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RESOLUTION NUMBER R- 305425

DATE OF FINAL PASSAGE NOV 17 2009

A RESOLUTION GRANTING MAP WAIVER
NO. 477793 FOR THE HABITERRA PROJECT,
PROJECT NO. 136041

WHEREAS, Marco Sanchez and Enrique Salcedo, Applicant/Subdivider, and Richard E. Matter, Engineer, submitted an application with the City of San Diego for Map Waiver No. 477793 to waive the requirement for a Tentative Map to demolish existing improvements and construct a four unit condominium and to waive the requirement to underground existing overhead utilities. The project site is located 7460 Herschel Avenue within the La Jolla Community Plan area, and legally described as portions of Lots 30, 31, and 32, Block 16, Center Addition to La Jolla Park, Map No. 915, filed August 4, 1904, in the La Jolla Community Plan area, in the RM-3-7, Coastal Overlay, Coastal Height Limit, Parking Impact, and Residential Tandem Parking Overlay Zones; 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, a public hearing is required by law implicating due process rights of individuals affected by the decision, and the Council is required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS the map proposes the subdivision of a 0.11 acre site into a four unit residential condominium project; and

WHEREAS, the project is exempt from environmental review pursuant to section 15332 of the California Environmental Quality Act [CEQA] on the basis this is in-fill development; and

WHEREAS, a preliminary soils and geological reconnaissance report are waived pursuant to San Diego Municipal Code [SDMC] section 144.0220 and the California Government Code section 66410 *et seq.* [the Subdivision Map Act]; and

WHEREAS, the subdivision is a condominium project as defined in California Civil Code section 1351 and the Subdivision Map Act. The total number of condominium dwelling units is 4; and

WHEREAS, the requested 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, because the conversion involves a short span of overhead facility, less than a full block in length, and it has been determined that such conversion is not a part of a continuing effort to accomplish a total undergrounding within a specific street or area.

WHEREAS, on November 17, 2009, the Council of the City of San Diego considered Tentative Map Waiver No. 477793 including the waiver of the requirement to underground existing overhead utilities, and pursuant to Sections 125.0122 and 144.0240 of the Municipal Code of the City of San Diego and Subdivision Map Act Section 66428, received for its consideration written and oral presentations, evidence having been submitted, and heard testimony from all interested parties at the public hearing, 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 Waiver No. 477793:

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 Section 125.0440.a and State Map Act Sections 66473.5, 66474(a), and 66474(b)).** The proposed project is a subdivision of the property to create four condominium ownership interests, and complies with the development regulations of the RM-3-7 zone in the La Jolla Community Plan which identifies the site for medium high

residential development at a density range of 30-45 dwelling units per acre. The proposed subdivision complies 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 (Land Development Code Section 125.0440. (b)).** The proposed project is a subdivision of the property to create four condominium ownership interests, and complies with the development regulations of the RM-3-7 zone in the La Jolla Community Plan which identifies the site for medium high residential development at a density range of 30-45 dwelling units per acre. Development of the property will meet all requirements of these regulations. In these ways the proposed development will comply with the applicable and relevant regulations of the Land Development Code.
3. **The site is physically suitable for the type and density of development (Land Development Code Section 125.0440.(c) and State Map Act Sections 66474(c) and 66474(d)).** The proposed project is a subdivision of the property to create four condominium ownership interests, and complies with the development regulations of the RM-3-7 zone in the La Jolla Community Plan which identifies the site for medium high residential development at a density range of 30-45 dwelling units per acre. Development of the property will meet all requirements of these regulations. Also, the property is composed of reasonably level terrain without identified geologic hazards or instabilities, has no identified active or inactive geologic faults, has a soil type appropriate for the load bearing requirements for building foundations, has no sensitive vegetation or hillsides present, is not within or adjacent to the Multiple Habitat Planning Area, and is located in an urbanized community where emergency services, water, wastewater, gas and electric services are available to the site. Therefore, the site is physically suitable for the type and density of 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 (Land Development Code Section 125.0440.d and State Map Act Section 66474(e)).** The proposed subdivision is exempt from environmental review pursuant to Article 19, Section 15332, of the California Environmental Quality Act because it is in-fill development in an urbanized area. The proposed project is a subdivision of the property to create four condominium ownership interests and is located in an urbanized community away from environmentally sensitive lands, plant species, and animal species; thus, it would not likely to cause substantial environmental damage or substantially and avoidable 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 (Land Development Code Section 125.0440.e and State Map Act Section 66474(f)).** The proposed project is a subdivision of the property to create four condominium ownership interests, and 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 (Land Development Code Section 125.0440.f and State Map Act Section 66474(g)).** An existing drainage easement will be vacated and existing facilities relocated from within the project boundaries as shown on Map Waiver No. 655907 to the public right-of-way. As such no conflict will occur with the recording of the subdivision and therefore no conflict will result which would negatively affect the public at large.
7. **The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (Land Development Code Section 125.0440.g and State Map Act Section 66473.1).** The proposed project is a subdivision of the property to create four condominium ownership interests, and would not impact 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 (Land Development Code Section 125.0440.h and State Map Act Section 66412.3).** The proposed project is a subdivision of the property to create four condominium ownership interests, and would provide three new dwelling units of housing within the region. The project site is located in an already urbanized community that has no sensitive vegetation or hillsides present, is not within or adjacent to the Multiple Habitat Planning Area, and will be adequately served by existing emergency, water, wastewater, gas, and electric services. Therefore, the fulfillment of the needed housing will be balanced by available public services and the available fiscal and environmental resources.
9. **The requested 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*.** The conversion involves a short span of overhead facility of less than a full block in length and it has been determined that such conversion is not a part of a continuing effort to accomplish a total undergrounding within a specific street or area.

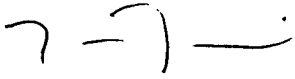
That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED that, based on the Findings hereinbefore adopted by the City Council, Tentative Map Waiver No. 477793, including the waiver of the requirement to

underground existing overhead utilities, is hereby granted to Marco Sanchez and Enrique Salcedo, Applicants/Subdividers, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Nina M. Fain
Deputy City Attorney

NMF:js
10/19/2009
10/29/2009 Cor. Copy
11/20/2009 Cor. Copy
Or.Dept:DSD
R-2010-294
MMS #10712

(B)

CITY COUNCIL
CONDITIONS FOR TENTATIVE MAP WAIVER NO. 477793

HABITERRA PROJECT - PROJECT NO. 136041

ADOPTED BY RESOLUTION NO. R-305425 ON NOV 17 2009

GENERAL

1. This Tentative Map Waiver will expire NOV 17, 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 Tentative Map Waiver expiration date, a Parcel Map to consolidate the existing lots into one lot and subdivide the property into four condominium ownership interests shall be recorded in the Office of the County Recorder.
4. Prior to recording 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.
5. The Parcel Map shall conform to the provisions of Coastal Development Permit No. 472934.
6. 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 and any associated environmental document or decision, 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.

ENGINEERING

7. The Subdivider shall relocate the existing public drain, which currently crosses the site, to public right-of-way, satisfactory to the City Engineer.
8. The Subdivider shall vacate the existing drainage easement which is on the site.

9. The Subdivider shall remove the red bricks from the right-of-way of Herschel Avenue.
10. The Subdivider shall replace the existing curb with City standard curb and gutter, along the entire project frontage on Pearl Street, per Standard Drawing G-2 and SDG-100.
11. The Subdivider shall replace the existing curb ramp with City standard curb ramp with truncated domes, at the southwest corner of Pearl and Herschel Avenue.
12. The Subdivider shall close all non-utilized driveways with City standard curb, gutter and sidewalk.
13. The Subdivider shall replace the existing grate inlet with City standard type B curb inlet, on Pearl Street, per Standard Drawing D-2, SDD-100 and SDG-110.
14. The Subdivider shall obtain an Encroachment Maintenance and Removal Agreement for sidewalk under-drain/curb-outlet, landscape and irrigation located within the City's right-of-way.
15. The Subdivider 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.
16. The Subdivider shall underground all existing onsite utilities serving the subdivision 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.
17. Prior to the issuance of any construction permits, the Subdivider shall incorporate any construction Best Management Practices 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 permits, the Subdivider shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
19. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
20. 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 Map Waiver and covered in these special conditions will be authorized.

21. 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.

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 [NAD83].
23. California Coordinate System of 1983" [CCS83] means the system of plane coordinates as defined and described in Section 8801 *et. seq.* of the California Public Resources Code. The specified zone for San Diego County is Zone 6, and the official datum is the NAD83.
24. The Parcel Map shall:
 - a. Use the CCS83 for its Basis of Bearings 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. The Basis of Bearings may be established 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 Horizontal Control stations shall be shown in relation to the CCS83 (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.
25. 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

26. The Subdivider agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices

pertaining thereto. Water facilities as shown on the approved tentative map shall be modified at final engineering to comply with standards.

INFORMATION:

- The approval of this Tentative Map Waiver by the 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 Waiver 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 Waiver, may protest the imposition within 90 days of the approval of this Tentative Map Waiver 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.
- This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.
- This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by Education Code Section 17620, in accordance with procedures established by the Director of Building Inspection.