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RESOLUTION NUMBER R- 304290

DATE OF FINAL PASSAGE OCT 21 2008

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING VESTING TENTATIVE
MAP NO. 369518 AND EASEMENT ABANDONMENT
NO. 130269 FOR SALK INSTITUTE PROJECT NO.
44675.

WHEREAS, the Salk Institute for Biological Studies, a California non-profit public benefit corporation, Applicant/Subdivider, and Latitude 33, Engineer, submitted an application to the City of San Diego for Vesting Tentative Map [VTM] No. 369518 and Easement Abandonment No. 130269, to demolish 29,000 square feet of existing buildings and construct an additional 215,200 square feet of laboratory, research, and development facilities for a total build out of 476,000 square feet on portions of a 26.34 acre site, to be known as the Salk Institute Project, located at 10010 North Torrey Pines Road and legally described as Portion of Parcel 1 of Parcel Map No. 14013, in the RS-1-7, Coastal Overlay (Appealable), Coastal Height Limit Overlay, and Community Plan Implementation Overlay (Area A - CPIOZ-A) Zones within the University Community Plan [UCP]; and

WHEREAS, the VTM proposes the subdivision of a 26.34 site into 4 parcels for scientific research development; and

WHEREAS, a public service easement may be abandoned by filing a tentative map pursuant to the Subdivision Map Act section 66499.20 1/2; and

WHEREAS, a public service easement may be summarily abandoned pursuant to San Diego Municipal Code [SDMC] section 125.1010 if it does not contain active public

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utility facilities that would be affected by the abandonment, the easement has been superseded by relocation, and there are no other public facilities located within the easement; and

WHEREAS, on September 4, 2008, the Planning Commission of the City of San Diego considered VTM No. 369518 and Easement Abandonment No. 130269, and pursuant to Resolution No. 4445 -PC voted to recommend to City Council the approval of the VTM and easement abandonment; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter required the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and 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 OCT 21 2008, 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. 369518 and Easement Abandonment No. 130269:

A. Vesting Tentative Map Findings

1. The proposed subdivision and its design or improvements are consistent with the policies, goals, and objectives of the applicable land use plans. (SDMC § 125.0440(a) and Subdivision Map Act §§ 66473.5, 66474(a), and 66474(b)).
2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code. (SDMC § 125.0440(b)).

3. The site is physically suitable for the type and density of development. (SDMC §125.0440c and Subdivision Map Act §§ 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. (SDMC §125.0440(d) and Subdivision Map Act § 66474(e)).
5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare. (SDMC §125.0440(e) and Subdivision Map Act § 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. (SDMC § 125.0440(f) and Subdivision Map Act § 66474(g)).
7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities. (SDMC §125.0440(g) and Subdivision Map Act § 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. (SDMC §125.0440(h) and Subdivision Map Act § 66412.3).

B. Public Serve Easement Abandonment Findings – SDMC Section 125.1040

1. There is no present or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated. The proposed development is to demolish 29,000 square feet of existing buildings and construct an additional 215,200 square feet of Laboratory and R&D, for a total build out of 476,000 square feet, on an existing 26.34 acre site. The project site is located at 10010 North Torrey Pines Road, southwest corner of North Torrey Pines Road and Torrey Pines Scenic Drive, within the UCP and the North City Local Coastal Program. In 2007, the City of San Diego completed construction of a pump station in the southwest corner of the south mesa of the Institute property. As a part of constructing that pump station, the City of San Diego abandoned certain pre-existing sewer facilities on the property. The Salk Institute is requesting abandonment of the easements related to such pre-existing sewer facilities. There is no present or prospective public use for such sewer easements, since the facilities for which they were originally acquired are now abandoned. There is no other public use of a like nature that can be anticipated for such easements on the project site.

2. The public will benefit from the action through improved utilization of the land made available by the abandonment. The proposed development is to

demolish 29,000 square feet of existing buildings and construct an additional 215,200 square feet of Laboratory and R&D, for a total build out of 476,000 square feet, on an existing 26.34 acre site. The project site is located at 10010 North Torrey Pines Road, southwest corner of North Torrey Pines Road and Torrey Pines Scenic Drive, within the UCP and the North City Local Coastal Program. The land encumbered by the abandoned sewer easements lies in areas of the project site that are not proposed to be developed, namely setback areas and at the corner of North Torrey Pines Road and Salk Institute Drive. As such, there is no impact on the public's use of the land made available by abandoning the easements, and the public will benefit from the abandonment of the sewer easement through improved utilization of the land by the proposed development to expand the Salk Institute Campus.

3. The abandonment is consistent with any applicable land use plan.

The proposed development is to demolish 29,000 square feet of existing buildings and construct an additional 215,200 square feet of Laboratory and R&D, for a total build out of 476,000 square feet, on an existing 26.34 acre site. The project site is located at 10010 North Torrey Pines Road, southwest corner of North Torrey Pines Road and Torrey Pines Scenic Drive, within the UCP and the North City Local Coastal Program. The proposed abandonment of the sewer easements and use of the property is consistent with the City of San Diego Progress Guide and General Plan, the UCP and the North City Local Coastal Program/Land Use Plan as the proposed development and its implementation is also consistent with these adopted policies.

4. The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the abandonment or the purpose for which the easement was acquired no longer exists. The proposed development is to demolish 29,000 square feet of existing buildings and construct an additional 215,200 square feet of Laboratory and R&D, for a total build out of 476,000 square feet, on an existing 26.34 acre site. The project site is located at 10010 North Torrey Pines Road, southwest corner of North Torrey Pines Road and Torrey Pines Scenic Drive, within the UCP and the North City Local Coastal Program. In 2007, the City of San Diego completed construction of a pump station in the southwest corner of the south mesa of the Institute property. As a part of constructing that pump station, the City of San Diego abandoned certain pre-existing sewer facilities on the property. The Salk Institute is requesting abandonment of the easements related to such pre-existing sewer facilities. There is no present or prospective public use for such sewer easements, since the facilities for which they were originally acquired are now abandoned. As such, the purpose for which the easements 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), pump station site and sewer, water, drainage and utilities easement, all

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granted per document recorded December 19, 1961 file No. 219052, Series 2, Book 1961, located within the project boundaries as shown in Vesting Tentative Map No. 369518, shall be abandoned, contingent upon the recordation of the approved VTM for the project.

BE IT FURTHER RESOLVED that Vesting Tentative Map No. 369518 and Easement Abandonment No. 130269, are hereby GRANTED to Salk Institute for Biological Studies, Applicant/Subdivider, and Latitude 33, Engineer, subject to the attached conditions which are attached hereto as Attachment A and are made a part of this resolution by this reference.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

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Nina M. Fain
Deputy City Attorney

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Attachment A: CONDITIONS FOR VESTING TENTATIVE MAP NO. 369518

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CONDITIONS FOR VESTING TENTATIVE MAP NO. 369518

SALK INSTITUTE PROJECT NO. 44675

ADOPTED BY RESOLUTION NO. R- ~~304290~~ OCT 21 2008

GENERAL

1. Vesting Tentative Map [VTM] No. 369518 will expire on OCT 21 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 Parcel Map, unless otherwise noted.
3. Prior to the issuance of the Parcel Map taxes must be paid on this property pursuant to section 66492 of the Subdivision Map Act. A tax certificate, recorded in the office of the County Recorder, must be provided to satisfy this condition.
4. The Parcel Map shall conform to the provisions of Coastal Development Permit No. 126996, Site Development Permit No. 127002, Master Planned Development Permit No. 561577 and Easement Abandonment No. 130269.
5. The Subdivider 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 attorneys' 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 Subdivider 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, Subdivider shall pay all of the costs related thereto, including without limitation reasonable attorneys' fees and costs. In the event of a disagreement between the City and Subdivider 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 Subdivider shall not be required to pay or perform any settlement unless such settlement is approved by Subdivider.

ENGINEERING

6. This Tentative Map is a Vesting Tentative Map [VTM]. As such, the Subdivider shall pay an additional \$300,00 fee to the Development Services Department for each final map processed in connection with this vesting tentative map.
7. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
8. 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.
9. 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 VTM No. 369518 and covered in these special conditions will be authorized.
10. 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.
11. All public sewer facilities shall be designed and constructed in accordance with the most current edition of the City of San Diego Sewer Design Guidelines.
12. All public water facilities shall be designed and constricted in accordance with the most current edition of the City of San Diego's Water Facility Design Guidelines and City regulations, standards, and practices relating thereto.

MAPPING

13. "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).
14. "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."
15. The Parcel 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 Bearing 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.

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. At the time of final engineering, it will be determined if off site improvements will be required to provide adequate and acceptable levels of service.
- 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 90 days of the approval of this Vesting 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 pursuant to San Diego Municipal Code section 142.0607.

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