

RESOLUTION NUMBER R-304582

DATE OF FINAL PASSAGE JANUARY 6, 2009

APPROVING VESTING TENTATIVE MAP NO. 481936 AND  
EASEMENT VACATION NO. 368513 FOR THE CASA MIRA  
VIEW PROJECT.

WHEREAS, Scripps Mesa Developers, LLC, a California Limited Liability Company, Applicant/Subdivider, and John D. Leppert, Engineer, submitted an application to the City of San Diego for a vesting tentative map (Vesting Tentative Map [VTM] No. 481936) and easement vacation (Easement Vacation No. 368513), for the subdivision of land to develop a condominium project with 1,848 condominium units for the Casa Mira View Project [Project], located on the east side of Westview Parkway, north of Mira Mesa Boulevard, and legally described as Parcels 1 through 6, inclusive, of Parcel Map No. 16194, filed August 21, 1990, in the Office of the County Recorder, in the Mira Mesa Community Plan area, in the RM-3-7 zone which is proposed to be rezoned to the RM-3-8 zone; and

WHEREAS, the Map proposes the subdivision of a 41.31-acre site into six lots for condominium development; 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 1,848; and

WHEREAS, on October 2, 2008, the Planning Commission of the City of San Diego considered VTM No. 481936 and Easement Vacation No. 368513, and pursuant to Resolution No. 4449-PC voted to recommend City Council approval of the vesting tentative 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, 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 January 6, 2009, 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 VTM No. 481936 and Easement Vacation No. 368513:

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 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 6474(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 (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 an easement which must be vacated to implement the Final Map in accordance with San Diego Municipal Code section 125.0430.

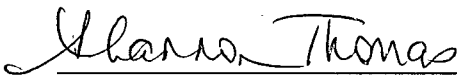
The above findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that pursuant to California Government Code section 66434(g), portions of Public Sewer and Storm Drain Easement per Document Recorded on August 26, 1977 as Instrument No. 77-351287, or O.R., portions of Drainage, Water Access and Sewer Facilities Easement dedicated per Map No. 7988, portions of Antenna Easement per Document recorded on November 23, 1971, as Instrument No. 71-273372, of O.R., portions of Sewer and Water Easement per Document recorded on November 23, 1977, as Instrument No. 77-486328, O.R., portions of Public Utilities Easement per Document recorded on September 21, 1992, as Instrument No. 1992-0597862, of O.R., portions of Water and Sewer Easement dedicated per Map No. 7988, located within the project boundaries as shown in Vesting Tentative Map No. 481936, shall be vacated, contingent upon the recordation of the approved final map for the project and that said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference:

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.
2. The public will benefit from the action through improved utilization of the land made available by the abandonment.
3. The abandonment is consistent with the Mira Mesa Community Plan.
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.

BE IT FURTHER RESOLVED, that VTM No. 481936 and Easement Vacation No. 368513 is granted to Scripps Mesa Developers, LLC, a California Limited Liability Company, Applicant/Subdivider and John D. Leppert, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Shannon Thomas  
Deputy City Attorney

SRE:cw:pev  
10/09/08  
11/07/08 COR.COPY  
12/24/08 COR.COPY2  
01/13/09 REV.  
Or.Dept:DSD  
R-2009-447  
MMS: #6880

CONDITIONS FOR TENTATIVE MAP NO. 368513

CASA MIRA VIEW PROJECT

ADOPTED BY RESOLUTION NO. R-304582 ON JANUARY 6, 2009

**GENERAL**

1. This Vesting Tentative Map [VTM] will expire on January 6, 2012.
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 VTM expiration date, a Final Map to consolidate the existing lots into six lots shall be recorded in the Office of the County Recorder.
4. The Final Map shall conform to the provisions of Planned Development Permit [PDP] No. 294375/Site Development Permit [SDP] No. 294373.
5. 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.

**AFFORDABLE HOUSING**

6. Prior to the recordation of the Final Map, the Subdivider shall enter into an affordable housing agreement with the Housing Commission to provide affordable housing units in compliance with the Affordable Housing Requirements of the City's Inclusionary Housing Ordinance (Chapter 14, Article 2, Division 13 of the Land Development Code [LDC]).

**ENGINEERING**

7. Pursuant to City Council Policy 600-20, the Subdivider shall provide evidence to ensure that an affirmative marketing program is established.

8. The Subdivider shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practice [BMP's] maintenance.
9. Prior to the issuance of any construction permit, the Subdivider shall incorporate any construction BMP's necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code [SDMC], into the construction plans or specifications.
10. 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.
11. The Final Map shall comply with the provisions of PDP No. 294375/SDP No. 294373.
12. The drainage system proposed for this subdivision, as shown on the approved VTM is subject to approval by the City Engineer, including the realigned storm drain and its appurtenances for maintenance.
13. Prior to the issuance of grading permits, a geotechnical investigation report shall be required that specifically addresses the proposed grading plans and cites the City's account number and Drawing number. The geotechnical investigation shall provide specific geotechnical grading recommendations and include geotechnical maps, using the grading plan as a base, that depict recommended location of subdrains, location of outlet headwalls, anticipated removal depth, anticipated over-excavation depth, and limits of remedial grading.
14. 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.
15. Compliance with all conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map.
16. 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.
17. 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 SWRCB Order No. 99-08 DWQ.

18. All driveways and curb openings shall comply with City Standard Drawings G-14A, G-16 and SDG-100.
19. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
20. 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.
21. 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

22. "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].
23. "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."
24. 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 AND WATER**

25. 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 will require modification based on the accepted sewer study.
26. The Subdivider shall abandon the existing onsite public sewer main in the south portion of this lot or it will be converted to private, satisfactory to the Director of Public Utilities. All associated public sewer easements shall be vacated, satisfactory to the Metropolitan Wastewater Department Director.
27. The Subdivider shall provide evidence, satisfactory to the Director of Public Utilities, 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.
28. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.
29. 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.
30. All onsite sewer facilities shall be private.
31. The Subdivider shall grant adequate water easements, including vehicular access to each appurtenance; including meters, blow offs, valves, fire hydrants, et cetera, for all public water facilities that are not located within fully improved public rights of way, satisfactory to the Director of Public Utilities.
32. Prior to recording the final map, the Subdivider shall properly abandon the portions of existing 12-inch diameter water main per City drawing number 16126-D which traverses the site in a manner satisfactory to the Director of Public Utilities.
33. The Subdivider shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two fire hydrants or thirty dwelling units are located on a dead end main then the Subdivider shall install a redundant water system satisfactory to the Director of Public Utilities.



34. The Subdivider shall design and construct all irrigation systems to utilize reclaimed water in a manner satisfactory to the Director of Public Utilities.
35. The Subdivider shall provide CC&R's for the operation and maintenance of on site private water facilities that serve or traverse more than one lot or unit.
36. The Subdivider agrees to design and construct all proposed public water facilities, including services, meters, and easements in accordance with established criteria in the most current edition of the City San Diego Water Facility Design Guidelines and regulations, standards, and practices pertaining thereto. Proposed facilities that do not meet the current standards for construction, operation, maintenance and access, shall be private.
37. Prior to the approval of any public improvement drawings, the Subdivider shall provide acceptable potable and reclaimed water studies satisfactory to the Director of Public Utilities. The studies shall plan the pressure zone(s) and water facilities necessary to serve this development, including potable redundancy, consistent with previously accepted studies in this area. If phasing of the development is proposed, then a phasing plan shall be included in the studies.

**INFORMATION:**

- The approval of this VTM by the 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 VTM 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 VTM, 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.

- 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 SDMC section 142.0607.