

RESOLUTION NUMBER R- 304799

DATE OF FINAL PASSAGE APR 14 2009

RESOLUTION APPROVING TENTATIVE PARCEL MAP
NO. 514660/EASEMENT ABANDONMENT NO. 613849 –
JACOB HEALTH CARE CENTER, LLC. - PROJECT NO.
146595.

WHEREAS, Jacob Health Care Center, LLC., Applicant/Subdivider submitted an application to the City of San Diego for a tentative parcel map (Tentative Parcel Map No. 514660) and easement vacation (Easement Vacation No. 613849) for the subdivision of an existing parcel into two parcels for the expansion of an existing health care facility known as the Jacob Health Care Center project, located at 4075 54th Street, and legally described as Parcel 2 of Parcel Map No. 20223 in the Central Urbanized Planned District, within the Eastern Area neighborhood of the Mid-City Communities Plan area in the RM-1-1 zone; and

WHEREAS, the applicant seeks to waive the requirement to underground existing overhead utilities, pursuant to Council Policy 600-25; and

WHEREAS the Map proposes the subdivision of a 3.9-acre site into two parcels for a health care 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 San Diego Municipal Code section 144.0220; and

WHEREAS, on February 19, 2009, the Planning Commission of the City of San Diego considered Tentative Parcel Map No. 514660/Easement Vacation No. 613849, and pursuant to

Resolution No. 4493-PC voted to recommend City Council approval of the of the map and easement vacation; 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 APR 14 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 Tentative Parcel Map No. 514660/Easement Vacation No. 613849 including the waiver of the requirements to underground existing overhead utilities:

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 Action Sections 66473.5, 66474(a), and 66474(b)). The proposed subdivision would contribute to the development of a balanced community through the expansion of the existing healthcare facility by providing a needed service in an area that contains similar medical uses. The Mid-City Communities Plan's Urban Design and Economic Development Elements call for the location and expansion of health care facilities along 57th Street between El Cajon Boulevard and University Avenue. The project is required to upgrade the sewer easements as part of the subdivision and expansion. Therefore, the proposed subdivision and its design or improvement would be consistent with the policies, goals, and objectives of the applicable land use plan

2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code (LDC section 125.0440(b)). The proposed subdivision would comply with the development regulations applied to health care facilities in Section 141.0413 of the LDC and the applicant has requested the approval of a Conditional Use Permit to allow the facility expansion, as required by the underlying RM-1-1 zone. This application includes a request to deviate from the street frontage and side yard setback requirements of the LDC. Deviations to the development regulations are permitted with the approval of a Planned Development Permit. The deviations are considered minor and determined to be consistent with the purpose and intent of the RM-1-1 zone. Given the location

of the project, its context in the neighborhood and the overall design of the development, staff is supportive of the requested deviations. Therefore, the proposed subdivision would comply with the applicable zoning and development regulations.

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)). The proposed subdivision would comply with the development regulations applied to health care facilities in Section 141.0413 of the LDC and the applicant has requested the approval of a Conditional Use Permit [CUP] to allow the facility expansion, as required by the underlying RM-1-1 zone. The bulk, scale and positioning of the proposed development would be compatible with the existing and future surrounding land uses and the site is physically suitable for the type and density of the proposed development.

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)). An Environmental Initial Study [EIS] was conducted for the proposed subdivision in accordance with the California Environmental Quality Act [CEQA] that determined the project could have potential adverse impacts to Historical resources (Archeology), Paleontological Resources, and Transportation/Circulation. A Mitigation, Monitoring and Reporting Program [MMRP] has been created for the project with measures that would reduce the potential adverse impacts to below a level of significance. No sensitive biology has been identified onsite and the project is not within or adjacent to the Multiple Habitat Planning Area [MHPA]. Therefore, 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.

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)). The proposed subdivision and improvements have been designed to comply with all applicable Federal, State and local land use policies including the California Subdivision Map Act and the City of San Diego Land Development Code. Further, the proposed subdivision and improvements would be permitted, constructed and inspected in accordance with the California Building Code. Therefore, the design of the subdivision or the proposed improvements would not be detrimental to the public health, safety, and welfare.

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)). The proposed subdivision would maintain and, as required, improve the existing public rights-of-ways, general utility easements and access easements. The project is required to upgrade the sewer easement that serves the site and to vacate the unused easement portions. The condition to provide a mutual access easement between Parcel 1 and Parcel 2 is included with this action. Therefore, the design of the subdivision and the associated improvements would not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

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)).** The design of the proposed subdivision through building materials, site orientation, architectural treatments and the placement and selection of plant materials provide to the extent feasible, for future passive or natural heating and cooling opportunities.

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)).** The site is currently developed with a health care facility. The proposed project would expand the facility and would not result in the creation or removal of any residential units. All necessary public resources are provided to the existing, developed site and the proposed subdivision and expansion have been conditioned to provide all required service upgrades.

9. **The property contains a public service easement which must be abandoned to implement the Parcel Map in accordance with San Diego Municipal Code sections 125.1001 through 125.1050.** The portion of sewer easement which will no longer be required with the granting of the new, larger sewer easement would be abandoned via the Parcel Map and has been included as a condition on this Tentative Parcel Map. All associated exhibits include the easement abandonment and staff is supportive of the action.

10. **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 (LDC section 125.1040(a)).** The approximately 10-foot wide by 100-foot long sewer easement that is proposed to be abandoned is no longer needed because approval of this action would require the recordation of a new 35-foot wide sewer easement that meets current standards and can accommodate the expansion of the facility.

11. **The public will benefit from the action through improved utilization of the land made available by the abandonment (LDC section 125.1040(b)).** The requested sewer easement abandonment would allow the sewer easement to be enlarged to current standards and relocated in a manner that allows the project site to be more suitably developed. Relocation of the sewer easement allows for a more logical building footprint layout and the maximization of parking.

12. **The abandonment is consistent with any applicable land use plan (LDC section 125.1040(c)).** The requested sewer easement abandonment would allow the sewer easement to be enlarged to current standards and relocated in a manner that allows the project site to be more suitably developed. Relocation of the sewer easement allows for a more logical building footprint layout and the maximization of parking. The requested abandonment is limited in size and scope and would not interfere with the goals and objectives of the Mid-City Communities Plan. Therefore, the requested abandonment would not conflict with the Mid-City Communities Plan.

13. **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 (LDC section 125.1040(d)). The approximately 10-foot wide by 100-foot long sewer easement that is proposed to be abandoned is no longer needed because approval of this action would require the recordation of a new 35-foot wide sewer easement that meets current standards and can accommodate the expansion of the facility.

14. 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. The subdivision is requesting a waiver from the requirement to underground existing overhead utilities. The Development Services Department has reviewed the proposed waiver and determined that the waiver is consistent with City Council Policy 600-25 in that the overhead facilities in the abutting public right-of-way involves a short span of overhead facility (less than 600 feet in length).


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), an approximately 10-foot wide by 100-foot long portion of the sewer easement located in the southeast corner of the project site, within the project boundaries as shown in Tentative Parcel Map No. 514660, shall be vacated, contingent upon the recordation of the approved final map for the project.

BE IT FURTHER RESOLVED, that Tentative Parcel Map No. 514660/Easement Vacation No. 613849, is hereby granted to Jacob Health Care Center, LLC., Applicant/Subdivider, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Keith Bauerle
Deputy City Attorney

KB:hm:pev
03/26/09
Or.Dept:DSD
R-2009-964
MMS#8192

CONDITIONS FOR TENTATIVE PARCEL MAP NO. 514660/EASEMENT

ABADONMENT NO. 613849

JACOB HEALTH CARE CENTER, LLC.

ADOPTED BY RESOLUTION NO. R-304799 ON APR 14 2009

GENERAL:

1. This Tentative Map will expire APR 14, 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 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 Conditional Use Permit [CUP], No. 514658/Planned Development Permit [PDP] No. 514659.
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. The 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.

ENGINEERING:

6. The Subdivider shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP] maintenance.
7. Prior to the issuance of any construction permit, the Subdivider shall incorporate any construction BMP necessary to comply with Chapter 14, Article 2, Division 1

(Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

8. The drainage system proposed for this subdivision, as shown on the approved Tentative Parcel Map, is private and subject to approval by the City Engineer.
9. 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 Job Order No. and Drawing No. 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.
10. 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.
11. 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.
12. 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.
13. The Subdivider shall underground existing and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.
14. The Subdivider shall ensure that all existing onsite utilities serving the subdivision shall be under-grounded 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.

15. 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 Parcel 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:

16. "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].
17. "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."
18. 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 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:

19. The developer shall install all sewer facilities required by the accepted sewer study necessary to serve this development. Sewer facilities as shown on the

approved Tentative Parcel Map will require modification based on the accepted sewer study.

20. The developer shall grant adequate sewer, and/or access easements, including vehicular access to each manhole, for all public sewer facilities that are not located within public rights of way, satisfactory to the City of San Diego Director of Public Utilities. Vehicular access roadbeds shall be a minimum of 20 feet wide and surfaced with suitable approved material, satisfactory to the City of San Diego Director of Public Utilities.
21. No structures or landscaping shall be installed in or over any sewer easement that would inhibit vehicular access to replace a section of main or provide access to any manhole or isolated section of main.
22. No approved improvements or landscaping, including private sewer facilities, grading and enhanced paving, shall be installed in or over any easement prior to the applicant obtaining an Encroachment Maintenance and Removal Agreement.
23. No trees shall be installed within 10 feet of any sewer facilities or in any sewer access easement. No shrubs exceeding three feet in height at maturity shall be installed within 10 feet of any public sewer main or within access easements.
24. No other utilities, including gas, electric, telephone and fiber optic cable, shall be located within 10 feet of any public sewer main when these utilities are installed parallel to the sewer main. General Utility Easements [GUE] in private roads and driveways shall be sized with sufficient width to provide for other agencies' facilities. In side yards or other non street areas, a GUE must be dedicated for the exclusive use of the City of San Diego or the Metropolitan Wastewater Department. Other agencies will require separate easements.
25. No permanent structures and substructures shall be installed within 10 feet of any public sewer facilities or in any sewer access easement.
26. The developer shall relocate onsite public sewer mains, satisfactory to the City of San Diego Director of Public Utilities. All associated public easements shall be vacated, satisfactory to the City of San Diego Director of Public Utilities.
27. For public onsite sewer facilities located within a gated area, the developer shall provide the Wastewater Collection Divisions with keyed access satisfactory to the City of San Diego Director of Public Utilities. The City will not be held responsible for any issues that may arise relative to possession of the keys.
28. The developer shall design and construct all proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.

29. The developer 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.

GEOLOGY:

30. Prior to the issuance of a grading permit, a geotechnical report shall be submitted and approved by the City Engineer in accordance with the City of San Diego's Technical Guidelines for Geotechnical Reports."

TRANSPORTATION:

31. At the recordation of the Parcel Map, the applicant shall record a Mutual Access Easement Agreement between proposed Parcel 1 and proposed Parcel 2, satisfactory to the City Engineer.

INFORMATION:

- The approval of this Tentative Parcel 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 Parcel 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 Parcel Map, may protest the imposition within ninety days of the approval of this Tentative Parcel 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.