

RESOLUTION NUMBER R- 307848

DATE OF FINAL PASSAGE NOV 26 2012

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING VESTING TENTATIVE MAP  
AND EASEMENT VACATION NO. 931745 FOR CASA MIRA  
VIEW II - PROJECT NO. 264497.

WHEREAS, Garden Communities RP, LLC, Subdivider, and Leppert Engineering Corporation, Engineer, submitted an application to the City of San Diego for a Vesting Tentative Map No. 931745 and easement vacation for the Casa Mira View II Project which consists of the construction of 319 residential condominium units within one building wrapped around a six-level parking garage totaling approximately 554,846 square feet. The project site is located at 11005 Westview Parkway, intersection of Westview Parkway and Galvin Avenue, in the RM-1-1 Zone, proposed to be rezoned to the RM-3-8 Zone, Airport Influence Overlay Zone (Review Area 2 - MCAS Miramar), MCAS Miramar Overflight Notification area, FAA Part 77 Noticing Area, Cost Reimbursement District (Mesa Shopping Center East), Residential Tandem Parking Overlay Zone, within the Mira Mesa Community Plan Area. The property is legally described as the East 10 acres of the North 25 acres of the Northeast Quarter of the Northeast Quarter of Section 31, Township 14 South, Range 2 West, San Bernardino Meridian, in the City of San Diego, in the County of San Diego, State of California, according to the official plat thereof; excepting there from the North 60 feet thereof lying within the California State Highway II-SD-15; also excepting there from portion deeded to San Diego Unified School District by deed recorded June 13, 1990, as Document No. 1990-321211; also excepting there from portion taken by City of San Diego by condemnation recorded April 17, 1992, as Document No. 1992-224216;

also excepting there from portion deeded to United States of America by deed recorded January 9, 1995, as File No. 1995-10140; and

WHEREAS, the Map proposes the Subdivision of a 7.09 acre-site into one lot for residential development; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to Subdivision Map Act sections 66490 and 66491(b)-(f) and San Diego Municipal Code section 144.0220; and

WHEREAS, the subdivision is a condominium project as defined in California Civil Code section 1351 and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is 319; and

WHEREAS, on October 4, 2012, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 931745 and Easement Vacation, and pursuant to Resolution No. PC- 4842, the Planning Commission voted 6-0, 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 26, 2012, the City Council of the City of San Diego considered Vesting Tentative Map No. 931745 and Easement Vacation pursuant to San Diego Municipal Code section 125.0440 and 125.0140, and Subdivision Map Act section 66428,

received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to Vesting Tentative Map No. 931745:

**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 § 125.0440(a) and Subdivision Map Action §§ 66473.5, 66474(a), and 66474(b)).** The proposed project is located within the Residential Land Use of the Mira Mesa Community Plan and is designated Low-medium density (10-15 dwelling units/net acre). The low-medium density allows for multifamily development in the form of duplexes, townhomes and low-scale apartments. The project proposes a redesignation from low-medium density (10-15 dwelling units/net acre) to medium-high density (30-45 dwelling units/net acre). The medium-high density consists of relatively large parcels that offer wide latitude in site design and building type. The medium-high density is proposed for sites that are convenient to freeways, major streets, public transit, commercial services and recreational services. The project's proposed 319 residential units are consistent in density and intensity with the Casa Mira View project, which is immediately north of the project site and is currently under construction. The project will increase the supply of housing in the community that will be located within walking distance of transit, shopping and employment opportunities. Therefore, the proposed project will not adversely affect the Mira Mesa Community Plan Area, as proposed to be amended.

**2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code, including any allowable deviations pursuant to the land development code.** The proposed project complies with the relevant regulations of the Land Development Code. Conditions of approval require the continued compliance with all relevant regulations of the City of San Diego effective for this site and incorporated into Vesting Tentative Map No. 931745. The project proposes a total of four (4) deviations from the Land Development Code. These deviations provide for a more desirable project.

A deviation is being requested for the maximum height of the proposed structures. The maximum height proposed within the project is isolated at several locations at 79 feet above finished grade, where 50 feet is otherwise allowed. While the elevation of the flat roofs for the five story building portions is much closer to the 50 foot requirement, the requested height deviation allows for greater flexibility for the design of the roofline and provides an opportunity to increase the area of open space being provided. While the entire project meets all but one of the required setback requirements, the increase in allowable building height enables the project to greatly exceed the setback requirements in several locations.

A deviation is being requested to use less than 33% of the project's allowable Floor Area Ratio (FAR) for structured parking. The efficiency of the proposed "wrap" style architecture results in structured parking that takes up less than 33% of the allowable FAR. Wrap style architecture has the buildings surrounding an interior parking structure that is not visible from outside the development. The project proposes to use 31.6% of the available FAR for structured parking. The FAR being utilized for all remaining buildings is 79.8% of the allowable FAR, where a maximum of 66.7% is otherwise allowed.

A deviation is being requested to permit a variable height retaining wall, ranging from 0 feet to a maximum of 16 feet, within the south side yard setback, where 6 feet is the allowable maximum retaining wall height. The proposed retaining wall will exceed the maximum height allowed within the side yard setback as well as the maximum height of the retaining wall. The proposed retaining wall will not be visible to the public and will essentially act as a continuation of the existing 15 foot maximum height retaining wall on the adjacent property.

A deviation is being requested to reduce the south side yard setback from 80'-4" to 34'-4." The proposed project is one parcel and the side yard setback requirement is the larger of 5 feet or 10% of the overall width of the parcel. Since the project is one parcel, the required side yard setback is 80'-4." Reducing the south side yard setback to 34'-4" allows the north setback distance to increase to approximately 270 feet. This larger north setback enables the proposed project to provide access to the existing project located adjacent to and east of the site. This larger north setback also allows for the proposed project to provide a private park site at the north end of the project site. As a result, the proposed project conforms with the overall policies and regulations of the City of San Diego and represents a desirable project for the site and the Mira Mesa community.

**3. The site is physically suitable for the type and density of development (San Diego Municipal Code § 125.0440(c) and Subdivision Map Act §§ 66474(c) and 66474(d)).** The proposed development is consistent with the RM-3-8 Zone and the medium-high density (30-45 dwelling units/net acre) land use designation within the Mira Mesa Community Plan. The proposed density is consistent with Casa Mira View project which is immediately adjacent to the project site to the east and the land use designation is consistent with the surrounding area. The entire Casa Mira View project includes the adjacent 41 acres to the immediate east and the Casa Mira View II project. The original Casa Mira View project is the 41 acres to the immediate east was approved for 1,848 multi-family units by the City Council on June 6, 2009. Although developed as a separate project with the name Casa Mira View II, this project would be considered the fourth and final phase of the overall Casa Mira View development.

**4. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat (San Diego Municipal Code § 125.0440(d) and Subdivision Map Act § 66474(e)).** The proposed development is consistent with the RM-3-8 Zone and the medium-high density (30-45 dwelling units/net acre) land use designation within the Mira Mesa Community Plan. The proposed density is consistent with Casa Mira View project which is immediately adjacent to the project site to the east and the land use designation is consistent with

the surrounding area. The proposed development would act as the fourth phase of the overall development which consists of Casa Mira View and Casa Mira View II projects. Environmentally sensitive lands are not located within the project site; therefore the project does not cause damage to environmentally sensitive lands for fish and 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 (San Diego Municipal Code § 125.0440(e) and Subdivision Map Act § 66474(f)).** The proposed development will construct all necessary sewer and water facilities to serve the occupants of the development. The development will incorporate construction Best Management Practices (BMP) necessary to comply with Chapter 14 Article 2, Division 1 of the San Diego Municipal Code. The development will prepare and implement a Water Pollution Control Plan in accordance with the guidelines in Appendix E of the City's Storm Water Standards. The development will enter into a Maintenance Agreement for ongoing permanent BMP maintenance. The development will comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 2009-0009-DWQ and Amended by Order No. 2010-0014-DWQ and the Municipal Storm Water Permit, Order No. R9-2007-0001 (NPDES General Permit No. CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity. All Uniform Building, Fire, Plumbing, Electrical, Mechanical Code requirements will be met with the proposed development. Therefore, the proposed development will 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 (San Diego Municipal Code § 125.0440(f) and Subdivision Map Act § 66474(g)).** The entire Casa Mira View project includes the adjacent 41 acres to the immediate east and the Casa Mira View II project. The original Casa Mira View project is the 41 acres to the immediate east was approved for 1,848 multi-family units by the City Council on June 6, 2009. Although developed as a separate project with the name Casa Mira View II, this project would be considered the fourth and final phase of the overall Casa Mira View development. The proposed development will provide internal access to the Casa Mira View project which will improve the overall flow of the entire Casa Mira View development. The proposed development will not conflict with existing easements.

**7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities (San Diego Municipal Code § 125.0440(g) and Subdivision Map Act § 66473.1).** The proposed subdivision of a 7.09 acre parcel into one lot, for development of 319 residential units, will not impede or inhibit any future passive or natural heating and cooling opportunities. The design of the project has taken into account the best use of the land to minimize grading. With design of the proposed project will have the opportunity through building materials, site orientation, architectural treatments, placement and selection of plant materials to 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 (San Diego Municipal Code § 125.0440(h) and Subdivision Map Act § 66412.3).** The proposed project is the subdivision of a 7.09 acre parcel into one lot for residential development. The applicant has chosen to provide 32 affordable residential units on site. Balanced needs for public facilities were taken into consideration with the development of the Mira Mesa Community Plan and the projected build-out with the applied zone designations. The subdivision of this parcel into one residential lot for 319 residential units is consistent with what was anticipated in the community plan. The decision maker has reviewed the administrative record including the project plans, technical studies, environmental documentation and heard public testimony to determine 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 and found that the one residential lot for private development of 319 residential units is consistent with the housing needs anticipated for the Mira Mesa Community Planning area.

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

BE IT FURTHER RESOLVED, that portions of drainage easement per document recorded 4-17-1992, as file number 1992-224216, located within the project boundaries as shown in Vesting Tentative Map No. 931745, shall be vacated, contingent upon the recordation of the approved Final Map for the project, and that the following findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference:

**1. There is no present or prospective 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. (San Diego Municipal Code § 125.1040(a)).**The proposed drainage easement vacation is located entirely within the project site with no present or future public use. A portion of the existing 24-inch storm drain will remain as a private storm drain, with no proposed public use.

**2. The public will benefit from the abandonment through improved utilization of the land made available by the abandonment. (San Diego Municipal Code § 125.1040(b)).** The proposed drainage easement vacation will benefit the public by allowing for the proposed development consisting of 319 residential units, with 32 affordable housing units constructed on site. The proposed development site is vacant and does not provide for any public benefit as it currently is unimproved.

**3. The abandonment is consistent with any applicable land use plan. (San Diego Municipal Code § 125.1040(c)).** The proposed drainage easement vacation allows for the proposed development to occur on the site. The proposed development is consistent with the RM-3-8 Zone and the medium-high density (30-45 dwelling units/net acre) land use designation within the Mira Mesa Community Plan. The proposed density is consistent with Casa Mira View project which is immediately adjacent to the project site to the east and the land use designation is consistent with the surrounding area. The entire Casa Mira View project includes the adjacent 41 acres to the immediate east and the Casa Mira View II project. The original Casa Mira View project is the 41 acres to the immediate east was approved for 1,848 multi-family units by the City Council on June 6, 2009. Although developed as a separate project with the name Casa Mira View II, this project would be considered the fourth and final phase of the overall Casa Mira View development.

**4. The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by this abandonment or the purpose for which the easement was acquired no longer exists. (San Diego Municipal Code § 125.1040(d)).** The proposed drainage easement vacation can be supported by staff as the purpose for the original easement is no longer required. Additionally, the drainage easement vacation allows for the proposed development on the project site which is consistent with the underlying zone and Mira Mesa Community Plan.

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the City Council, Vesting Tentative Map No. 931745 and Easement Vacation are hereby granted to Garden Communities RP, LLC, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon M. Thomas  
Shannon M. Thomas  
Deputy City Attorney

SMT:als  
10/11/12  
Or.Dept:DSD  
Doc. No. 451702

Attachment: Vesting Tentative Map Conditions

CITY COUNCIL CONDITIONS FOR VESTING TENTATIVE MAP NO. 931745,

CASA MIRA VIEW II - PROJECT NO. 264497 [MMRP]

ADOPTED BY RESOLUTION NO. R-**307848** ON **NOV 26 2012**

**GENERAL**

1. This Vesting Tentative Map will expire on NOV 26 2015.
2. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the recordation of the Final Map, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
4. The Final Map shall conform to the provisions of Planned Development Permit No. 931743.
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 the City and/or any Indemnified Parties 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 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 and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, City defends the action in good faith, and Subdivider is not required to pay or perform any settlement unless such settlement is approved by the Subdivider.

**AIRPORT**

6. Prior to issuance of the first residential building permit, the Subdivider shall provide a valid "Determination of No Hazard to Air Navigation" issued by the Federal Aviation Administration (FAA).

**AFFORDABLE HOUSING**

7. Prior to the issuance of the first residential building permit, the Subdivider shall enter into an affordable housing agreement with the San Diego Housing Commission to provide



affordable housing units in compliance with the City's Inclusionary Affordable Housing Regulations (San Diego Municipal Code §§ 143.0301 et seq.).

## **ENGINEERING**

8. A Final Map shall be recorded in the Office of the County Recorder, prior to the Vesting Tentative Map expiration date.
9. Compliance with all conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map.
10. The Final Map shall comply with the provisions of Planned Development Permit No. 931743.
11. Pursuant to City Council Policy 600-20, the Subdivider shall provide evidence to ensure that an affirmative marketing program is established.
12. Prior to issuance of the first construction permit, the Subdivider shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.
13. 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 San Diego Municipal Code, into the construction plans or specifications.
14. 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, in accordance with the approved Water Quality Technical Report.
15. The drainage system proposed for this subdivision, as shown on the approved vesting tentative map is subject to approval by the City Engineer.
16. 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.
17. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009-DWQ and the Municipal Storm Water Permit, Order No. R9-2007-0001 In accordance with Order No. 2009-0009DWQ, a Risk Level Determination shall be calculated for the site and a Storm Water Pollution Prevention Plan (SWPPP) shall be implemented concurrently with the commencement of grading activities.
18. Prior to issuance of a grading or a construction permit, a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WDID#) shall be submitted to the City of San Diego as a proof of enrollment under the Construction General Permit. When ownership of the entire site or portions of the site changes prior to filing of the Notice of

Termination (NOT), a revised NOI shall be submitted electronically to the State Water Resources Board in accordance with the provisions as set forth in Section II.C of Order No. 2009-0009-DWQ and a copy shall be submitted to the City.

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 Vesting 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 shall be the California Coordinate System, Zone 6, North American Datum of 1983 (NAD83).
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.

## **GEOLOGY**

25. Prior to the issuance of a grading permit, the Subdivider shall submit a geotechnical report prepared in accordance with the City of San Diego's "Guidelines for Geotechnical Reports," satisfactory to the City Engineer.

## **INFORMATION:**

- 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 § 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), 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 Vesting Tentative Map by filing a written protest with the San Diego City Clerk pursuant to Government Code sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider 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 (San Diego Municipal Code § 142.0607).