

the opportunity to appeal that determination ended April 17, 2007.

Fiscal Impact Statement: None with this action. All costs associated with the processing of this project are paid by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: With the proposed conversion of eight existing apartments to condominiums, there would be a loss of eight rental units and a gain of eight for-sale units. This Tentative Map and Coastal Development Permit request was deemed complete subsequent to February 7, 2004, and therefore is required to comply with the inclusionary affordable housing requirements.

BACKGROUND

The La Jolla Community Plan designates the site for Multi-family Residential at 30-45 dwelling units per acre (Attachment). The 0.35 acre site has been developed at an approximate density of 23 dwelling units per acre. The development site is located at 7836-50 El Paseo Grande in the MF2 zone between Lowry Terrace and Calle De La Playa in the La Jolla Shores Planned District. The surrounding land uses are residential to the north, east, south and west.

The existing development was constructed in 1955. At the time the property was developed the approved construction met all current regulations. The site is presently improved with two, two-story apartment buildings. The two-story buildings include a total of eight two-bedroom units at 1,146 square feet each. The original development provided eight parking spaces and the project will maintain the eight parking spaces.

The development complied with the zoning and development regulations in effect at the time of construction. No Building or Zoning Code violations are recorded against the property. The project has previously conforming rights to be maintained as outlined in Chapter 12, Article 7, Division 1 of the Land Development Code.

DISCUSSION

Project Description

The current application proposes a Tentative Map, a Coastal Development Permit and a waiver to underground existing overhead utilities to convert eight existing residential units to condominiums. No physical changes to the developed site are proposed or will occur should the Planning Commission approve the project.

Section 125.0410 of the San Diego Municipal Code (SDMC) requires a Tentative Map (Attachment) be processed for the subdivision of land. According to SDMC §125.0440 and §125.0444, Findings for Tentative Maps and for Condominium Conversions, the decision-maker

may approve a Tentative Map for the purposes of the conversion of residential property into a condominium project if the decision-maker finds the proposed conversion complies with the requirements of the Subdivision Map Act and the San Diego Municipal Code. Section 126.0701 of the San Diego Municipal Code (SDMC) requires a Coastal Development Permit be processed for any development in the Coastal Zone. The subdivision of land is deemed to be development and a Coastal Development Permit is required. Staff has reviewed the proposed condominium conversion and determined it complies with both the Subdivision Map Act and San Diego Municipal Code.

San Diego Municipal Code Section 144.0240 allows the subdivider to apply for a waiver from the requirement to underground the existing overhead utilities within the boundary of the subdivision or within the abutting public rights of way. City staff has determined the underground waiver request qualifies under the guidelines of Council Policy 600-25, *Underground Conversion of Utility Lines at the Developer's Expense*, in that the conversion is a requirement of a condominium conversion of an existing development and the conversion involves a short span of overhead facilities less than a full block in length, the conversion would represent an isolated undergrounding with a minimum probability of extension in the future, and the conversion would not represent a logical extension to an undergrounding facility. The applicant would be required to underground any new service run to any new or proposed structures within the subdivision per Condition Number 6 of the draft Tentative Map Resolution and Condition 11 of the Coastal Development Permit (Attachment).

Overhead utilities are present along the eastern property line with an existing power pole off site and across a sewer easement to the north and across El Paseo Grande to the south. Neighboring sites adjacent and across the street from the subject property receive electrical, telephone and/or cable service from these overhead lines. Undergrounding those services would disrupt properties not included in the proposed project. The City's Undergrounding Master Plan for Fiscal Year 2007 designates the site within Block 11, and at this time does not have funding for a proposed undergrounding project, however funding is not allocated until 2027 (Attachment).

The proposed condominium conversion is subject to the affordable housing requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code). Prior to issuance of the final map, the project is conditioned to pay an in-lieu fee of \$33,573.18 (9173 square feet @\$3.66 per square foot) or enter into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee.

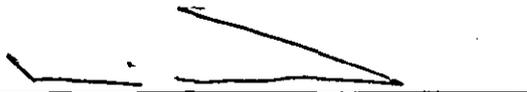
Conclusion:

Staff has reviewed the request for a Tentative Map, Coastal Development Permit and the waiver to underground existing overhead utilities for the conversion of eight residential units to condominiums and has found the project to be in conformance with the applicable sections of the San Diego Municipal Code regulating the requested approvals. Staff has provided draft findings to support approval of all actions and recommends approval of the project as proposed to the Planning Commission.

ALTERNATIVE

1. APPROVAL of Tentative Map No. 426356, Coastal Development Permit No. 426369 and the waiver of the requirement to underground existing adjacent utilities, with modifications.
2. DENIAL of Tentative Map No. 426356, Coastal Development Permit No. 426369 and the waiver of the requirement to underground existing adjacent utilities, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department

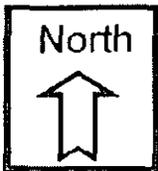
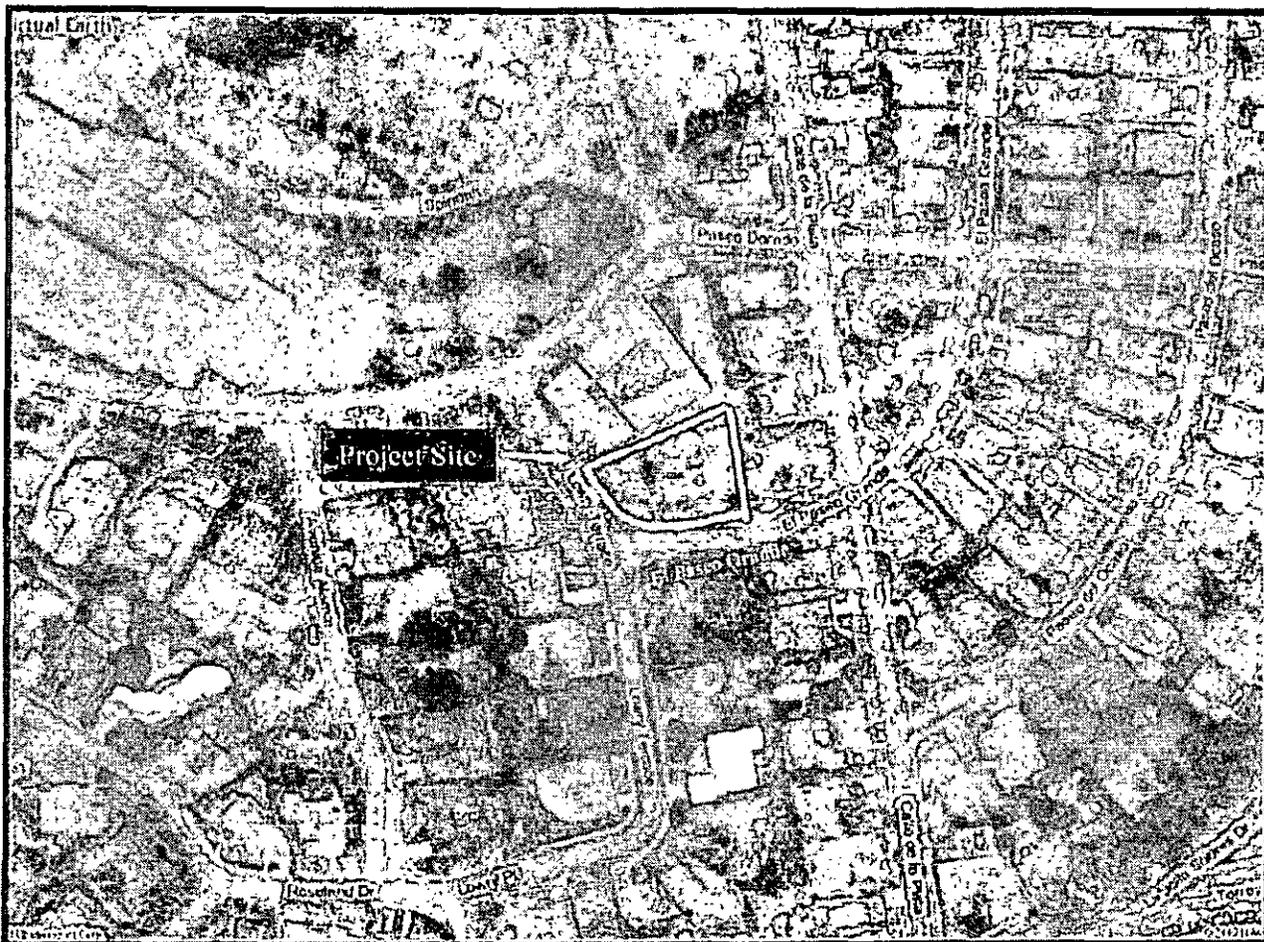


Helene Deisher
Project Manager
Development Services Department

BROUGHTON/HRD

Attachments:

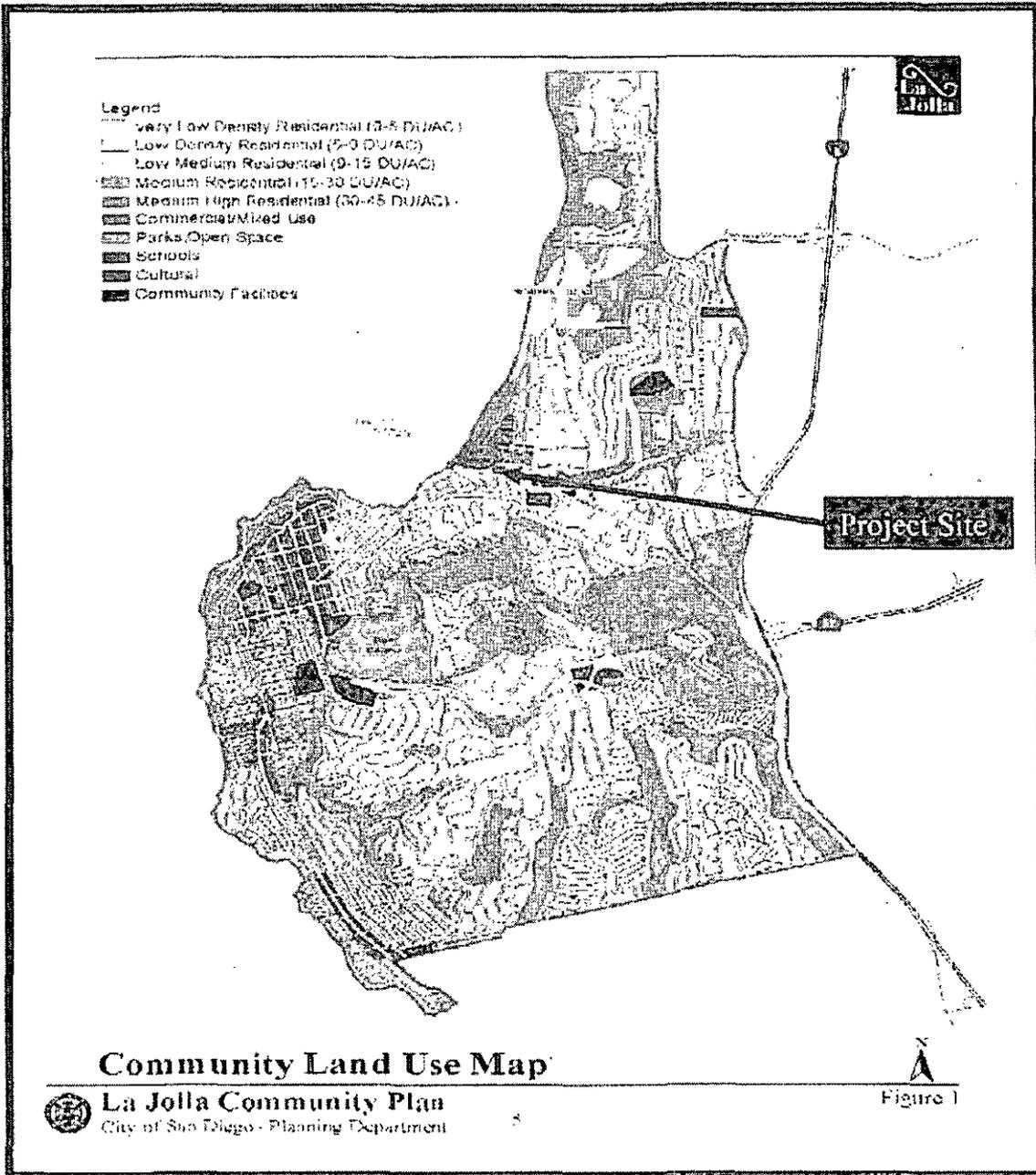
1. Aerial Photograph
2. Community Plan Land Use Map
3. Undergrounding Map
4. Project Data Sheet
5. Tentative/Vesting Tentative Map
6. Draft Map Conditions and Subdivision Resolution
7. Draft Permit with Conditions
8. Draft Permit Resolution with Findings
9. Community Planning Group and Permit Review Committee Recommendation
10. Ownership Disclosure Statement
11. Project Chronology
12. Building Conditions Report and Landscape Plan



Aerial Photo

7836 EI PASEO TENTATIVE MAP - PROJECT NO. 124540

ATTACHMENT 1



La Jolla Community Planning Map
7836 EL PASEO TENATIVE MAP - PROJECT NO. 124540



Utilities Undergrounding Mapping Application

Layers Legend Council Priorities Find Location Refresh Map Help

Identify Results

Council Districts
 Council District: 1
 Member Name: Scott Peters
 Office Phone: (619) 236-6611

Utilities Undergrounding Projects

Project Name:	Project Block 11
Year Allocated:	2027
Project Start:	May 30, 2029
Project End:	May 30, 2031
Contact Person:	Carol Drummond
Phone #:	6195333841
Email:	undergrounding@sa
Website:	www.sandiego.gov/
Council District:	1
Phase:	unallocated

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ATTACHMENT 3



Undergrounding Map

7836 EI PASEO TENTATIVE MAP - PROJECT NO. 426356

PROJECT DATA SHEET FOR CONDOMINIUM CONVERSIONS

PROJECT NAME:	7836 El Paseo Grande	
PROJECT DESCRIPTION:	Conversion of eight residential units to condominium ownership and a waiver from the requirement to underground existing utilities.	
COMMUNITY PLAN AREA:	La Jolla	
DISCRETIONARY ACTIONS:	Coastal Development Permit, Tentative Map and utility underground waiver	
COMMUNITY PLAN LAND USE DESIGNATION:	Multi-family residential Medium-high density 30-45 dwelling units per acre.	
<u>CURRENT ZONING INFORMATION:</u>	<u>CONSTRUCTED:</u>	
ZONE: MF-2: A multi-unit residential zone	R-4	
DENSITY: 30-45 units per acre	30-45 units per acre	
HEIGHT LIMIT: 30-Foot maximum height limit.	Not available	
LOT SIZE: 0.35 Acres 15,394 Square Feet	N/A	
FLOOR AREA RATIO: .		
FRONT SETBACK: 17 feet	17 feet	
SIDE SETBACK: 13 feet.	13 feet	
STREETSIDE SETBACK: 17 feet.	17 feet	
REAR SETBACK: 8 feet.	8 feet	
PARKING: 8 spaces required	Eight spaces where none was required	
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Multi-Family Residential; MF-2	Multi-Family
SOUTH:	Single Family Residential; LJSPD SF	Single Family
EAST:	Single Family Residential; LJSPD SF	Single Family
WEST:	Single Family Residential; LJSPD SF	Single Family
DEVIATIONS OR VARIANCES REQUESTED:	none	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On April 22, 2008, the La Jolla Community Planning Association voted 3-0-0 to approve the project.	

November 6, 2008

PLANNING COMMISSION RESOLUTION NO. XXX
TENTATIVE MAP NO. 426356
7836 EL PASEO TENTATIVE MAP - PROJECT NO. 124540
DRAFT

WHEREAS, DESAUTELS COMPANY, Applicant/Subdivider, and CHARLES S. THOMAS, Engineer submitted an application with the City of San Diego for a Tentative Map, No. 426356 to convert eight existing residential units to condominiums, abandon a sewer easement, and waive the requirement to underground existing overhead utilities. The project site is located at 7836 El Paseo Grande Between Lowery Terrace and Calle De La Plata legally described as lots 5 and 6 of Spindrif, according to Map 3096 filed June 3, 1954 in the La Jolla Community Plan area, within the MF 2 zone of the La Jolla Community Plan; and

WHEREAS, the Map proposes the subdivision of a 0.35 site into acre site into one (1) lot for an eight (8) unit residential condominium conversion; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15301 (Existing facilities) of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is eight; and

WHEREAS, on November 6, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 426356, including the waiver of the requirement to underground existing overhead utilities, and pursuant to Sections 125.0440 (tentative map), 125.0444 (condo conversion), and 144.0240 (underground) 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 Planning Commission of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 426356:

1. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440.b).
2. 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).

3. Each of the tenants of the proposed condominium, project has received, pursuant to State Map Action Section 66452.9, written notification of intention to convert at least 60 days prior to the filing of a tentative map (Land Development Code 125.0444 and State Map Act Section 66427.1(a)).
4. The project has been conditioned that the Subdivider will give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).
5. The project has been conditioned that the Subdivider will give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).
6. The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within 10 days of approval of a final map for the proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(b)). If the subdivider chooses to provide affordable housing units, the subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.
7. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(c)).
8. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, which notice shall be provided within 5 working days of the issuance of the Subdivision Public Report.. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(d)).

9. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (Land Development Code Section 125.0444.b).
10. For any project that was developed to provide housing for the elderly, disabled or to provide low income housing, provisions have been made to perpetuate the use for which the project was developed (Land Development Code Section 125.0444.c).
11. Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete (Land Development Code 125.0431(a)(3)).
12. The project has been conditioned that the subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete (Land Development Code 125.0431(a)(3)).
13. The project has been conditioned that the subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
14. A Building Conditions Report has been prepared in accordance with the Land Development Manual by a registered architect or engineer licensed by the State of California (Land Development Code Section 144.0504(b)).
15. The project has been conditioned that the subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).
16. The project has been conditioned that the subdivider will provide a relocation assistance payment to all tenants of the project whose tenancy has terminated due to the condominium conversion. (Land Development Code Section 144.0505).
17. The project has been conditioned for the subdivider to complete the physical improvements as outlined in Land Development Code Section 144.0507, to the satisfaction of the City Engineer prior to final map approval.
18. The project has been conditioned for the subdivider to satisfy the inclusionary housing requirements in accordance with Land Development Code Section 142.1306. (Land Development Code Section 144.0508).

19. The proposed subdivision complies with the parking regulations of the Land Development Code (Land Development Code Section 142.0505).
20. 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* in that:
 - A. The conversion involves a short span of overhead facility (less than 600 feet in length).
 - B. The conversion is a requirement of a condominium conversion of an existing development and the conversion would not represent a logical extension to an underground facility.
21. 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 Planning Commission, Tentative Map No. 426356 including the waiver of the requirement to underground existing overhead utilities, is hereby granted to DESAUTELS COMPANY, Applicant/Subdivider, subject to the following conditions:

GENERAL

1. This Tentative Map will expire November 6, 2011.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the Tentative Map expiration date, a Final Map to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder.
4. Prior to the issuance of the Final 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 Final Map shall conform to the provisions of Coastal Development Permit No. 426369.
6. The subdivider shall ensure that all onsite utilities serving the subdivision shall be undergrounded 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.

7. 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, including, but not limited to, any 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
8. The subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the *Land Development Manual* to be provided as follows:
 - a. For existing tenants, within 10 days of the project application for the *condominium conversion* being deemed complete; or
 - b. For prospective tenants, upon application for the rental of a unit in the proposed *condominium conversion*.
9. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or *hereafter required by the State Map Act*.
10. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRB), pursuant to Section 66427.1(a) of the Subdivision Map Act.
11. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Section 66427.1(c) of the Subdivision Map Act. The provisions of this subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.

12. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Section 66427.1(d) of the State Map Act. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.
13. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act.

AFFORDABLE HOUSING

14. Prior to recordation of the Final Map, the Subdivider shall comply with the affordable housing requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) by paying an in-lieu fee of \$33,573.18 (9173 square feet @3.66) OR by entering into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee
15. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Coastal Overlay Zone Affordable Housing Replacement Regulations (Chapter 14, Article 3, Division 8), to the satisfaction of the Development Services Department and the Housing Commission.
16. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission.
17. The subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
18. The subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).

ENGINEERING

19. Prior to the issuance of the Final Map, the applicant shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the private improvements in the five foot City of San Diego Sewer Easement along the north property line.
20. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
21. The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded 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.
22. Prior to the issuance of the Final Map the subdivider shall reconstruct the driveway on Lowry Terrace to current City standards.
23. Prior to the issuance of the Final Map the subdivider shall construct a curb ramp at the northeast corner of Lowry Terrace and El Paseo.
24. Prior to the issuance of the Final Map the subdivider shall repair the damage areas of the curb and gutter adjacent to the site on El Paseo Grande and Lowry Terrace.
25. Prior to the issuance of the Final Map the subdivider shall replace the cracked/uplifted sidewalk, to include the on site private walkways leading to the public sidewalk. The subdivider shall preserve any contractor's stamp, all adjacent to the site on El Pasco Grande and Lowry Terrace.
26. Prior to the issuance of the Final Map the subdivider shall obtain an Encroachment Maintenance Removal Agreement for the private walkways, landscape and appurtenances within El Paseo Grande and Lowry Terrace rights-of-way and shall trim the hedges so they do not encroach into the sidewalk area.
27. The subdivider shall obtain an Encroachment Maintenance Removal Agreement for the retaining wall in the Lowery Terrace right-of-way and for the retaining wall within the four foot easement along the easterly property line.
28. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer.

29. 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 tentative map and covered in these special conditions will be authorized.

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. RR-297376.

MAPPING

30. "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 (NAD 83).
31. "California Coordinate System" means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
32. The Final Map shall:
- a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true meridian (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be 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 control shall be shown in relation to the California Coordinate System (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.

SEWER AND WATER

33. Water and Sewer Requirements:
- a. The subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.

- b. The subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.

INFORMATION:

- The approval of this Tentative Map by the City 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 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, may protest the imposition within 90 days of the approval of this Tentative Map 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.

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF SAN DIEGO, CALIFORNIA, ON NOVEMBER 6, 2008.

By

Helene Deisher
Development Project Manager
Development Services Department

Job Order No. 42-7503

Project No. 124540
TM No. 426356
November 6, 2008

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PLANNING COMMISSION RESOLUTION NO. XXX
COASTAL DEVELOPMENT PERMIT NO. 426369
7836 EL PASEO GRANDE PROJECT NO. 124540
DRAFT

WHEREAS, DESAUTELS COMPANY, Owner/Permittee, Owner/Permittee, filed an application with the City of San Diego for a permit to convert eight existing residential units to condominiums and waive the requirement to underground existing overhead utilities for. Tentative Map No. 426356(as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Coastal Development Permit No 426369, on portions of a 0.35 acre site;

WHEREAS, the project known as 7836 El Paseo Tentative Map Project No. 124540, is located at 7836 El Paseo Grande in the MF 2 zone and in the La Jolla Community Plan area,

WHEREAS, the project site is legally described as lots 5 and 6 of Spindrift, according to Map 3096 filed June 3, 1954;

WHEREAS, on November 6, 2008 the Planning Commission of the City of San Diego considered Coastal Development Permit No. 426369 and Tentative Map No. 426356 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated November 6, 2008.

FINDINGS:

Coastal Development Permit - Section 126.0708

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 0.35 acre site is approximately 0.25 miles from the Pacific Ocean and does not encroach on any physical access way used by the public or identified in the Local Coastal Program land use plan. The site is currently developed with two, two story buildings; is previously conforming and on private property. The project proposes a tentative map to convert the existing eight residential dwelling units into condominiums. No physical changes to the buildings or the site are being proposed. The existing two, two story buildings do not penetrate the 30 foot height limit. The subject property is not located within or near any designated public view corridors. Therefore, the proposed project will not impact any public views to or along the ocean or other scenic coastal areas as specified in the Local Coastal Program Land Use Plan.

The proposed coastal development will not adversely affect environmentally sensitive lands.

The project proposes a tentative map to convert the existing eight residential dwelling units into condominiums. The site is currently developed with two, two story buildings; is previously conforming and on private property. The project site is rectangular in shape and is a relatively flat lot located within an urbanized area of the La Jolla Community Plan and the Local Coastal Program and surrounded by a fully developed residential neighborhood. The City of San Diego conducted a complete environmental review of the subject site and determined the project was exempt from the California Environmental Quality Act (CEQA) in accordance with State CEQA Guidelines. The existing site is fully developed and proposes no physical changes. The project does not contain Environmentally Sensitive Lands (ESL); therefore the proposed project could not adversely affect these resources.

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 project proposes a tentative map to convert the existing eight residential dwelling units into condominiums. The site is currently developed with two, two story buildings; is previously conforming and on private property. The proposed project conforms with the La Jolla Community Plan and the Local Coastal Program Plan which designates the site for multi-family development and is consistent with the design guidelines and development standards in effect for this site per the Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Overlay Zone, Beach Parking Impact, Residential Tandem Overlay, and Transit Area Overlay zones. Any and all development would occur on private property and there is no construction proposed; therefore, the project will not encroach upon any existing physical access way used by the public. Adequate off street parking spaces exist and will be maintained on site thereby eliminating any impacts to public parking. No deviations or variances from the development regulations are being proposed or are required to implement the project.

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 project proposes a tentative map to convert the existing eight residential dwelling units into condominiums. The site is currently developed with two, two story buildings; is previously conforming and on private property. The existing development site is approximately 0.25 miles from the Pacific Ocean and is not located between the ocean and the first public roadway. The site is currently developed with two, two story buildings and is previously conforming. The project proposes no physical changes to the buildings or the site which would encroach upon any existing public access-way used by the public nor would it adversely affect any proposed physical access-way identified in the Local Coastal Program Land Use Plan. The proposed coastal development will conform to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Coastal Development Permit No. 426369 and Tentative Map No. 426356 are hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Coastal Development Permit No. 426369 and Tentative Map No. 426356, a copy of which is attached hereto and made a part hereof.

000349

Helene Deisher
Development Project Manager
Development Services

Adopted on: November 6, 2008

Job Order No. 42-7503

cc: Legislative Recorder, Development Services Department

RECORDING REQUESTED BY
 CITY OF SAN DIEGO
 DEVELOPMENT SERVICES
 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: 42-7503

COASTAL DEVELOPMENT PERMIT NO. 426369
7836 EL PASEO TENTATIVE MAP-PROJECT NO. 124540
CITY COUNCIL

This Coastal Development Permit No. 426369 is granted by the City Council of the City of San Diego to DESAUTELS COMPANY, Owner, and, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0702. The .35 acre site is located at 7836 El Paseo Grande in the MF2 zone(s) of the La Jolla Community Plan. The project site is legally described as lots 5 and 6 of Spindrift, according to Map 3096 filed June 3, 1954.

Subject to the terms and conditions set forth in this Permit, permission is granted to DESAUTELS COMPANY Owner/Permittee to convert eight existing residential units to condominiums, abandon a sewer easement, and waive the requirement to underground existing overhead utilities, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated November 6, 2008, on file in the Development Services Department.

The project shall include:

- a. the subdivision of a 0.35 acre site into one lot for eight condominiums. No construction is authorized or proposed by the issuance of this permit; and
- b. Encroachment Maintenance and Removal Agreement for a five foot sewer easement located along the northwest property line.
- c. *Accessory improvements determined by the Development Services Department 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 (36) 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 final map or easement abandonment 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 Development Services Department.
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 Coastal Development Permit shall comply with all conditions of the Final Map for Tentative Map No. 426356.
6. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. 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.).
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.

ENGINEERING REQUIRMENTS:

10. The Coastal Development Permit shall comply with the conditions of the final map for Tentative Map No. 426356.

11. The Subdivider shall underground any new service run too any new or proposed structures within the subdivision

LANDSCAPE REQUIREMENTS:

12. All of the property not used or occupied by structures, recreational areas, walks and driveways shall be landscaped. This landscaped area shall be no less than 30 percent of the total parcel area.

PLANNING/DESIGN REQUIREMENTS:

13. No fewer than eight (8) 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.

000354

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

APPROVED by the Planning Commission of the City of San Diego on November 6, 2008,
Resolution No. XXXX.

LA JOLLA COMMUNITY PLANNING ASSOCIATION
La Jolla Shores Permit Review Committee
Committee Report, Tuesday, April 22, 2008
4:00 p.m.
La Jolla Recreation Center, 615 Prospect St., La Jolla, CA

Attendees: Espinoza, Chair, Morton, Doolittle

1. **7836 EL PASEO GRANDE TENTATIVE MAP (PREVIOUSLY REVIEWED 4/25/07)**
PROJECT NUMBER: CDP & TP 124540
TYPE OF STRUCTURE: Tentative Map
LOCATION: 7836 El Paseo Grande
PLANNER: Tim Daly Ph: 619-446-5356 Email: tdaly@sandiego.gov
OWNERS REP: Dean Lay Ph: 858-273-0663 Email: deanlay@hotmail.com

PROJECT DESCRIPTION: Convert 8 residential units to condominiums and under grounding over head utilities on a .35 acre site.

MOTION:

Morton – Findings Can Be Made in support of the Project.

Previous conditions have been satisfied:

1. Review of up-to-date Cycle Issues (City Assessment Letter/Notice)
2. City response to Beach/Campus impact overlay zone (as it relates to parking)
3. Proof that the existing structure was approved per previously conforming rights

Doolittle – 2nd

Vote: Motion approved 3-0-0



LA JOLLA COMMUNITY PLANNING ASSOCIATION

P.O. Box 889 La Jolla CA 92038 Ph 858.456.7900
<http://www.LaJollaCPA.org> Email: Info@LaJollaCPA.org

Regular Meeting – 1 May 2008

Attention: Tim Daly, DPM, City of San Diego

Project: 7836 EL PASEO GRANDE TENTATIVE MAP 7836 EL PASEO GRANDE

PN: 124540

Motion: To accept the recommendation of the LJPRC to approve 7836 El Paseo Grande Tentative Map and forward it to the City. **Vote:**13-0-0

Submitted by: *Joseph LaCava* 30 May 2008

Joe LaCava, Acting President Date
La Jolla CPA



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment • Other _____

Project Title Project No. For City Use Only
7836-50 EL PASEO GRANDE

Project Address:
7836-50 EL PASEO GRANDE

Part I - To be completed when property is held by individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

Name of Individual (type or print): _____

Owner Tenant/Lessee Redevelopment Agency

Street Address: _____

City/State/Zip: _____

Phone No: _____ Fax No: _____

Signature : _____ Date: _____

Name of Individual (type or print): _____

Owner Tenant/Lessee Redevelopment Agency

Street Address: _____

City/State/Zip: _____

Phone No: _____ Fax No: _____

Signature : _____ Date: _____

Name of Individual (type or print): _____

Owner Tenant/Lessee Redevelopment Agency

Street Address: _____

City/State/Zip: _____

Phone No: _____ Fax No: _____

Signature : _____ Date: _____

Name of Individual (type or print): _____

Owner Tenant/Lessee Redevelopment Agency

Street Address: _____

City/State/Zip: _____

Phone No: _____ Fax No: _____

Signature : _____ Date: _____

Project Title:	Project No. (For City Use Only)
----------------	---------------------------------

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

Corporation Limited Liability -or- General) What State? _____ Corporate Identification No. _____
 Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. **Note:** The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. **Additional pages attached** Yes No

Corporate/Partnership Name (type or print):
DESAUTELS COMPANY

Owner Tenant/Lessee

Street Address:

PO BOX 2306

City/State/Zip:

LA JOLLA, CA 92038

Phone No:

(415) 397-6516

Fax No:

(415) 788-9207

Name of Corporate Officer/Partner (type or print):

MARC P. DESAUTELS

Title (type or print):

President

Signature:

Marc Desautels

Date:

2/13/07

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:

Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:

Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:

Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:

Date:

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No:

Fax No:

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature:

Date:

000359

ATTACHMENT 11

DEVELOPMENT SERVICES DEPARTMENT
PROJECT CHRONOLOGY
 7836 El Paseo Tentative Map Project No. 124540

Date	Action	Description	City Review Time (Working Days)	Applicant Response
3/19/07	First Submittal	Project Deemed Complete	-	-
3/19/07	First Review and Assessment Letter 5/23/07		65 days	
8/16/07	Second Submittal No letter		33 Days	85 days
7/08/08	Third Submittal			327 days
7/23/08	Review Issued Resolved	All review issues resolved	15 Days	
11/6/08	Public Hearing	Scheduled Hearing	106	
TOTAL STAFF TIME		(Does not include City Holidays or City Furlough)	219 days	
TOTAL APPLICANT TIME		(Does not include City Holidays or City Furlough)		412 days
TOTAL PROJECT RUNNING TIME		From Deemed Complete to Planning Commission Hearing	631 (calendar days)	



City of San Diego
 Development Services
 1222 First Ave. • 3rd Floor
 San Diego, CA 92101-4154
 (619) 446-5210

THE CITY OF SAN DIEGO www.sandiego.gov/development-services

RECEIVED
 CITY CLERK'S OFFICE

Development Permit Appeal Application

08 NOV 26 PM 3:31

339
 02/24

See Information Bulletin 505, "Development Permits Appeal Procedure," for information on the appeal procedure.

SAN DIEGO, CALIF.

1. Type of Appeal:

- Process Two Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Planning Commission
- Process Three Decision - Appeal to Board of Zoning Appeals
- Appeal of a Hearing Officer Decision to revoke a permit
- Process Four Decision - Appeal to City Council

2. Appellant Name *Please check one* Applicant Officially recognized Planning Committee "Interested Person" (Per M.C. Sec. 113.0103)
 Affordable Housing Coalition of San Diego County and Citizens for Responsible Equitable Environmental Development,
 c/o Cory J. Briggs, Briggs Law Corporation

Address	City	State	Zip Code	Telephone
99 East "C" Street, Suite 111, Upland, CA 91786				909-949-7115

3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant.

Unknown

4. Project Information

Permit/Approval Being Appealed & Permit/Approval No.:

Date of Decision:

City Project Manager:

7836 El Paseo T.M. (P#s 12540)

11/20/08

Helene Deisher

Decision (describe the permit/approval decision):

The Planning Commission approved the application for a tentative map to convert residential units to condominiums without

preparing an initial study or performing other study under the California Environmental Quality Act and in violation of

other applicable laws, including the Subdivision Map Act.

5. Reason for Appeal

- Factual Error
- Conflict with other matters
- Findings Not Supported
- New Information
- City-wide Significance (Process Four decisions only)

Description of Reasons for Appeal (Please relate your description to the allowable reasons for appeal noted above. Attach additional sheets if necessary.)

The Planning Commission erred in approving the project without first preparing an initial study or performing any other study under the California Environmental Quality Act and in violation of San Diego Municipal Code §§ 125.0440(a)-(h), 142.1304, and 142.1305 and Government Code § 66412.3. The project does not qualify for exemption under section 15301 of the CEQA Guidelines. Furthermore, the project does not qualify for exemption due to the cumulative and other potential adverse environmental impacts of converting apartments to condominiums, especially in light of the numerous proposed conversions and the serious decline in affordable housing that the City of San Diego is facing. The City also has an independent obligation to conduct this environmental review under CEQA and the Subdivision Map Act (§ 66474). The opposition letter submitted by Briggs Law Corporation prior to approval of the project provides additional information that supports this appeal, including but not limited to the City's inability to make the finding required by Government Code § 66473.5 because the housing element has become invalid due to the City's failure to revise it lawfully and in a timely manner under Government Code § 65588(e). Evidence of cumulative impacts and other potential adverse environmental impacts of the conversions may not have been available to the person(s) on staff who made the determination of exemption or to the public until after the appeal period for the determination expired.

6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct.

Signature

Cory J. Briggs

Date

, 2008

Note: Faxed appeals are not accepted.

000363

BRIGGS LAW CORPORATION

Gave to PC

*San Diego Office:
5663 Calbra Avenue, No. 370
San Diego, CA 92111-3705*

*Telephone: 619-295-9082
Facsimile: 619-295-9138*

Please respond to Inland Empire Office

*Inland Empire Office:
99 East "C" Street, Suite 111
Upland, CA 91786*

*Telephone: 909-949-7115
Facsimile: 909-949-7121*

BLLC File # 1007.92

Planning Commission
City of San Diego
202 C Street
San Diego, CA 92101

November 5, 2008

Re: Project Number: 124540
Project Name: 7836 El Paseo Tentative Map
Commission Meeting Date: November 6, 2008

Dear Planning Commission:

On behalf of Citizens for Responsible Equitable Environmental Development and the Affordable Housing Coalition of San Diego County, I am writing to express my clients' opposition to approval of the above-referenced project, which is scheduled to be considered by the Planning Commission on the above-identified date.

My clients oppose approval of the project on the grounds that converting apartments to condominiums is subject to environmental review under the California Environmental Quality Act. The exemptions set forth in Section 15301 of the CEQA Guidelines do not apply to the project. Furthermore, the cumulative and other potential significant impacts of converting apartments to condominiums make the exemption inapplicable. Evidence of the project's cumulative adverse impacts is contained in, among other sources, (i) the City Attorney's memorandum dated November 10, 2005, regarding the applicability of CEQA to condominium conversions; (ii) the City Manager's report no. 05-060; (iii) the City Manager's report no. 05-060 rev.; (iv) the City Manager's report no. 05-106; (v) the City Manager's report no. 05-163; (vi) the City Council's prior resolutions declaring a state of emergency over the lack of affordable housing; and (vii) the City's current housing element (e.g., its comments about the environmental effects of condo conversions and the loss of affordable housing). Additionally, the project should be denied because your action in approving it would violate San Diego Municipal Code §§ 125.0440(a)-(h), 142.1304, and 142.1305 and Government Code §§ 66412.3 and 66474 (by not proceeding in the manner prescribed by law, not making all necessary findings, and not supporting the findings with sufficient evidence). Lastly, the project should not be approved because it is inconsistent with the housing element, thus precluding the necessary finding under Government Code § 66473.5; the housing element has not been lawfully revised as required by Government Code § 65588(e)(5) and therefore is invalid. My clients therefore urge the City of San Diego to comply with all applicable laws before approving the project or to deny approval.

Thank you for giving this matter the attention that it deserves.

Sincerely,

BRIGGS LAW CORPORATION

Cory Briggs
Cory Briggs

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO					CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY)		
TO: CITY COUNCIL		FROM (ORIGINATING DEPARTMENT): Development Services Department			DATE: 12/05/2008		
SUBJECT: (PTS No. 124540)7836 El Paseo TM Appeal							
PRIMARY CONTACT (NAME, PHONE): Helene Deisher,619-446-5223				SECONDARY CONTACT (NAME, PHONE):			
COMPLETE FOR ACCOUNTING PURPOSES							
FUND							
DEPT.							
ORGANIZATION							
OBJECT ACCOUNT							
JOB ORDER							
C.I.P. NUMBER							
AMOUNT	0.00	0.00	0.00	0.00	0.00	0.00	0.00
FUND							
DEPT.							
ORGANIZATION							
OBJECT ACCOUNT							
JOB ORDER							
C.I.P. NUMBER							
AMOUNT	0.00	0.00	0.00	0.00	0.00	0.00	0.00
COST SUMMARY (IF APPLICABLE):							
ROUTING AND APPROVALS							
CONTRIBUTORS/REVIEWERS:		APPROVING AUTHORITY		APPROVAL SIGNATURE		DATE SIGNED	
		ORIG DEPT.		Broughton, Kelly		1/7/2009	
		CFO					
		DEPUTY CHIEF		Goldstone, Jay		1/9/2009	
		COO					
		CITY ATTORNEY					
		COUNCIL PRESIDENTS OFFICE					
PREPARATION OF:		<input checked="" type="checkbox"/> RESOLUTIONS		<input type="checkbox"/> ORDINANCE(S)		<input type="checkbox"/> AGREEMENT(S)	
				<input type="checkbox"/> DEED(S)			
Project Appeal of Planning Commission Approval of a Tentative Map and Coastal Development Permit.							
STAFF RECOMMENDATIONS: DENY the appeal and uphold the Planning Commission's decision to APPROVE the Coastal Development Permit and Tentative Map, including the request to waive the requirement to underground existing overhead utilities.							
SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)							
COUNCIL DISTRICT(S):		1					
COMMUNITY AREA(S):		La Jolla Community Plan					
ENVIRONMENTAL IMPACT:		Exempt					

000366

CITY CLERK INSTRUCTIONS:	
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000367

**COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO**

DATE: 12/05/2008

ORIGINATING DEPARTMENT: Development Services Department

SUBJECT: (PTS No. 124540)7836 El Paseo TM Appeal

COUNCIL DISTRICT(S): 1

CONTACT/PHONE NUMBER: Helene Deisher/619-446-5223

REQUESTED ACTION:

Appeal of the Planning Commission's decision to approve Coastal Development Permit No. 426369, Tentative Map No. 426356 and waive the requirement to underground existing overhead utilities to convert eight existing residential units to condominiums at 7836-50 El Paseo Grande, within the La Jolla Shores Planned District.

STAFF RECOMMENDATION:

DENY the appeal and uphold the Planning Commission's decision to APPROVE the Coastal Development Permit and Tentative Map, including the request to waive the requirement to underground existing overhead utilities.

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

Coastal Development Permit No. 426369, Tentative Map No. 426356, including the request to waive the requirement to underground existing overhead utilities, to convert eight existing residential units to condominiums was approved by the Planning Commission and subsequently appealed by Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation (Attachment 1). This is a project appeal and not an environmental appeal; therefore, the environmental issues raised are not relevant to this appeal. The project was determined to be exempt from review under the California Environmental Quality Act (CEQA) and the appeal period for that decision had expired April 17, 2007.

Although the majority of the concerns raised in the Appeal Application are environmental issues that have been previously addressed, there are references to several San Diego Municipal Code (SDMC) and California Government Code sections which are not CEQA-related and may be addressed through this project appeal. These codes sections and staff's responses are contained below:

SDMC Sections 125.0440(a)-(h): These sections describe the required findings for a Tentative Map. The State Map Act (SMA) restricts the scope of the City's review and limits the findings that apply to the conversion of existing buildings into condominiums. SMA Section 66427 precludes the City from reviewing the building design and the division of the airspace and SMA Section 66427.2 exempts condo conversions from six of the eight standard Tentative Map findings. Based on the above, only findings 125.0440 (b) and (h) apply to condominium conversion projects and the appellant's assertion that all of the findings listed in 125.0440 (a)-(h) apply is incorrect. The two findings that do apply are described below.

SDMC Section 125.0440(b): “The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code.” This project has been reviewed by staff and determined to be in compliance with the applicable zoning and development regulations, including the new condominium conversion regulations, as appropriate. Although the project does not comply with the current requirements for new construction, the project is allowed to maintain their current configuration because no additional units or expansion are proposed and it is considered previously conforming for density and development standards.

SDMC Section 125.0440(h) and California Government Code Section 66412.3: “The decisionmaker 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.” This condominium project was approved by the Planning Commission, who was the decisionmaker required to make this finding. Staff believes the intent of this required finding is to respond to “leapfrog” development and to provide necessary public facilities for additional housing in communities. In this instance there is no net loss or gain of housing units, therefore, staff believes this appeal point is not valid.

SDMC Sections 142.1304 and 142.1305: These sections describe the requirements for approving a variance or waiver from the City’s inclusionary housing requirements. The project would comply with the City’s requirements either by paying an in-lieu fee or by providing onsite affordable housing. This project is not requesting a variance or waiver from the inclusionary housing requirements; therefore, these code sections are not relevant to this approved condominium conversion project.

The appeal also asserts that the Housing Element of the City’s General Plan has become invalid due to the City’s failure to revise it lawfully and in a timely manner. The current Housing Element was adopted by the City Council on December 5, 2006, and certified by the U.S. Department of Housing and Urban Development on February 5, 2007. This project was approved after the certification of the most recent Housing Element update. A 2007 California appeals court case addressed the question about whether a housing element updated beyond time periods identified in Government Code Section 65588 is invalid and determined that it was not. Therefore, the City’s Housing Element has never been considered invalid and would not be grounds for denial of this project.

FISCAL CONSIDERATIONS:

None. All costs associated with the processing of this project are paid by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On November 20, 2008, the Planning Commission voted 5-0-0 to approve the project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On April 22, 2008, the La Jolla Community Planning Association Voted 3-0-0 to approve the project without Conditions

000369

KEY STAKEHOLDERS AND PROJECTED IMPACTS: Owners: Desautels Company (Marc Desautels, President), Applicant: DGB Survey & Mapping. INC.; Citizens for Responsible Equitable Environmental Development, c/o Cory J. Briggs, Briggs Law Corporation. Other key stakeholders include those associated with condominium conversions in the development industry, the housing industry, and residents.

Broughton, Kelly
Originating Department

Goldstone, Jay
Deputy Chief/Chief Operating Officer

000371

DETERMINATION OF ENVIRONMENTAL EXEMPTION

Pursuant to the California Environmental Quality Act (CEQA) and State CEQA Guidelines

Agency: CITY OF SAN DIEGO

Project No. 124540

Date: 4/3/07

Job Order No. 42-7503

Action/Permit(s): Coastal Development Permit and Tentative Map

Description of Activity: 7836 El Paseo Tentative Map: Coastal Development Permit (CDP) and Tentative Map (TM) to convert eight existing residential units to condominiums and a waiver to underground overhead utilities on a 0.35-acre site.

Location of Activity: Project is located at 7836 El Paseo Grande in the MF-2 Zone in the La Jolla Community Plan, in the City of San Diego, County of San Diego, and State of California. Applicant: Marc P. Desautels, P.O. Box 2306, San Diego, California 92037, (415) 397-6516

(CHECK BOXES BELOW)

- 1. [] This activity is EXEMPT FROM CEQA pursuant to:
[] Section 15060(b) (3) of the State CEQA Guidelines (the activity is not a project as defined in Section 15378).
2. [X] This project is EXEMPT FROM CEQA pursuant to State CEQA Guidelines Section checked below:

ARTICLE 19 of GUIDELINES CATEGORICAL EXEMPTIONS (Incomplete list)

ARTICLE 18 of GUIDELINES STATUTORY EXEMPTIONS (Incomplete list)

Table with 2 columns: Section, Short Name. Includes categories like Existing Facilities, Replacement or Reconstruction, Minor Alterations to Land, etc.

Table with 2 columns: Section, Short Name. Includes categories like Ongoing Project, Feasibility and Planning Studies, Adoption of Coastal Plans and Programs, etc.

It is hereby certified that the City of San Diego has determined the above activity to be exempt:

Handwritten signature of Senior Planner

Senior Planner Environmental Analysis Section

Distribution:

Tim Daly, Project Manager
Joseph Stanco, LDR-Planning
EAS file



THE CITY OF SAN DIEGO

Date of Notice: April 27, 2007

NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

Job Order No. 42-7503

PROJECT NAME/NUMBER: 7836 El Paseo Tentative Map/Project No. 124540

COMMUNITY PLAN AREA: La Jolla

COUNCIL DISTRICT: 1

LOCATION: 7836-50 El Paseo Grande, La Jolla, CA 92037

PROJECT DESCRIPTION: Coastal Development Permit and Tentative Map to convert eight existing residential units to condominiums and a waiver to underground overhead utilities on a 0.35-acre site.

ENTITY CONSIDERING PROJECT APPROVAL: Hearing Officer

ENVIRONMENTAL DETERMINATION: Exemption (Section 15301 (k))-Existing Facilities

ENTITY MAKING ENVIRONMENTAL DETERMINATION: City of San Diego Staff

STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION: The project is exempt from the California Environmental Quality Act (CEQA) due to the determination that the project meets the qualifications for the categorical exemption "Existing Facilities" pursuant to CEQA Section 15301 (k). It would allow the conversion of the existing residential units to condominiums.

CITY CONTACT: Terri Bumgardner, Senior Environmental Planner
MAILING ADDRESS: 1222 First Avenue, MS 501, San Diego, CA 92101-4153
PHONE NUMBER: (619) 446-5381

On April 3, 2007, the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Contact above.

Applications to appeal CEQA determination made by staff (including the Mayor/Designee) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice OR 15 business days from the date of the environmental determination, whichever occurs earlier. Applications to appeal CEQA determinations made by the Planning Commission from a Process Two or Three Appeal under SDMC section 112.0506 must be filed in the Office of the City Clerk within 10 business days from the date of the Planning Commission's decision. The appeal application can be obtained from the City Clerk, 202 'C' Street, Second Floor, San Diego, CA 92101.

This information will be made available in alternative formats upon request.

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CITY COUNCIL RESOLUTION NO. XXX
COASTAL DEVELOPMENT PERMIT NO. 426369
7836 EL PASEO GRANDE PROJECT NO. 124540
DRAFT

WHEREAS, DESAUTELS COMPANY, Owner/Permittee, Owner/Permittee, filed an application with the City of San Diego for a permit to convert eight existing residential units to condominiums and waive the requirement to underground existing overhead utilities for. Tentative Map No. 426356(as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Coastal Development Permit No 426369, on portions of a 0.35 acre site;

WHEREAS, the project known as 7836 El Paseo Tentative Map Project No. 124540, is located at 7836 El Paseo Grande in the MF 2 zone and in the La Jolla Community Plan area,

WHEREAS, the project site is legally described as lots 5 and 6 of Spindrift, according to Map 3096 filed June 3, 1954;

WHEREAS, on November 6, 2008 the Planning Commission of the City of San Diego considered Coastal Development Permit No. 426369 and Tentative Map No. 426356 pursuant to the Land Development Code of the City of San Diego and approved the project;

WHEREAS, on November 26, 2008 Cory Briggs appealed the project to the City Council, NOW, THEREFORE

BE IT RESOLVED by the City Council of the City of San Diego as follows:

That the City Council adopts the following written Findings, dated February 24, 2009.

FINDINGS:

Coastal Development Permit - Section 126.0708

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 0.35 acre site is approximately 0.25 miles from the Pacific Ocean and does not encroach on any physical access way used by the public or identified in the Local Coastal Program land use plan. The site is currently developed with two, two story buildings; is previously conforming and on private property. The project proposes a tentative map to convert the existing eight residential dwelling units into condominiums. No physical changes to the buildings or the site are being proposed. The existing two, two story buildings do not penetrate the 30 foot height limit. The subject property is not located within or near any designated public view corridors. Therefore, the proposed project will not impact any public views to or along the ocean or other scenic coastal areas as specified in the Local Coastal Program Land Use Plan.

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The proposed coastal development will not adversely affect environmentally sensitive lands.

The project proposes a tentative map to convert the existing eight residential dwelling units into condominiums. The site is currently developed with two, two story buildings; is previously conforming and on private property. The project site is rectangular in shape and is a relatively flat lot located within an urbanized area of the La Jolla Community Plan and the Local Coastal Program and surrounded by a fully developed residential neighborhood. The City of San Diego conducted a complete environmental review of the subject site and determined the project was exempt from the California Environmental Quality Act (CEQA) in accordance with State CEQA Guidelines. The existing site is fully developed and proposes no physical changes. The project does not contain Environmentally Sensitive Lands (ESL); therefore the proposed project could not adversely affect these resources.

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 project proposes a tentative map to convert the existing eight residential dwelling units into condominiums. The site is currently developed with two, two story buildings; is previously conforming and on private property. The proposed project conforms with the La Jolla Community Plan and the Local Coastal Program Plan which designates the site for multi-family development and is consistent with the design guidelines and development standards in effect for this site per the Coastal Overlay Zone (Non-Appealable Area 2), Coastal Height Overlay Zone, Beach Parking Impact, Residential Tandem Overlay, and Transit Area Overlay zones. Any and all development would occur on private property and there is no construction proposed; therefore, the project will not encroach upon any existing physical access way used by the public. Adequate off street parking spaces exist and will be maintained on site thereby eliminating any impacts to public parking. No deviations or variances from the development regulations are being proposed or are required to implement the project.

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 project proposes a tentative map to convert the existing eight residential dwelling units into condominiums. The site is currently developed with two, two story buildings; is previously conforming and on private property. The existing development site is approximately 0.25 miles from the Pacific Ocean and is not located between the ocean and the first public roadway. The site is currently developed with two, two story buildings and is previously conforming. The project proposes no physical changes to the buildings or the site which would encroach upon any existing public access-way used by the public nor would it adversely affect any proposed physical access-way identified in the Local Coastal Program Land Use Plan. The proposed coastal development will conform to the public access and public recreation policies of Chapter 3 of the California Coastal Act.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the City Council, Coastal Development Permit No. 426369 and Tentative Map No. 426356 are hereby GRANTED by the City Council to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Coastal Development Permit No. 426369 and Tentative Map No. 426356, a copy of which is attached hereto and made a part hereof.

000375

Helene Deisher
Development Project Manager
Development Services

Adopted on: February 24, 2009
Job Order No. 42-7503

cc: Legislative Recorder, Development Services Department

000377

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
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: 42-7503

COASTAL DEVELOPMENT PERMIT NO. 426369
7836 EL PASEO TENTATIVE MAP-PROJECT NO. 124540
CITY COUNCIL

This Coastal Development Permit No. 426369 is granted by the City Council of the City of San Diego to DESAUTELES COMPANY, Owner, and, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0702. The .35 acre site is located at 7836 El Paseo Grande in the MF2 zone(s) of the La Jolla Community Plan. The project site is legally described as lots 5 and 6 of Spindrift, according to Map 3096 filed June 3, 1954.

Subject to the terms and conditions set forth in this Permit, permission is granted to DESAUTELES COMPANY Owner/Permittee to convert eight existing residential units to condominiums, abandon a sewer easement, and waive the requirement to underground existing overhead utilities, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated February 24, 2009, on file in the Development Services Department.

The project shall include:

- a. The subdivision of a 0.35 acre site into one lot for eight condominiums. No construction is authorized or proposed by the issuance of this permit; and
- b. Encroachment Maintenance and Removal Agreement for a five foot sewer easement located along the northwest property line.
- c. Accessory improvements determined by the Development Services Department 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 (36) 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 final map or easement abandonment 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 Development Services Department.
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 Coastal Development Permit shall comply with all conditions of the Final Map for Tentative Map No. 426356.
6. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. 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.).
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

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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.

ENGINEERING REQUIRMENTS:

10. The Coastal Development Permit shall comply with the conditions of the final map for Tentative Map No. 426356.

11. The Subdivider shall underground any new service run too any new or proposed structures within the subdivision

LANDSCAPE REQUIREMENTS:

12. All of the property not used or occupied by structures, recreational areas, walks and driveways shall be landscaped. This landscaped area shall be no less than 30 percent of the total parcel area.

PLANNING/DESIGN REQUIREMENTS:

13. No fewer than eight (8) 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.

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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 §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 February 24, 2009, Resolution No. XXXX.

November 6, 2008

000381

CITY COUNCIL RESOLUTION NO. XXX.
TENTATIVE MAP NO. 426356
7836 EL PASEO TENTATIVE MAP - PROJECT NO. 124540
DRAFT

WHEREAS, DESAUTELS COMPANY, Applicant/Subdivider, and CHARLES S. THOMAS, Engineer submitted an application with the City of San Diego for a Tentative Map, No. 426356 to convert eight existing residential units to condominiums, abandon a sewer easement, and waive the requirement to underground existing overhead utilities. The project site is located at 7836 El Paseo Grande Between Lowery Terrace and Calle De La Plata legally described as lots 5 and 6 of Spindrif, according to Map 3096 filed June 3, 1954 in the La Jolla Community Plan area, within the MF 2 zone of the La Jolla Community Plan; and

WHEREAS, the Map proposes the subdivision of a 0.35 site into acre site into one (1) lot for an eight (8) unit residential condominium conversion; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15301 (Existing facilities) of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is eight; and

WHEREAS, on November 6, 2008 the Planning Commission of the City of San Diego considered Coastal Development Permit No. 426369 and Tentative Map No. 426356 pursuant to the Land Development Code of the City of San Diego and approved the project;

WHEREAS, on November 26, 2008 Cory Briggs appealed the project to the City Council;

WHEREAS, on February 24, 2009, the City Council of the City of San Diego considered Tentative Map No. 426356, including the waiver of the requirement to underground existing overhead utilities, and pursuant to Sections 125.0440 (tentative map), 125.0444 (condo conversion), and 144.0240 (underground) 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 City Council of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 426356:

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1. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (Land Development Code Section 125.0440.b).
2. 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).
3. Each of the tenants of the proposed condominium, project has received, pursuant to State Map Action Section 66452.9, written notification of intention to convert at least 60 days prior to the filing of a tentative map (Land Development Code 125.0444 and State Map Act Section 66427.1(a)).
4. The project has been conditioned that the Subdivider will give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).
5. The project has been conditioned that the Subdivider will give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).
6. The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within 10 days of approval of a final map for the proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(b)). If the subdivider chooses to provide affordable housing units, the subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.
7. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(c)).
8. The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, which notice shall be provided within 5 working days of the issuance of the Subdivision Public Report.. The right shall run for a period of not less than

90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(d)).

9. The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (Land Development Code Section 125.0444.b).
10. For any project that was developed to provide housing for the elderly, disabled or to provide low income housing, provisions have been made to perpetuate the use for which the project was developed (Land Development Code Section 125.0444.c).
11. Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete (Land Development Code 125.0431(a)(3)).
12. The project has been conditioned that the subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete (Land Development Code 125.0431(a)(3)).
13. The project has been conditioned that the subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
14. A Building Conditions Report has been prepared in accordance with the Land Development Manual by a registered architect or engineer licensed by the State of California (Land Development Code Section 144.0504(b)).
15. The project has been conditioned that the subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).
16. The project has been conditioned that the subdivider will provide a relocation assistance payment to all tenants of the project whose tenancy has terminated due to the condominium conversion. (Land Development Code Section 144.0505).
17. The project has been conditioned for the subdivider to complete the physical improvements as outlined in Land Development Code Section 144.0507, to the satisfaction of the City Engineer prior to final map approval.

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18. The project has been conditioned for the subdivider to satisfy the inclusionary housing requirements in accordance with Land Development Code Section 142.1306. (Land Development Code Section 144.0508).
19. The proposed subdivision complies with the parking regulations of the Land Development Code (Land Development Code Section 142.0505).
20. 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* in that:
 - A. The conversion involves a short span of overhead facility (less than 600 feet in length).
 - B. The conversion is a requirement of a condominium conversion of an existing development and the conversion would not represent a logical extension to an underground facility.
21. 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 No. 426356 including the waiver of the requirement to underground existing overhead utilities, is hereby granted to DESAUTELS COMPANY, Applicant/Subdivider, subject to the following conditions:

GENERAL

1. This Tentative Map will expire November 6, 2011.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the Tentative Map expiration date, a Final Map to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder.
4. Prior to the issuance of the Final 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 Final Map shall conform to the provisions of Coastal Development Permit No. 426369.

6. The subdivider shall ensure that all onsite utilities serving the subdivision shall be undergrounded 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.
7. 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, including, but not limited to, any 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
8. The subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
 - a. For existing tenants, within 10 days of the project application for the *condominium conversion* being deemed complete; or
 - b. For prospective tenants, upon application for the rental of a unit in the proposed *condominium conversion*.
9. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.
10. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRB), pursuant to Section 66427.1(a) of the Subdivision Map Act.
11. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with

Section 66427.1(c) of the Subdivision Map Act. The provisions of this subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.

12. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Section 66427.1(d) of the State Map Act. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.
13. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act.

AFFORDABLE HOUSING

14. Prior to recordation of the Final Map, the Subdivider shall comply with the affordable housing requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) by paying an in-lieu fee of \$33,573.18 (9173 square feet @3.66) OR by entering into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee
15. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Coastal Overlay Zone Affordable Housing Replacement Regulations (Chapter 14, Article 3, Division 8), to the satisfaction of the Development Services Department and the Housing Commission.
16. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission.
17. The subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).

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18. The subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).

ENGINEERING

19. Prior to the issuance of the Final Map, the applicant shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the private improvements in the five foot City of San Diego Sewer Easement along the north property line.
20. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
21. The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded 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.
22. Prior to the issuance of the Final Map the subdivider shall reconstruct the driveway on Lowry Terrace to current City standards.
23. Prior to the issuance of the Final Map the subdivider shall construct a curb ramp at the northeast corner of Lowry Terrace and El Paseo.
24. Prior to the issuance of the Final Map the subdivider shall repair the damage areas of the curb and gutter adjacent to the site on El Paseo Grande and Lowry Terrace.
25. Prior to the issuance of the Final Map the subdivider shall replace the cracked/uplifted sidewalk, to include the on site private walkways leading to the public sidewalk. The subdivider shall preserve any contractor's stamp, all adjacent to the site on El Paseo Grande and Lowry Terrace.
26. Prior to the issuance of the Final Map the subdivider shall obtain an Encroachment Maintenance Removal Agreement for the private walkways, landscape and appurtenances within El Paseo Grande and Lowry Terrace rights-of-way and shall trim the hedges so they do not encroach into the sidewalk area.
27. The subdivider shall obtain an Encroachment Maintenance Removal Agreement for the retaining wall in the Lowery Terrace right-of-way and for the retaining wall within the four foot easement along the easterly property line.

28. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer.
29. 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 tentative map and covered in these special conditions will be authorized.

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. RR-297376.

MAPPING

30. "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 (NAD 83).
31. "California Coordinate System means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
32. The Final Map shall:
 - a. Use the California Coordinate System for its "Basis of Bearing" 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. Establishment of said Basis of Bearings may be 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 control shall be shown in relation to the California Coordinate System (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.

33. Water and Sewer Requirements:

- a. The subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.
- b. The subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.

INFORMATION:

- The approval of this Tentative Map by the City 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 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, may protest the imposition within 90 days of the approval of this Tentative Map 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.

000390

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SAN DIEGO,
CALIFORNIA, ON NOVEMBER 6, 2008.

By

Helene Deisher
Development Project Manager
Development Services Department

Job Order No. 42-7503

February 24, 2009

000391

CITY COUNCIL RESOLUTION NO. XXX
TENTATIVE MAP NO. 426356
7836 EL PASEO TENTATIVE MAP - PROJECT NO. 124540
DRAFT

WHEREAS, DESAUTELS COMPANY, Applicant/Subdivider, and CHARLES S. THOMAS, Engineer submitted an application with the City of San Diego for a Tentative Map, No. 426356 to convert eight existing residential units to condominiums, abandon a sewer easement, and waive the requirement to underground existing overhead utilities. The project site is located at 7836 El Paseo Grande Between Lowery Terrace and Calle De La Plata legally described as lots 5 and 6 of Spindrift, according to Map 3096 filed June 3, 1954 in the La Jolla Community Plan area, within the MF 2 zone of the La Jolla Community Plan; and

WHEREAS, the Map proposes the subdivision of a 0.35 acre site into one (1) lot for an eight (8) unit residential condominium conversion; and

WHEREAS, the project is exempt from environmental review pursuant to Section 15301 (Existing facilities) of the California Environmental Quality Act (CEQA) on the basis that the facilities are existing; and

WHEREAS, the subdivision is a condominium project as defined in Section 1350 et seq. of the Civil Code of the State of California and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is eight; and

WHEREAS, on November 6, 2008 the Planning Commission of the City of San Diego considered Coastal Development Permit No. 426369 and Tentative Map No. 426356 pursuant to the Land Development Code of the City of San Diego and approved the project;

WHEREAS, on November 26, 2008 Cory Briggs appealed the project to the City Council;

WHEREAS, on February 24, 2009, the City Council of the City of San Diego considered Tentative Map No. 426356, including the waiver of the requirement to underground existing overhead utilities, and pursuant to Sections 125.0440 (tentative map), 125.0444 (condo conversion), and 144.0240 (underground) 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 City Council of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 426356:

- 1. 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 subdivision of an existing eight unit apartment complex to condominium ownership interests would comply with the development regulations of the underlying MF2 zone and all of the applicable development regulations of the Land Development Code. No deviation or variance is requested with this application. No construction is approved or requested with this application.

- 2. 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 an existing eight unit apartment complex to condominium ownership interests. The project is located within the La Jolla Community Plan which designates the site for multifamily development. The proposed subdivision complies with the policies, goals, and objectives of the applicable land use plan. The existing development was previously approved and permitted pursuant to the zoning and development regulations at the time of construction. There is no net change in density or intensity with the conversion of apartment units to condominium ownership and therefore the project does not increase impacts to public services or fiscal or environmental resources.

- 3. Each of the tenants of the proposed condominium, project has received, pursuant to State Map Action Section 66452.9, written notification of intention to convert at least 60 days prior to the filing of a tentative map (Land Development Code 125.0444 and State Map Act Section 66427.1(a)).**

A signed affidavit has been provided to the Development Services Department identifying each of the tenants of the proposed project and stating each tenant received, pursuant to State Map Action Section 66452.9, written notification of intention to convert. This notice was sent at least 60 days prior to filing for the map on April 10, 2006.

- 4. The project has been conditioned that the Subdivider will give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).**

Condition No. 9 of this Resolution requires that the Subdivider give each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act

5. **The project has been conditioned that the Subdivider will give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request (Land Development Code Section 125.0444 and State Map Act Section 66427.1(a)).**

Condition No. 10 of this Resolution requires that the Subdivider give each tenant 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request

6. **The project has been conditioned that the Subdivider will give each tenant of the proposed condominium project written notification within 10 days of approval of a final map for the proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(b)). If the subdivider chooses to provide affordable housing units, the subdivider shall enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map.**

Condition No. 13 of this Resolution requires that the Subdivider must provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act. Further, if the subdivider chooses to provide affordable housing units, Condition 14 requires that the Subdivider enter into an affordable housing agreement with the Housing Commission, prior to recordation of the Final Map

7. **The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion (Land Development Code Section 125.0444 and State Map Act Section 66427.1(c)).**

Condition No. 11 of this Resolution requires that the Subdivider give each of the tenants of the proposed condominium project 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion.

8. **The project has been conditioned that the Subdivider will give each of the tenants of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, which notice shall be provided within 5 working days of the issuance of the Subdivision Public Report.. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(d)).**

Condition number 12 requires the Subdivider give each of the tenants notification of the proposed condominium project notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, which notice shall be provided within 5 working days of the issuance of the Subdivision Public Report. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right (Land Development Code Section 125.0444 and State Map Act Section 66427.1(d)).

9. **The project was not financed by funds obtained from a governmental agency to provide for elderly, disabled, or low income housing (Land Development Code Section 125.0444.b).**

This project is privately financed and no funds were obtained from a governmental agency to provide for elderly, disabled, or low income housing.

10. **For any project that was developed to provide housing for the elderly, disabled or to provide low income housing, provisions have been made to perpetuate the use for which the project was developed (Land Development Code Section 125.0444(c)).**

This project was not developed to provide housing for the elderly, disabled or to provide low income housing.

11. **Each of the tenants of the proposed condominium project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete (Land Development Code 125.0431(a)(3)).**

Condition No. 8(a) of this Resolution requires that each of the tenants of the proposed project has received written notification of the project application for the condominium conversion within 10 days after the application was deemed complete. A Notice of Application which identifies the project location and describes the proposed conversion was mailed to each tenant on April 19, 2008.

- 12. The project has been conditioned that the subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete (Land Development Code 125.0431(a)(3)).**

Condition 8(b) of this resolution requires that the subdivider will give each person applying for the rental of a unit in such residential real property written notification that the project application for the condominium conversion was deemed complete

- 13. The project has been conditioned that the subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).**

Condition 17 of this resolution requires that the subdivider give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property.

- 14. A Building Conditions Report has been prepared in accordance with the Land Development Manual by a registered architect or engineer licensed by the State of California (Land Development Code Section 144.0504(b)).**

A Building Conditions Report has been prepared for this project by Greg L. Gavasse, P.E., of Land America in accordance with the Land Development Manual and reviewed for compliance with the Condominium Conversion Regulations.

- 15. The project has been conditioned that the subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).**

Condition 18 of this resolution requires that the subdivider provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account

- 16. The project has been conditioned that the subdivider will provide a relocation assistance payment to all tenants of the project whose tenancy has terminated due to the condominium conversion. (Land Development Code Section 144.0505).**

Condition 16 of this resolution requires that the subdivider provide a relocation assistance payment to all tenants of the project whose tenancy has terminated due to the condominium conversion.

17. The project has been conditioned for the subdivider to complete the physical improvements as outlined in Land Development Code Section 144.0507, to the satisfaction of the City Engineer prior to final map approval.

Condition Numbers 19-28 outline the required physical improvements required prior to the approval of the Final Map. The improvements include the following:

An Encroachment Maintenance Removal Agreement, from the City Engineer, for the private improvements in the five foot City of San Diego Sewer Easement along the north property line.

The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.

The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded 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.

Prior to the issuance of the Final Map the subdivider shall reconstruct the driveway on Lowry Terrace to current City standards.

Prior to the issuance of the Final Map the subdivider shall construct a curb ramp at the northeast corner of Lowry Terrace and El Paseo.

Prior to the issuance of the Final Map the subdivider shall repair the damage areas of the curb and gutter adjacent to the site on El Paseo Grande and Lowry Terrace.

Prior to the issuance of the Final Map the subdivider shall replace the cracked/uplifted sidewalk, to include the on site private walkways leading to the public sidewalk. The subdivider shall preserve any contractor's stamp, all adjacent to the site on El Paseo Grande and Lowry Terrace.

Prior to the issuance of the Final Map the subdivider shall obtain an Encroachment Maintenance Removal Agreement for the private walkways, landscape and appurtenances within El Paseo Grande and Lowry Terrace rights-of-way and shall trim the hedges so they do not encroach into the sidewalk area.

The subdivider shall obtain an Encroachment Maintenance Removal Agreement for the retaining wall in the Lowery Terrace right-of-way and for the retaining wall within the four foot easement along the easterly property line.

Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer.

18. The project has been conditioned for the subdivider to satisfy the inclusionary housing requirements in accordance with Land Development Code Section 142.1306. (Land Development Code Section 144.0508).

Condition Number 14 includes the Affordable Housing conditions that would be required of this development to comply with the City of San Diego Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) by paying an in-lieu fee of \$33,573.18 (9173 square feet @3.66) OR by entering into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee

19. The proposed subdivision complies with the parking regulations of the Land Development Code (Land Development Code Section 142.0505).

The proposed development requires eight off-street parking spaces based on the number and size of the residential units for a condominium conversion. The development provides eight off-street parking spaces and therefore complies with the parking regulations of the Land Development Code

20. 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* in that:

- a. The conversion involves a short span of overhead facility (less than 600 feet in length).
- b. The conversion is a requirement of a condominium conversion of an existing development and the conversion would not represent a logical extension to an underground facility.

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

The above findings are supported by the administrative record for this project including all review documentation, maps and the Exhibit "A" drawing dated February 24, 2009.

000398

BE IT FURTHER RESOLVED, that, based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 426356 including the waiver of the requirement to underground existing overhead utilities, is hereby granted to DESAUTELS COMPANY, Applicant/Subdivider, subject to the following conditions:

GENERAL

1. This Tentative Map will expire November 6, 2011.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the Tentative Map expiration date, a Final Map to consolidate the existing lots into one lot shall be recorded in the Office of the County Recorder.
4. Prior to the issuance of the Final 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 Final Map shall conform to the provisions of Coastal Development Permit No. 426369.
6. The subdivider shall ensure that all onsite utilities serving the subdivision shall be undergrounded 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.
7. 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, 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.

8. The subdivider shall provide a Notice of Tenants Rights and Notices for Condominium Conversion, consistent with the Land Development Manual to be provided as follows:
 - a. For existing tenants, within 10 days of the project application for the *condominium conversion* being deemed complete; or
 - b. For prospective tenants, upon application for the rental of a unit in the proposed *condominium conversion*.
9. The Subdivider shall provide each tenant, and each person applying for the rental of a unit in such residential real property, all applicable notices and rights now or hereafter required by the State Map Act.
10. The Subdivider shall provide the tenants a Notice of Application for a Public Report at least 10 days prior to the submittal to the Department of Real Estate (DRB), pursuant to Section 66427.1(a) of the Subdivision Map Act.
11. The Subdivider shall provide each of the tenants of the proposed condominiums written notice of intention to convert at least 180 days prior to termination of tenancy due to the conversion or proposed conversion in conformance with Section 66427.1(c) of the Subdivision Map Act. The provisions of this subdivision shall not alter nor abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent, or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.
12. The Subdivider shall provide each of the tenants of the proposed condominiums notification of their exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant, in conformance with Section 66427.1(d) of the State Map Act. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report, pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.
13. The Subdivider shall provide the tenants of the proposed condominiums with written notification within 10 days or approval of a Final Map for the proposed conversion, in conformance with Section 66427.1(b) of the Subdivision Map Act.

14. Prior to recordation of the Final Map, the Subdivider shall comply with the affordable housing requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code) by paying an in-lieu fee of \$33,573.18 (9173 square feet @3.66) OR by entering into an Agreement with the San Diego Housing Commission, to ensure payment of the in-lieu fee
15. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Coastal Overlay Zone Affordable Housing Replacement Regulations (Chapter 14, Article 3, Division 8), to the satisfaction of the Development Services Department and the Housing Commission.
16. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for Tenant Relocation Benefits (Chapter 14, Article 4, Division 5), to the satisfaction of the Development Services Department and the Housing Commission.
17. The subdivider will give each tenant a notice of termination of tenancy 60 days prior to being required to vacate the property. (Land Development Code Section 125.0431(a)(4)).
18. The subdivider will provide to a prospective purchaser a copy of the Building Conditions Report prior to the opening of an escrow account. (Land Development Code Section 144.0504(c)).

ENGINEERING

19. Prior to the issuance of the Final Map, the applicant shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the private improvements in the five foot City of San Diego Sewer Easement along the north property line.
20. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
21. The subdivider shall ensure that all existing onsite utilities serving the subdivision shall be undergrounded 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.
22. Prior to the issuance of the Final Map the subdivider shall reconstruct the driveway on Lowry Terrace to current City standards.

000401

23. Prior to the issuance of the Final Map the subdivider shall construct a curb ramp at the northeast corner of Lowry Terrace and El Paseo.
24. Prior to the issuance of the Final Map the subdivider shall repair the damage areas of the curb and gutter adjacent to the site on El Paseo Grande and Lowry Terrace.
25. Prior to the issuance of the Final Map the subdivider shall replace the cracked/uplifted sidewalk, to include the on site private walkways leading to the public sidewalk. The subdivider shall preserve any contractor's stamp, all adjacent to the site on El Paseo Grande and Lowry Terrace.
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27. The subdivider shall obtain an Encroachment Maintenance Removal Agreement for the retaining wall in the Lowery Terrace right-of-way and for the retaining wall within the four foot easement along the easterly property line.
28. Prior to the recordation of the Final Map, the subdivider shall demonstrate conformance with the Municipal Code provisions for building and landscape improvements (Land Development Code Sections 144.0507), to the satisfaction of the City Engineer.
29. 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 tentative map and covered in these special conditions will be authorized.

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. RR-297376.

MAPPING

30. "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 (NAD 83).
31. "California Coordinate System means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."

32. The Final Map shall:

- a. Use the California Coordinate System for its "Basis of Bearing" 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. Establishment of said Basis of Bearings may be 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 control shall be shown in relation to the California Coordinate System (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.

SEWER AND WATER

33. Water and Sewer Requirements:

- a. The subdivider shall install appropriate private back flow prevention devices on all existing and proposed water services (domestic, irrigation, and fire) adjacent to the project site in a manner satisfactory to the Water Department Director.
- b. The subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single condominium unit or lot.

INFORMATION:

- The approval of this Tentative Map by the City 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.

000403

- Subsequent applications related to this Tentative Map 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, may protest the imposition within 90 days of the approval of this Tentative Map 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.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SAN DIEGO,
CALIFORNIA, ON NOVEMBER 6, 2008.

By

Helene Deisher
Development Project Manager
Development Services Department

Job Order No. 42-7503

000405

Item 7

**PLANNING COMMISSION OF THE CITY OF SAN DIEGO
MINUTES OF REGULAR SCHEDULED MEETING OF
NOVEMBER 20, 2008
IN CITY COUNCIL CHAMBERS - 12TH FLOOR
CITY ADMINISTRATION BUILDING**

CHRONOLOGY OF THE MEETING:

Vice-Chairperson Naslund called the meeting to order at 9:05 a.m. Chairperson Schultz adjourned the meeting at 11:00 a.m.

ATTENDANCE DURING THE MEETING:

Chairperson Barry Schultz – present (arrived at 9:10 am)
Vice-Chairperson Eric Naslund - present
Commissioner Robert Griswold - present
Commissioner Gil Ontai -present
Commissioner Dennis Otsuji - present
Commissioner Tim Golba - present
Commissioner Mike Smiley – not present

Staff

Keith Bauerle, City Attorney – present
Mary Wright, Planning Department - present
Cecilia Gallardo Planning Department – present
Mike Westlake, Development Services Department – present
Don Weston, Development Services Department - present
Brenda Clark, Recorder - present
Elisa Contreras, Recorder-present

000406

ITEM - 1: ANNOUNCEMENTS/PUBLIC COMMENT - ISSUES WITHIN THE JURISDICTION OF THE COMMISSION NOT PREVIOUSLY HEARD:

None given

ITEM - 2: REQUESTS FOR CONTINUANCE AND/OR ITEMS TO BE WITHDRAWN:

None

ITEM - 3: REQUESTS FOR ITEMS TO BE PLACED ON THE CONSENT AGENDA:

Item #7

ITEM - 4: DIRECTOR'S REPORT:

Mary Wright reported on the Barrio Logan workshop. Announced the upcoming January 14, 2009 four-day Charrette and reported that the City Council heard and approved The Palladium @ Aero & Archstone, projects that the Planning Commission had considered.

ITEM - 5: COMMISSION COMMENT:

None given

ITEM - 6: INFORMATIONAL HEARING WITH WATER DEPARTMENT

Alex Ruiz, spoke on resources of water from several jurisdictions in San Diego County and Northern California. Marcie Steier, spoke on the long range water plans. George spoke on the water supply assessments based on the long range plan.

ITEM - 7: *Continued from November 6, 2008:*

7836 EL PASEO TENTATIVE MAP – PROJECT NO. 124540

City Council District: 1; Plan Area: La Jolla

Staff: Helene Deisher

Speaker slip submitted in favor of project by Richard Speare.

No speaker slips submitted opposed to project.

000407

COMMISSION ACTION

CONSENT MOTION BY COMMISSIONER OTSUJI TO APPROVE TENTATIVE MAP 426356, INCLUDING THE WAIVER OF THE REQUIREMENT TO UNDERGROUND EXISTING OVERHEAD UTILITIES.

APPROVE COASTAL DEVELOPMENT PERMIT NO. 426369 AS PRESENTED IN REPORT PC-08-124. Second by Commissioner Golba. Passed by a vote of 5-0-0 with Commissioners Schultz and Smiley not present. Resolution No. 4480-PC

000409

LAW OFFICES
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February 5, 2009

Mayor and Members of the City Council
City of San Diego

Re: Project Name/Number: 7836 El Paseo Tentative Map/
Project No: 124540 Job Order No: 42-7503

To All Concerned:

I am the attorney and agent for the property owner.

It is submitted that the City of San Diego Planning Commission has properly approved the tentative map for the subject project, and that no grounds for appeal exist, environmental or otherwise; it is therefore respectfully requested that the appeal be denied.

I will be out of the county the week of February 23rd. If an appearance by a representative of the property owner is deemed appropriate, then I respectfully request that the matter be continued to a later date. If the nature of the appeal is such that it will be denied as a matter of course, then I would appreciate the matter so proceeding without my appearance.

Thank you for your consideration of this matter.

Sincerely yours,


Richard Speare
Attorney at Law/Agent for Owner
RS;jsw

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