

RESOLUTION NUMBER R- 304445

DATE OF FINAL PASSAGE NOV 18 2008

RESOLUTION APPROVING VESTING TENTATIVE MAP NO.
498719 AND EASEMENT ABANDONMENT NO. 589137 FOR
ARCHSTONE MISSION GORGE – PROJECT NO. 142570.

WHEREAS, ASN Mission Gorge LLC, A Delaware Limited Liability Company, Applicant/Subdivider, and Rick Engineering Company, Engineer, submitted an application with the City of San Diego for a Vesting Tentative Map, No. 498719, and Easement Abandonment No. 589137, for the subdivision of a 10.2 acre site into one lot for the construction of a 444 residential condominium development. The project site is located at 6850 Mission Gorge Road in the RM-3-7 Zone within the Navajo Community Planning area, Community Plan Implementation Overlay Zone (CPIOZ) Area B, Mobile Home Park Overlay Zone (MHPOZ), and the Federal Aviation Administration (FAA) Part 77 Noticing Area for Montgomery Field; legally described as Lot 1 of Mission Valley Village Unit No. 2, in the City of San Diego, County of San Diego, State of California, according to Map Thereof No. 6315, filed in the Office of the County Recorder of San Diego County, February 28, 1969; and

WHEREAS, the Map proposes the subdivision of a 10.2 acre site into one lot for a 444 unit residential condominium development; and

WHEREAS, an Environmental Impact Report (EIR) No. 142570 was prepared in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the Subdivision Map Act and Section 144.0220 of the Municipal Code of the City of San Diego; 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 444; and

WHEREAS, on October 16, 2008, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. No. 498719 and Easement Abandonment No. 589137 and pursuant to Resolution No. 4456-PC voted to recommend City Council approval of the map; 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, on November 18, 2008, the City Council of the City of San Diego considered Vesting Tentative Map No. 498719 and Easement Abandonment No. 589137, and pursuant to Sections 125.0440 (tentative map), and 125.1040 (easement abandonment) 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; and

WHEREAS, the matter was set for public hearing on November 18, 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. 498719 and Easement Abandonment No. 589137:

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan San Diego Municipal Code and Land Development Code [SDMC/LDC] Section 125.0440(a) and Subdivision Map Action 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 (SDMC/LD Section 125.0440(b)).
3. The site is physically suitable for the type and density of development (SDMC/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 avoidable injure fish or wildlife or their habitat (SDMC/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 (SDMC/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 (SDMC/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 (SDMC/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 (SDMC/LDC Section 125.0440(h) and Subdivision Map Act Section 66412.3).
9. The property contains easements which must be vacated to implement the Final Map in accordance with San Diego Municipal Code 125.0430.
10. That said 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 public service easements, located within the project boundaries as shown in

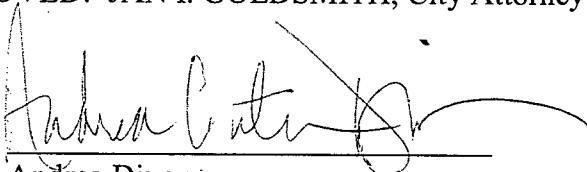
Vesting Tentative Map No. 498719, shall be vacated, contingent upon the recordation of the approved final map for the project.

- a. The public utilities easement, San Diego Gas & Electric, plotted on March 19, 1959, Book 7557, Page 375.
- b. The public utilities easement, San Diego Gas & Electric, plotted on March 19, 1959, Book 7557, Page 429.
- c. The public utilities and incidental purposes plotted on Map 4375 and Map 6315.
- d. The Pacific Telephone and Telegraph easement plotted on December 17, 1959, Book 8051, Page 392.

BE IT FURTHER RESOLVED, that Vesting Tentative Map No. 498719 and Easement Abandonment No. 589137, is granted to ASN Mission Gorge LLC, a Delaware Limited Liability Company, Applicant/Subdivider and Rick Engineering Company, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Andrea Dixon
Deputy City Attorney

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11/21/08 REV.COPY
11/25/08 REV. COPY
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Or.Dept:DSD
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CONDITIONS FOR VESTING TENTATIVE MAP NO. 498719

AND EASEMENT ABANDONMENT NO. 589137

ARCHSTONE MISSION GORGE – PROJECT NO. 142570

ADOPTED BY RESOLUTION NO. R-304445 on November 18, 2008

GENERAL

1. This Tentative Map will expire on November 18, 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 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 Site Development Permit No. 498703.
6. "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 §66499.37. City shall promptly notify subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify subdivider of any claim, action, or proceeding, or 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 the settlement is approved by the subdivider."
7. Prior to recordation of the Final Map, the Subdivider shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration (FAA).

AFFORDABLE HOUSING

8. Prior to filing a final map or the issuance of building permit, the Subdivider shall show evidence that relocation assistance has been paid to displaced tenants under San Diego Municipal Code provisions for Tenant Relocation Regulations (Chapter 14, Article 3, Division 6, §143.0630) and San Diego Housing Commission Policy 300.401.
9. Prior to the 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), and shall enter into an Agreement with the San Diego Housing Commission to ensure that the Inclusionary and Voluntary affordable units (a total of 20 percent required, with 10 percent of the affordable units at 65 percent AMI and 10 percent of affordable units at 110 percent to 140 percent of AMI) are built and occupied by the appropriate households.

ENGINEERING

10. The Subdivider shall construct City standard curb ramps with truncated domes at the project entrance on Mission Gorge Road.
11. If the engineering analysis shows the development will alter the floodway or floodplain boundaries of the Special Flood Hazard Area, the subdivider must obtain a Conditional Letter of Map Revision from the Federal Emergency Management Agency prior to issuance of a grading, engineering, or building permit. The Subdivider must provide all documentation, engineering calculations, and fees which are required by FEMA.
12. Fill placed in the Special Flood Hazard Area for the purpose of creating a building pad must be compacted to 95% of the maximum density obtainable with the Standard Proctor Test Fill method issued by the American Society for Testing and Materials (ASTM Standard D-698). Granular fill slopes must have adequate protection for a minimum flood water velocity of five feet per second.
13. The Subdivider shall denote on the final map and the improvement plans "Subject to Inundation" all areas lower than the base flood elevation plus 2 feet.
14. The Subdivider shall enter into an agreement with the City waiving the right to oppose a special assessment district initiated for the construction of flood control facilities and their perpetual maintenance.
15. No certificates of occupancy will be granted or bonds released for development associated with this project until a Letter of Map Revision (LOMR) is obtained from FEMA. The LOMR is issued based upon as-built site conditions; therefore, the subdivider must allow time to complete this process. The Subdivider must

provide all documentation, engineering calculations, and fees which are required by FEMA.

16. Prior to the issuance of any construction permit, the Subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.
17. Prior to the issuance of any construction permit, the Subdivider shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the Municipal Code, into the construction plans or specifications.
18. Prior to the issuance of any construction permit, the Subdivider shall incorporate and show the type and location of all post construction Best Management Practices (BMP's) on the final construction drawings, consistent with the approved Water Quality Technical Report.
19. The drainage system for this project shall be private and will be subject to approval by the City Engineer.
20. The Subdivider shall obtain a bonded 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.
21. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 99 08 and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CA S0108758), 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.
22. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received. In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 99 08 DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 99 08 DWQ.
23. The Subdivider shall obtain an Encroachment Maintenance and Removal Agreement for wall, landscape and irrigation located in the City's right-of-way.
24. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.

25. 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.
26. 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.

TRANSPORTATION MITIGATION

27. All off site transportation mitigation shall be completed within the time frames outlined in the Environmental Impact Report (EIR), to the satisfaction of the City Engineer.
28. The Subdivider shall offer a 26 foot wide irrevocable offer of dedication (IOD) for a future right-of-way for a street on the north side of the project site, to the satisfaction of the City Engineer.
29. The Subdivider shall relinquish access rights onto Mission Gorge Road except for the three driveways which access the project site, to the satisfaction of the City Engineer.
30. The Subdivider shall dedicate an additional 15 feet of right-of-way and shall construct travel lanes, raised median, curb, gutter and 5 foot sidewalks with a 92 foot curb-to-curb within a 114 feet to 117 feet right-of-way, with three travel lanes and a bike lane in each direction on Mission Gorge Road, to the satisfaction of the City Engineer.
31. The Subdivider shall construct a signalized intersection at Greenbrier Avenue / Mission Gorge Road with signalized interconnect with the existing traffic signal at Old Cliffs Road / Mission Gorge Road, a 250 foot left turn pocket, two through and one through/right turn lane for eastbound, a 250 foot left turn pocket, two through and one through right turn lane for the westbound traffic, one left and one through/right turn lane for northbound traffic on Greenbrier and a 60 foot driveway with one left and one through/right turn lane for southbound project traffic, to the satisfaction of the City Engineer.

32. The Subdivider shall construct two 26 foot wide emergency driveways onto Mission Gorge Road, with gate-controlled access and a Knox key box, to the satisfaction of the City Engineer.
33. The Subdivider shall contribute \$581,351 toward the cost of the Alvarado Canyon Road Realignment Project (T_12 of the current Navajo Community Public Facilities Financing Plan).
34. The Subdivider shall provide and maintain a private shuttle connecting the project to the trolley station and nearby retail services. Consequently, the City and the project Subdivider shall coordinate to provide this ridesharing service, which should be satisfactory to both parties. The ridesharing service will be limited to the peak hours from 6:00 AM through 10:00 AM in the morning and 3:00 PM through 7:00PM in the evening.

MAPPING

35. "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).
36. "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."
37. 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.

WASTEWATER

38. All proposed sewer facilities serving this development shall be private.
39. The Subdivider shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved Tentative Map may require modification based on the accepted sewer study.
40. The Subdivider shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.
41. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.
42. No medians shall be installed within 5 feet of any public sewer facilities.
43. All existing public manholes that will be temporarily covered by proposed medians (prior to completion of the capital improvement project that will relocate the sewer main) shall be raised and concrete encased, satisfactory to the Metropolitan Wastewater Department Director.
44. The Subdivider 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 private sewer facilities that serve more than one ownership.

WATER

45. Prior to the issuance of any building permits, the Subdivider shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway, and the removal of all existing unused services, within the right-of-way adjacent to the project site, in a manner satisfactory to the Director of Public Utilities and the City Engineer.
46. Prior to the issuance of any building permits, the Subdivider shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Director of Public Utilities Director and the City Engineer.
47. Prior to the issuance of any certificates of occupancy, all public water facilities shall be complete and operational in a manner satisfactory to the Director of Public Utilities and the City Engineer.
48. 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. Public water facilities, and associated easements, as shown on approved Exhibit "A" shall be modified at final engineering to comply with standards.

INFORMATION:

- This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.
- This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by Education Code Section 17620, in accordance with procedures established by the Director of Building Inspection.
- 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.