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2/9/16

RESOLUTION NUMBER R- 310251

DATE OF FINAL PASSAGE FEB 09 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DENYING AN APPEAL OF A PROCESS TWO APPROVAL OF AN EXTENSION OF TIME FOR VESTING TENTATIVE MAP NO. 548028 AND SITE DEVELOPMENT PERMIT NO. 548029 FOR THE LA JOLLA CANYON PROJECT (PROJECT NO. 444982).

WHEREAS, on July 16, 2009, the Planning Commission approved Vesting Tentative Map No. 548028 (VTM) and Site Development Permit No. 548029 (SDP) for the La Jolla Canyon Project; and

WHEREAS, the expiration date for the VTM and SDP was July 16, 2012, which was subsequently automatically extended to July 16, 2016 pursuant to Subdivision Map Act sections 66452.23 and 66452.24 and San Diego Municipal Code section 126.0111(a)(2); and

WHEREAS, on September 15, 2015, La Jolla Canyon Garden, LLC (Applicant) filed an application for an extension of time for the VTM and SDP; and

WHEREAS, San Diego Municipal Code sections 125.0461 and 126.0111 allow an extension of time for a tentative map or a development permit for an additional 72 months in accordance with Process Two; and

WHEREAS, on September 29, 2015, the Development Services Department issued a Notice of Future Decision notifying the public that Development Services Department staff would make a decision regarding the extension of time for the VTM and SDP; and

WHEREAS, on October 13, 2015, the University Community Planning Group voted 12-2-1 to recommend approval of the extension of time for the VTM and SDP; and

WHEREAS, on November 19, 2015, the Development Services Department approved the extension of time for the VTM and SDP; and

WHEREAS, on December 3, 2015, Jennifer Merryman (Appellant) filed an Appeal Application (Appeal) stating that 1) the approval of the extension of time for the VTM and SDP were in conflict with the San Diego Municipal Code because the Notice of Future Decision incorrectly provided contact information for the Torrey Pines Community Planning Board, rather than the University Community Planning Group, 2) the Applicant is considering developing the project site with plans that are not consistent with the VTM and SDP, and 3) there is more traffic at the project site than existed at the time the original VTM and SDP were approved; and

WHEREAS, the Notice of Future Decision correctly identified the community planning area in which the project is located and also identified the City staff contact name, phone number, and email; and

WHEREAS, the Appellant could have contacted the City staff person prior to a decision being made on the application; and

WHEREAS, community planning group recommendations are advisory; and

WHEREAS, extensions of time for tentative maps, and for development permits with an associated tentative map shall be approved unless a finding to conditionally approve or deny the application is made; and

WHEREAS, any change to the approved plans would require an amendment to the VTM and/or SDP; and

WHEREAS, on July 16, 2009, the Planning Commission adopted Mitigated Negative Declaration No. 154476 (MND); no new impacts or increase in the severity of a previously identified impact would occur with approval of the extension of time for the VTM and SDP and there is no new information of substantial importance related to the approval of the extension of time for the VTM and SDP; and

WHEREAS, the matter was set for a public hearing to be conducted by the City Council;
and

WHEREAS, the Appeal was heard before the City Council on February 9, 2016; 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; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the Appeal is hereby denied.

BE IT FURTHER RESOLVED, that it adopts the following findings with respect to the extension of time for Vesting Tentative Map No. 548028 and Site Development Permit No. 548029:

I. TENTATIVE MAP EXTENSION OF TIME – SECTION 125.0461(a)(3):

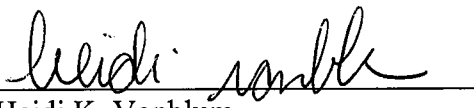
1. **The condition or denial is required to comply with state or federal law.** Since the project was originally approved, the 2013 Municipal Separate Storm Sewer Systems (MS4) Permit was adopted, and the extension of time for the VTM and SDP has been conditioned to comply with the MS4 Permit. The condition is required to comply with state law.

II. SITE DEVELOPMENT PERMIT EXTENSION OF TIME – SECTION 126.0111(f):

1. **New conditions are necessary to comply with state or federal law.** Since the project was originally approved, the 2013 Municipal Separate Storm Sewer Systems (MS4) Permit was adopted, and the extension of time for the VTM and SDP has been conditioned to comply with the MS4 Permit. The condition is required to comply with state law.

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

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Heidi K. Vonblum
Deputy City Attorney

HKV:nja
02/10/16
Or.Dept: DSD
Doc. No.: 1223690

Passed by the Council of The City of San Diego on FEB 09 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 09 2016

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By , Deputy

Office of the City Clerk, San Diego, California

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