMENT PERMIT NO. 123430 – PROMONTORY
POINT CONDOMINIUMS, LLC. - PROJECT NO. 162051.

WHEREAS, Promontory Point, LLC., Owner/Permittee, and Clifford W. La Monte, Engineer, submitted an application to the City of San Diego for a three-year Extension of Time to a site development permit for the subdivision of two lots into one lot for the construction of twelve condominiums, and to vacate an unused portion of Sixth Avenue. The project site is located at the northerly terminus of Sixth Avenue in the MR-800B zone of the Mid-City Planned District of the Uptown Community Plan, and is legally described as a Portion of Lots 28 and 29, Fleischers Addition, Map No. 811; and

WHEREAS, all associated permits and maps shall conform to the previously approved Exhibits and conditions on file with the Development Services Department per Site Development Permit No. 123430, City Council Resolution No. R-300784, Project No. 1612, recorded at the County of San Diego Recorder on September 22, 2005 as Document Number 2005-0820170, with the exception of the expiration dates; and

WHEREAS, the Mitigated Negative Declaration No. 1612, that was prepared and approved on August 9, 2005, City Council Resolution No. R-300782 for the original project remains in effect. There are no changes to the project scope and the request for an Extension of Time would not result in any environmental impacts; and

WHEREAS, on April 9, 2009, the Planning Commission of the City of San Diego considered Site Development Permit No. 578890, which is a three-year Extension of Time to previously approved Site Development Permit No. 143667, pursuant to Resolution No 4504-PC and voted to recommend City Council approval of the Permit; 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 JUN 02, 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, that Site Development Permit No. 578890, a three-year Extension of Time to Site Development Permit No. 123430 is granted to Promontory Point, LLC., Applicant/Subdivider, under the terms and conditions set forth in permit number 123430; and

BE IT FURTHER RESOLVED, that the expiration date for Site Development Permit No. 578890 be June 2, 2012; and

BE IT FURTHER RESOLVED by the Council of the City of San Diego, that it adopts the following findings with respect to Site Development Permit No. 578890:

EXTENSION OF TIME OF A DEVELOPMENT PERMIT- SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 126.0111

1. **The project as originally approved and without any new conditions would not place the occupants of the proposed development or the immediate community in a condition dangerous to their health or safety.** The Applicant/Subdivider requests an extension of time to Public Right-of-Way Vacation No. 123434, Tentative Map No. 123433 and Site Development Permit No. 123430 and does not request any changes to the proposed development

layout approved by City Council on August 9, 2005 by Resolution Numbers R-300784 and R-300783. The project as originally approved and without any new conditions would not place the occupants of the proposed development or the immediate community in a condition dangerous to their health or safety. New conditions are not required to ensure public health and safety. All previously approved conditions remain applicable.

2. No new conditions are required to comply with State or Federal law. The development's Public Right-of-way Vacation No. 123434, Tentative Map [TM] No. 123433 and Site Development Permit [SDP] No. 123430 was approved by City Council on August 9, 2005 by Resolution Number R-300784. There are no new conditions being added to the permit. New conditions are not required to comply with State or Federal law. All previously approved conditions remain applicable.

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

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Keith Bauerle
Deputy City Attorney

KB:hm
04/28/09
Or.Dept:DSD
R-2009-1115
MMS#8880

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 43-1372

SITE DEVELOPMENT PERMIT [SDP] NO. 578890
PROMONTORY CONDOMINIUMS [MMRP] - PROJECT NO. 162051
EXTENSION OF TIME FOR SITE DEVELOPMENT PERMIT NO. 123430

CITY COUNCIL

This Site Development Permit No. 578890, which is a three-year Extension of Time to previously approved Site Development Permit No. 123430 (Project No. 1612), is granted by the City Council of the City of San Diego to Promontory Point, LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0111. The 0.35-acre site is located at the northerly terminus of 6th Avenue in the MR-800B zone of the Mid-City Communities Planned District of the Uptown Community Plan. The project site is legally described as a Portion of Lots 28 and 29, Fleischers Addition, Map No. 811.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee for the construction of twelve condominiums, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] and conditions on file in the Development Services Department. The original project (Project No. 1612) approved by the City Council on August 9, 2005, is hereby extended as indicated within this permit until JUN 02, 2012.

The project or facility shall include:

- a. A three-year extension of time for the previously approved Site Development Permit No. 123430, Project No. 1612.

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.

2. No further Extension of Time may be granted pursuant to SDMC section 126.0111 (a).

3. Construction plans shall be in substantial conformity to Exhibit "A," per the previously approved Exhibits and conditions on file with Development Services for Site Development Permit No. 123430, Project No 1612, Recorded with the County of San Diego Recorder on September 22, 2005 as Document Number 2005-0820170 with the exception of the expiration dates. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

4. The Owner/Permittee 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.

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 § 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Council of the City of San Diego on JUN 02, 2009, by Resolution No. R- 304954.

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.

PROMONTORY POINT CONDOMINIUMS, LLC.
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**