

RESOLUTION NUMBER R- 302967  
DATE OF FINAL PASSAGE SEP 04 2007

WHEREAS, Pardee Homes, LLC, a California Corporation, Applicant/Subdivider, and Project Design, Engineers, submitted an application to the City of San Diego for a vesting tentative map (Vesting Tentative Map [VTM] No. 221310) and easement abandonment (Easement Abandonment [EA] No. 423680) to allow the subdivision of a vacant 21-acre site into seven lots, construction of a 172-unit condominium complex, one single-family lot and a Commercial Center and the abandonment of three public easements: (1) Access Easement granted to the City of San Diego per Doc No. 1997-0115742, recorded March 14, 1997; (2) Survey No. 65 and the Unnamed Roads granted to the County of San Diego on August 22, 1986 in Book 257, Page 30 and recorded August 2, 1986 in Book 257, Page 185, as annexed to the City of San Diego on July 20, 1962; (3) Easement for Water Mains granted to the City of San Diego per File No. 197370 recorded September 10, 1971, for the Carmel Highlands Village project [Project]. The Project is located at 5384 Carmel Mountain Road, and legally described as Portions of Section 28 and Portions of the East half of Section 29, Township 14 South, Range 3 West, San Bernardino Meridian, and Lot 57 of Carmel Valley Neighborhood 10 North Units 7, 8, and 10, Map No. 13571, in the Carmel Valley Planned District within the Carmel Valley Community Plan area, in the CVPD-OS/SF2/MFI zones; and

WHEREAS, on June 7, 2007, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 221310 (Amending Vesting Tentative Map No. 96-0707) and Easement Abandonment No. 423680, and pursuant to Resolution No. 4268-PC voted to recommend City Council approval of the Project; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the Subdivision Map Act and San Diego Municipal Code section 144.0220; 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 units is 172; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on SEP 04 2007, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Vesting Tentative Map No. 221310 (Amending Vesting Tentative Map No. 96-0707) and Easement Abandonment No. 423680:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan (Land Development Code [LDC] section 125.0440(a) and Subdivision Map Act Sections 66473.5, 66474(a), and 66474(b)).
2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (LDC section 125.0440(b)).
3. The site is physically suitable for the type and density of development (LDC section 125.0440(c) and Subdivision Map Act Sections 66474(c) and 66474(d)).

4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (LDC section 125.0440(d) and Subdivision Map Act Section 66474(e)).

5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare (LDC section 125.0440(e) and Subdivision Map Act Section 66474(f)).

6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision (LDC section 125.0440(f) and Subdivision Map Act Section 66474(g)).

7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (LDC section 125.0440(g) and Subdivision Map Act Section 66473.1).

8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources (LDC section 125.0440(h) and Subdivision Map Act Section 66412.3).

9. The property contains right-of-ways and public service easements which must be vacated to implement the final map in accordance with San Diego Municipal Code section 125.0430; and the City Council finds that:

- (a) there is no present or prospective public use for the streets and easements, either for the facility or purpose for which they were originally acquired or for any other public use of a like nature that can be anticipated; and
- (b) the public will benefit from the abandonments through improved utilization of land; and
- (c) the abandonments are consistent with the Carmel Valley Planned District Ordinance and the Carmel Valley Community Plan; and
- (d) the public facility or purpose for which the streets and easements were originally acquired will not be detrimentally affected by the abandonment or the purpose for which the streets and easement were acquired no longer exists.

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

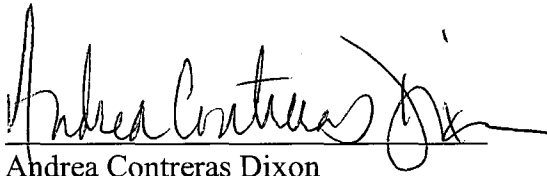
BE IT FURTHER RESOLVED; that pursuant to California Government Code section 66434(g), the following streets and easements, located within the project boundaries as

shown in Tentative Map No. 221310, shall be vacated, contingent upon the recordation of the approved final map for the project:

- a. Drainage Access Easement granted to the City of San Diego per Doc No. 1997-0115742, recorded March 14, 1997.
- b. Survey No. 65 and the Unnamed Roads, granted to the County of San Diego on August 22, 1986 in Book 257, Page 30 and recorded August 24, 1986 in Book 257, Page 185, said streets annexed to the City of San Diego on July 20, 1962.
- c. Easement for Water Lines granted to the City of San Diego per File No. 197370 recorded September 10, 1971.

BE IT FURTHER RESOLVED, that Vesting Tentative Map No. 221310 (Amending Vesting Tentative Map No. 96-0707) and Easement Abandonment No. 423680 is granted to Pardee Homes, LLC, a California Corporation, Applicant/Subdivider and Project Design, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Andrea Contreras Dixon  
Deputy City Attorney

ACD:pev  
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Or.Dept:DSD  
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CONDITIONS FOR VESTING TENTATIVE MAP NO. 221310  
(AMENDING VESTING TENTATIVE MAP NO. 96-0707)  
EASEMENT ABANDONMENT NO. 423680

CARMEL HIGHLANDS VILLAGE PROJECT

ADOPTED BY RESOLUTION NO. R- 302967 ON SEP 04 2007

**GENERAL**

1. This Amendment to Vesting Tentative Map 96-0737 will expire on November 3, 2018, pursuant to the terms of Development Agreement 00-18571.
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. 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.
4. The property contains easements which must be vacated to implement the Final Map in accordance with San Diego Municipal Code section 125.0430.

**AFFORDABLE HOUSING**

5. In accordance with Chapter 14, Article 2, Division 13, the Inclusionary Housing Ordinance, the project will not be required to provide affordable housing. The ordinance states that all projects with an approved Vesting Tentative Map or an approved Development Agreement prior to July 3, 2003 are exempt for the City's

Inclusionary Housing Ordinance. The Vesting Tentative Map and the Development Participation Agreement were negotiated and executed in 1998 before the ordinance was created, which exempts this project from the Inclusionary Housing Ordinance.

## ENGINEERING

6. Pursuant to City Council Policy 600-20, the Owner/Permittee shall provide evidence to ensure that an affirmative marketing program is established.
7. Compliance with all conditions of Site Development Permit No. 423678 be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
8. The subdivider shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP's] maintenance.
9. Prior to the issuance of any construction permit the subdivider shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.
10. The drainage system proposed for this subdivision, as shown on the approved Vesting Tentative Map, is private and subject to approval by the City Engineer.
11. This subdivision is in a community plan area designated in the General Plan as Planned Urbanizing. As such, special financing plans have been, or will be, established to finance the public facilities required for the community plan area. Therefore, in connection with Council approval of the final map, the subdivider shall comply with the provisions of the financing plan then in effect for this community plan area, in a manner satisfactory to the Development Services Manager. This compliance shall be achieved by entering into an agreement for the payment of the assessment, paying a Facilities Benefit Assessment [FBA] or such other means as may have been established by the City Council.
12. The subdivider shall obtain a grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
13. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.

14. The subdivider shall underground existing and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.
15. 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.
16. This tentative map is a Vesting Tentative Map. As such, the subdivider shall pay an additional \$300 fee to the Development Services Department for each final map processed in connection with this vesting tentative map.
17. Prior to building occupancy, the applicant shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.
18. 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. 769830.

### MAPPING

19. "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].
20. "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."
21. 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**

22. All proposed sewer facilities serving this development will be private.
23. The developer shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each condominium will have its own sewer lateral or provide CC&R's for the operation and maintenance of onsite private sewer mains that serve more than one ownership.
24. The developer shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.
25. The Subdivider shall design and construct new 12-inch public on-site water facilities in private driveway and street, in a manner satisfactory to the Water Department Director and the City Engineer.
26. The Subdivider shall grant adequate water easements, including vehicular access to each appurtenance (meters, blow offs, valves, fire hydrants, etc.) for all public water facilities that are not located within fully improved public rights-of-way, satisfactory to the Water Department Director and the City Engineer.
27. The Subdivider shall provide Encroachment Removal and Maintenance Agreement [EMRA] for all public water facilities located within the proposed easement.
28. The Subdivider shall install fire hydrants at locations satisfactory to the Fire Marshal, the Water Department Director and the City Engineer.
29. The Subdivider shall provide CC&Rs for the operation and maintenance of any on-site private water facilities that serve or traverse more than a single dwelling unit or common area.
30. The Subdivider agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities shall be modified at final engineering to comply with standards.



## **PARKS AND OPEN SPACE**

31. Lot "B" shall be transferred from the Subdivider to the City of San Diego as Open Space, within thirty days of the recordation of the final map.
32. Lot "D" shall be transferred to the Subdivider with a building restricted easement from Brush Management concurrent with the conveyance of Lot B and shall be recorded within thirty days of the recordation of the Final Map.

## **INFORMATION:**

- The approval of this Vesting 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 Vesting 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 Vesting Tentative Map, may protest the imposition within ninety days of the approval of this Tentative Map by filing a written protest with the City Clerk pursuant to California Government Code Section 66020.