

RESOLUTION NUMBER R- 309754

DATE OF FINAL PASSAGE MAY 19 2015

ITEM # 336  
SUB-D  
5/19/15

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE VESTING TENTATIVE MAP NO. 856427, EASEMENT VACATION NO. 1451817, PUBLIC RIGHT-OF-WAY VACATION NO. 1451821 AND AMENDMENT OF VESTING TENTATIVE MAP NO. 497492 FOR THE CAMELOT - PROJECT NO. 238281

WHEREAS, SPIC DEL SUR LLC, a Delaware Limited Liability Company, Subdivider, and Hunsaker & Associates, Engineer, submitted an application to the City of San Diego for a vesting tentative map (Vesting Tentative Map No. 856427), an amendment Vesting Tentative Map No. 497492, public right-of-way vacation (Public Right-Of-Way Vacation No. 1451821) and easement vacation (Easement Vacation No. 1451817) for the Camelot Project. The project site is located west of Deer Road and south of Camino San Bernardo, in the AR-1-1, RS-1-14, and RM-1-2 Zones within the Black Mountain Ranch Community Plan, and the Multiple Habitat Planning Area (MHPA). The property is legally described as Lot 5 of Section 30 and Lot 8 of Section 31 in Township 13 South of Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, according to Official Plat of the Survey of the said land; and Lot B of Black Mountain Ranch Units 16, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 15951 filed in the Office of the County Recorder of San Diego County, October 31, 2013; and

WHEREAS, the Map proposes the Subdivision of a 74.42-acres site into 9 lots; 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 125.1040; 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 259; and

WHEREAS, on April 30, 2015, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 856427, Right-Of-Way Vacation No. 1451821, and Easement Vacation No. 1451817, and pursuant to Resolution No. 4681-PC, the Planning Commission 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 May 19, 2015, the City Council of the City of San Diego considered Vesting Tentative Map No. 856427, Right-Of-Way Vacation No. 1451821, and Easement Vacation No. 1451817, and pursuant to San Diego Municipal Code Section(s) 125.0440, 125.0430, 125.0941, 125.1040, 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. 856427:

**1. The proposed subdivision and its design or improvements are consistent with the policies, goals, and objectives of the applicable land use plan.** The undeveloped 74.42-acre project site is located west of Deer Road and south of Camino San Bernardo in the Black Mountain Ranch (BMR) Community Plan, and has a land use designation of Core Residential at

10-25 dwelling units per acre (du/ac). Approximately 68.97-acres of the site are identified in the BMR Subarea Plan as the Northeast Perimeter Property that allows for 300 dwelling units. The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919). The project shall comply with the affordable housing requirements of the City's North City Future Urbanizing Area Framework Plan and the BMR Subarea Plan, which requires that the project provide 20 percent of the pre-density bonus units as affordable. To meet the Affordable Housing Requirements and as a component of the application, 48 dwelling units are affordable housing units, and would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center. Therefore, the proposed subdivision is consistent with the policy documents, recommended land use, design guidelines, and development standards in effect for this site per the adopted BMR Subarea Plan.

**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 project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a Property Owner Association (POA) lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for Multiple Habitat Planning Area (MHPA) and Home Owner Association (HOA) Open Space. A rezone is being requested to allow the project to implement the density levels identified in the BMR Subarea Plan. Portions of the property and the adjacent public right-of-way (ROW) will be rezoned from AR-1-1, RS-1-14, and RM-1-2, into the AR-1-1 and RM-1-2 Zones. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. The residential condominium development is proposed atop a relatively flat mesa located in the center of the property.

The project includes a request for deviations to the development regulations for lot frontage, lot area, building height, angled building envelope, and retaining wall height. The following are the code sections and justification for the deviations:

Lot Frontage: A deviation from San Diego Municipal Code (SDMC) Section 131.0331, Table 131-03C for minimum required lot frontage in the AR-1-1. The development proposes to provide lot frontages for Open Space Lot B on a private driveway with public access/utility easements rather than on a public street as required, to reduce the lot frontage for Open Space Lot C to 50 feet, and to waive the frontage requirement for Open Space Lot D where a 200 foot minimum lot frontage is required by regulations.

The proposed 259 unit residential condominium development is located on an approximately 74.42-acre site with limited public street frontage and where nearly 50 percent of the land is severely topographically constrained and inaccessible. Of the approximately 860 feet

of property street frontage, less than half, or approximately 420 feet, is available for vehicular access.

The intent of the regulations is to insure that individual dwelling units on separate lots are provided adequate frontage, and therefore access to public ROW. The proposed development is a multi-family residential condominium development and the access to the public ROW is provided for residents via a connected system of private driveways with public access easements that connect by means of the primary project entry back to the project's public street frontage on Camino San Bernardo. The only lots lacking adequate frontage are three (3) open space lots being offered for dedication as MHPA Open Space.

Lot Area: A deviation from SDMC Section 131.0331, Table 131-03C for minimum required lot area in the AR-1-1 Zone. The development proposes to provide lot areas of 1.28-acres for Open Space Lot C and 0.22-acres for Open Space Lot D, where a 10-acre minimum is required within this zone.

The required minimum lot area for the AR-1-1 Zone is intended to limit residential development densities in this rural zoning classification. The subject lots are non-buildable lots being offered for dedication as MHPA Open Space.

Building Height: A deviation from SDMC Section 131.0431(e), Table 131-04G to allow a maximum height of 37 feet where regulations limit building height to a maximum of 30 feet.

The maximum structure height of 30 feet within the RM-1-2 Zone is intended to limit residential building heights consistent with the maximum densities allowed within this zoning classification and to control the perceived bulk and scale of the project. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. Currently, the MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. The existing environmental and physical constraints of the property currently limits the ability to fully develop the property to the BMR Subarea Plan that allows for 300 dwelling units. The proposed architectural designs for the project are highly articulated buildings composed of one-, two- and three-story elements. The additional height of the proposed structures assist in adding interest and variety to the private street scene and adds to the perception of the project overall as viewed both internally and by the surrounding development.

Angled Building Envelope: A deviation from SDMC Section 131.0444(e), which requires in the RM-1-2 Zone that an angled building plane would be provided from the limits of the front yard setback in toward the center of the structure. Said plane is limited to maximum 19 feet height at the 'minimum' front setback line and angles upward at a 45-degree angle till it reaches the maximum allowable building height. The deviation is to allow portions of 3 of the total 32 building proposed to exceed this standard

The angled building plane height/setback requirement is intended to provide the public some degree of relief from the perceived bulk and scale along the frontage. The 3 buildings in question are located adjacent to the northerly portion of project along the Camino San Bernardo frontage. The proposed architectural designs for the project are highly articulated buildings

composed of one-, two- and three-story elements. The encroaching elements are for a portion of the building façade and are offset from the primary building wall. The encroaching elements provide vertical and horizontal variation that helps to minimize the perceived bulk and scale.

Retaining Wall Height: A deviation from SDMC Section 142.0340(d) to allow a maximum retaining wall height of 15 feet 6 inches within a required side yard setback where a maximum 6 foot wall height is permitted. The several proposed retaining walls will exceed the maximum permitted height by 1 inch to 9 feet 6 inches for a combined total length of 450 feet, and vary in distance from 2-5 feet from the property line.

Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. The retaining walls help the project minimize the development area in order to preserve the ESL on site. In order to minimize potential visual impacts, the proposed four walls will be “Verdura” type retaining walls, a plantable and mechanically stabilized earth block retaining walls system, and the walls will be a maximum 150 foot in length.

Encroachment into Steep Hillside- A deviation from SDMC Section 143.0142(a)(2) from the Environmentally Sensitive Lands (ESL) regulations to allow a portion of the proposed development to encroach into steep hillside with a natural gradient of 25 percent or more and a minimum elevation differential of 50 feet.

The 259 unit residential condominium development is proposed atop a relatively flat mesa, which is surrounded by existing natural steep hillsides. Approximately 31.7-acres of the total 74.42-acre property, or 43 percent, contain slopes exceeding 25 percent. Of that total, 19.6-acres, or 26 percent, comprise contiguous slope ‘systems’ that exceed both 25 percent slope and 50 feet minimum height.

The BMR Subarea Plan originally identified a development footprint for the subject site that would have resulted in a substantially larger impact on steep hillsides than currently proposed. As a part of the current development proposal, an MHPA BLA has been requested. The purpose of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources. Thus, the proposed development has been designed to reduce and limit encroachment upon steep hillsides over 50 feet to only 0.42-acres or less than 1 percent of the total project site area.

Based upon this positive adjustment, the design of the proposed development will reduce steep hillsides impacts to the maximum extent feasible and will preserve 49.21-acres of ESL, while still providing a highly articulated architectural designed residential development that implements the goals and objectives of the BMR Subarea Plan, which include the development of 48 off-site affordable housing units that will be constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center. For all of these reasons, including the justifications listed above, the project minimizes the potential adverse effects on environmentally sensitive lands and with the approval of the requested deviations, the proposed project meets all applicable regulations and policy documents, and would further the City’s affordable housing goals and is

consistent with the recommended land use, design guidelines, and development standards in effect for this site per the adopted BMR Subarea Plan and the SDMC.

**3. The site is physically suitable for the type and density of development.** The undeveloped 74.42-acre project site is located west of Deer Road and south of Camino San Bernardo in the BMR Community Plan, and has a land use designation of Core Residential at 10-25 du/ac. Approximately 68.97-acres of the site are identified in the BMR Subarea Plan as the Northeast Perimeter Property that allows for 300 dwelling units. The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. A rezone is being requested to allow the project to implement the density levels identified in the BMR Subarea Plan. Portions of the property and the adjacent public ROW will be rezoned from AR-1-1, RS-1-14, and RM-1-2, into the AR-1-1 and RM-1-2 Zones.

Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. In order to develop the site, a MHPA Boundary Line Adjustment (BLA) would be required. The purpose of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources identified on the project site. The residential condominium development is proposed atop a relatively flat mesa located in the center of the property. A Mitigated Negative Declaration (MND), No. 238281, has been prepared for the project, which address potential impacts to Land Use (Covenant of Easement and MSCP - Land Use Adjacency Guidelines), Biological Resources, Historical Resources (Archaeology), Noise, and Paleontological Resources. A Mitigation, Monitoring and Reporting Program (MMRP) would be implemented with this project, which will reduce the potential impacts to below a level of significance. With the implementation of the MMRP, including the justifications listed above, the proposed subdivision is physically suitable for the type and density of 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.** The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. A rezone is being

requested to allow the project to implement the density levels identified in the BMR Subarea Plan. Portions of the property and the adjacent public ROW will be rezoned from AR-1-1, RS-1-14, and RM-1-2, into the AR-1-1 and RM-1-2 Zones.

The undeveloped 74.42-acre project site contains ESL in the form of Steep Hillides and Sensitive Biological Resources as defined in SDMC Section 113.0103, and a small section of the southern portion of the project site is located within a 100-Year Floodplain. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. In order to develop the site, a MHPA BLA would be required. The purpose of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources identified on the project site. The residential condominium development is proposed atop a relatively flat mesa located in the center of the property.

MND No. 238281 has been prepared for the project, which address potential impacts to Land Use (Covenant of Easement and MSCP - Land Use Adjacency Guidelines), Biological Resources, Historical Resources (Archaeology), Noise, and Paleontological Resources. A MMRP would be implemented with this project, which will reduce the potential impacts to below a level of significance. As outlined in MND No. 238281, with the implementation of the MMRP, the subdivision and the proposed improvements would not cause substantial environmental damage or impact fish or wildlife or their habitat.

**5. The design of the subdivision or the type of improvement will not be detrimental to the public health, safety, and welfare.** The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

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The permit for the project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the SDMC in effect for this project. Such conditions within the permit have been determined as necessary to avoid

adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The project shall comply with the development conditions in effect for the subject property as described in Vesting Tentative Map No. 856427, Right-Of-Way Vacation No. 1451821, and Easement Vacation No. 1451817, and other regulations and guidelines pertaining to the subject property per the SDMC. Prior to issuance of any building permit for the proposed development, the plans shall be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements, and the subdivider shall be required to obtain grading and public improvement permits. Therefore, the subdivision 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.** The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center. The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved.

On January 7, 1961, a 60 foot wide Easement for County Highway, Road Survey No. 327, Parcel 3, was recorded on the property (Document No. 296507), located in the upper northeastern corner of the property, for the construction of a County Highway (the highway was never constructed). In addition, On April 24, 2007, a 0.42-acre Drainage Easement, granted to the City of San Diego, was recorded on the property (Document No. 2007-0277447) located in the upper northeastern corner of the property, for the purpose of drainage from the expansion and construction Camino San Bernardo.

A public ROW (Easement for County Highway) and public service easement (Drainage Easement) are proposed to be vacated as part of the Vesting Tentative Map (VTM). With the adoption of the BMR Subarea Plan, the circulation pattern and street designs were established for the community, however the Easement for County Highway is no longer needed. In addition, with the construction of the Del Norte High School to the north, the northern portion of this ROW was vacated through the State. The proposed development addresses all drainage, existing and proposed, including any drainage from Camino San Bernardo; therefore, the existing drainage easement is no longer needed. Other than the vacation of public ROW and drainage easement, there are no other existing 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.** The proposed subdivision of a 74.42-acre parcel into 9 lots will not impede or inhibit any future passive or natural heating and cooling opportunities. The design of the subdivision has taken into account the best use of the land to minimize grading and preserving environmentally sensitive lands. The 259 attached market-rate condominium units would be within 30, two- and three-story, multiplex buildings



consisting of 6, 7, 8, and 12 units. The buildings have been design as a u-shaped court yard configuration (P-1), containing three-and four-bedroom units and a linear configuration (P-2), containing two-, three- and four-bedroom units. The architectural styles of the building will reflect the Spanish Romantica, Rancho Adobe, and Monterey designs. Therefore, the proposed subdivision 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.** The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919). The project shall comply with the affordable housing requirements of the City's North City Future Urbanizing Area Framework Plan and the BMR Subarea Plan, which requires that the project provide 20 percent of the pre-density bonus units as affordable. To meet the Affordable Housing Requirements and as a component of the application, the remaining 48 dwelling units are affordable housing units, and would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center. The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space.

The undeveloped 74.42-acre project site contains ESL in the form of Steep Hillside and Sensitive Biological Resources as defined in SDMC Section 113.0103, and a small section of the southern portion of the project site is located within a 100-Year Floodplain. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. In order to develop the site, a MHPA BLA would be required. The purpose of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources identified on the project site. The residential condominium development is proposed atop a relatively flat mesa located in the center of the property.

MND No. 238281 has been prepared for the project, which address potential impacts to Land Use (Covenant of Easement and MSCP - Land Use Adjacency Guidelines), Biological Resources, Historical Resources (Archaeology), Noise, and Paleontological Resources. A MMRP would be implemented with this project, which will reduce the potential impacts to below a level of significance.

The decision maker has reviewed the administrative record including the project plans, MND No. 238281, 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 proposed subdivision is consistent with the housing needs anticipated for the BMR Community Planning area.

BE IT FURTHER RESOLVED, that portions of the public ROW (Easement for County Highway) and public service easement (Drainage Easement) located within the project boundaries as shown in Vesting Tentative Map No. 856427, 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:

**9. 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 project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center. The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved.

On April 24, 2007, a 0.42-acre Drainage Easement, granted to the City of San Diego, was recorded on the property (Document No. 2007-0277447) located in the upper northeastern corner of the property, for the purpose of drainage from the expansion and construction Camino San Bernardo.

A public service easement (Drainage Easement) is proposed to be vacated as part of the VTM. The proposed development addresses all drainage, existing and proposed, including any drainage from Camino San Bernardo; therefore, the existing drainage easement is no longer needed. For all of these reasons, including the justifications listed above; 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.

**10. 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 undeveloped 74.42-acre project site contains ESL in the form of Steep Hillside and Sensitive Biological Resources as defined in SDMC Section 113.0103, and a small section of the southern portion of the project site is located within a 100-Year Floodplain. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved. MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. In order to develop the site, a MHPA BLA would be required. The purpose of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources identified on the project site. The residential condominium development is proposed atop a relatively flat mesa located in the

center of the property. MND No. 238281 has been prepared for the project, which address potential impacts to Land Use (Covenant of Easement and MSCP - Land Use Adjacency Guidelines), Biological Resources, Historical Resources (archaeology), Noise, and Paleontological Resources. A MMRP would be implemented with this project, which will reduce the potential impacts to below a level of significance.

The proposed development addresses all drainage, existing and proposed, including any drainage from Camino San Bernardo; therefore, the existing drainage easement is no longer needed. For all of these reasons, including the justifications listed above; the public would benefit through improved utilization and perseveration of the ESL and more sensitive biological resources identified on the project site.

**11. The abandonment is consistent with any applicable land use plan. (San Diego Municipal Code § 125.1040(c)).** The undeveloped 74.42-acre project site is located west of Deer Road and south of Camino San Bernardo in the BMR Community Plan, and has a land use designation of Core Residential at 10-25 du/ac. Approximately 68.97-acres of the site are identified in the BMR Subarea Plan as the Northeast Perimeter Property that allows for 300 dwelling units. The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. A rezone is being requested to allow the project to implement the density levels identified in the BMR Subarea Plan. Portions of the property and the adjacent public ROW will be rezoned from AR-1-1, RS-1-14, and RM-1-2, into the AR-1-1 and RM-1-2 Zones.

The proposed development addresses all drainage, existing and proposed, including any drainage from Camino San Bernardo; therefore, the existing drainage easement is no longer needed. For all of these reasons, including the justifications listed above; the abandonment is consistent with the BMR Community Plan.

**12. 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 project proposes the construction of 307 dwelling units; of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center. The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved.

On April 24, 2007, a 0.42-acre Drainage Easement, granted to the City of San Diego, was recorded on the property (Document No. 2007-0277447) located in the upper northeastern corner of the property, for the purpose of drainage from the expansion and construction Camino San Bernardo.

A public service easement (Drainage Easement) is proposed to be vacated as part of the VTM. The proposed development addresses all drainage, existing and proposed, including any drainage from Camino San Bernardo; therefore, the existing drainage easement is no longer needed. For all of these reasons, including the justifications listed above; public facility or purpose for which the easement was originally acquired would not be detrimentally affected by this abandonment and the purpose for which the easement was acquired no longer exists.

**13. There is no present or prospective use for the public right-of-way, either for the 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 § 125.0941(a)).** The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center. The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved.

On January 7, 1961, a 60 foot wide Easement for County Highway, Road Survey No. 327, Parcel 3, was recorded on the property (Document No. 296507), located in the upper northeastern corner of the property, for the construction of a County Highway (the highway was never constructed).

A public ROW (Easement for County Highway) is proposed to be vacated as part of the VTM. With the adoption of the BMR Subarea Plan, the circulation pattern and street designs were established for the community, however the Easement for County Highway is no longer needed. In addition, with the construction of the Del Norte High School to the north, the northern portion of this ROW was vacated through the State. For all of these reasons, including the justifications listed above; there is no present or prospective use for the public ROW, 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.

**14. The public will benefit from the vacation through improved use of the land made available by the vacation. (San Diego Municipal Code § 125.0941(b)).** The undeveloped 74.42-acre project site contains ESL in the form of Steep Hillside and Sensitive Biological Resources as defined in SDMC Section 113.0103, and a small section of the southern portion of the project site is located within a 100-Year Floodplain. Approximately 25.21 acres of the 74.42-acre site would be developed, while the remaining 49.21 acres would be preserved. MHPA surrounds the project site on three sides (east, west and south) and Del Norte High School to the north. In order to develop the site, a MHPA BLA would be required. The purpose

of the adjustment is to shift the development footprint easterly and away from steep hillsides and more sensitive biological resources identified on the project site. The residential condominium development is proposed atop a relatively flat mesa located in the center of the property. MND No. 238281 has been prepared for the project, which address potential impacts to Land Use (Covenant of Easement and MSCP - Land Use Adjacency Guidelines), Biological Resources, Historical Resources (archaeology), Noise, and Paleontological Resources. A MMRP would be implemented with this project, which will reduce the potential impacts to below a level of significance.

The amended BMR Subarea Plan was adopted by the City Council on May 19, 2009, with this adoption, the circulation pattern and street designs were established for the community, however the Easement for County Highway is no longer needed. In addition, with the construction of the Del Norte High School to the north, the northern portion of this ROW was vacated through the State. For all of these reasons, including the justifications listed above; the public would benefit through improved utilization and perseveration of the ESL and more sensitive biological resources identified on the project site.

**15. The vacation does not adversely affect any applicable land use plan. (San Diego Municipal Code § 125.0941(c)).** The undeveloped 74.42-acre project site is located west of Deer Road and south of Camino San Bernardo in the BMR Community Plan, and has a land use designation of Core Residential at 10-25 du/ac. Approximately 68.97-acres of the site are identified in the BMR Subarea Plan as the Northeast Perimeter Property that allows for 300 dwelling units. The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48 affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center.

The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. A rezone is being requested to allow the project to implement the density levels identified in the BMR Subarea Plan. Portions of the property and the adjacent public ROW will be rezoned from AR-1-1, RS-1-14, and RM-1-2, into the AR-1-1 and RM-1-2 Zones.

The amended BMR Subarea Plan was adopted by the City Council on May 19, 2009, with this adoption, the circulation pattern and street designs were established for the community, however the Easement for County Highway is no longer needed. In addition, with the construction of the Del Norte High School to the north, the northern portion of this ROW was vacated through the State. For all of these reasons, including the justifications listed above; the public ROW vacation is consistent with the BMR Community Plan.

**16. The public facility for which the right-of-way was originally acquired will not be detrimentally affected by this vacation. (San Diego Municipal Code § 125.0941(d)).** The project proposes the construction of 307 dwelling units, of which 259 attached market-rate condominium units would be constructed onsite (this total includes 7 dwelling units being transferred to the property from Lot 12, 13, 18, and 19 of Map No. 15919) and the remaining 48

affordable housing units would be transferred and constructed on Lot 9 of Map No. 15919 in the BMR North Village Town Center. The proposed 9 lot subdivision would consist of Lot 1 containing the 259 attached market-rate condominium units, Lot 2 as a POA lot, Lot 3 as a Utility Access lot, and the remaining 6 lots (Lots A-F) as Open Space for MHPA and HOA Open Space. Approximately 25.21-acres of the 74.42-acre site would be developed, while the remaining 49.21-acres would be preserved.

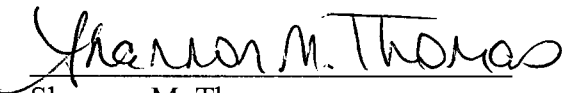
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A public ROW (Easement for County Highway) is proposed to be vacated as part of the VTM. With the adoption of the BMR Subarea Plan, the circulation pattern and street designs were established for the community, however the Easement for County Highway is no longer needed. In addition, with the construction of the Del Norte High School to the north, the northern portion of this ROW was vacated through the State. For all of these reasons, including the justifications listed above; public facility or purpose for which the public ROW was originally acquired would not be detrimentally affected by this vacation and the purpose for which the easement was acquired no longer exists.

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

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the City Council, Vesting Tentative Map No. 856427, Right-Of-Way Vacation No. 1451821, and Easement Vacation No. 1451817, are hereby granted to SPIC DEL SUR LLC, a Delaware Limited Liability Company 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  
Deputy City Attorney

SMT:als  
4/29/2015  
Or.Dept:DSD  
Doc. No.: 998687\_2

Attachment: Conditions for Vesting Tentative Map, Right-of-Way Vacation, and Easement Vacation

CITY COUNCIL CONDITIONS FOR VESTING TENTATIVE MAP NO. 856427,  
EASEMENT VACATION NO. 1451817, AND PUBLIC RIGHT-OF-WAY VACATION  
NO. 1451821, AMENDMENT OF VESTING TENTATIVE MAP NO. 497492

**CAMELOT-PROJECT NO. 238281 [MMRP]**

ADOPTED BY RESOLUTION NO. R-309754 ON MAY 19 2015

**GENERAL**

1. This Vesting Tentative Map will expire on MAY 19 2018.
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 Vesting Tentative Map expiration date, a Final Map to consolidate the existing lots into nine (9) lots shall be recorded in the Office of the San Diego County Recorder.
4. 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.
5. The Final Map shall conform to the provisions of Planned Development Permit No. 856425 and Site Development Permit No. 856426.
6. 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.

**AFFORDABLE HOUSING**

7. The Owner/Permittee shall comply with the affordable housing requirements of the City's North City Future Urbanizing Area Framework Plan and the Black Mountain Ranch Subarea Plan, which requires that the project provide 20 percent of the pre-density bonus units as affordable (the "Affordable Housing Requirements").



- a. Prior to recording the Final Map, the Owner/Permittee shall:
1. Enter into a Master Affordable Housing Agreement (“Affordable Housing Agreement”), with the San Diego Housing Commission (“Housing Commission”) to detail and assure the construction and occupancy of an “Affordable Housing Project” totaling a minimum of forty-eight (48) units (“Affordable Units”) to be constructed on Lot 9 of Map No. 15919 (the “Affordable Housing Site”) in the Black Mountain Ranch North Village. Owner/Permittee has elected to construct an additional thirty-six (36) affordable units on the affordable housing site to satisfy Affordable Housing Requirements for the one hundred eighty four (184) market rate units being constructed on the Owner/Permittee’s “Heritage Bluffs Subdivision.” The Affordable Housing Agreement shall include all of the provisions of this Section 1. and such other and further conditions as shall be required by the President and CEO of the Housing Commission, or his designee (“President and CEO”), to assure satisfaction of the affordable housing requirements as referenced in this Permit, the North City Future Urbanizing Area Framework Plan, and the Black Mountain Ranch Subarea Plan.
  2. Execute and record a declaration of covenants, conditions and restrictions (the “Declaration”) in first priority position against the Affordable Housing Site, restricting the occupancy and affordability of the Affordable Housing Project for a period of fifty-five (55) years from the date of initial occupancy of the Affordable Housing Project. All Affordable Units shall be for occupancy by families earning no more than sixty-five percent (65%) of the Area Median Income, as adjusted for family size and utilities, and with rental rates that do not exceed thirty percent (30%) of sixty percent (60%) of the Area Median Income, as adjusted for assumed family size and utilities. The Declaration shall provide for the siting, mix and architecture nature of the Affordable Housing Project.
  3. Execute and record a deed of trust against the Affordable Housing Site, in second lien priority (junior only to the Declaration), assuring the timely performance of the Declaration and the Affordable Housing Agreement. The deed of trust in favor of the Housing Commission may be subordinated to construction deed of trust and/or permanent financing deed(s) of trust in favor of institutional lenders, as approved by the President and CEO in her/his sole discretion, if deemed essential to construction and/or operation of the Affordable Housing Project, upon such terms and conditions as she/he may impose.
  4. Post performance security for the construction of the Affordable Housing Project, including without limitation, all onsite and offsite improvements, necessary to access and serve the Affordable Housing Project with all necessary utilities, in the form of bond(s), letter(s) of credit, lien(s) and/or

other forms of security acceptable to the President and CEO in her/his sole discretion.

- b. Approval of the timing of the construction and occupancy of the Affordable Housing Project, acceptable to the President and CEO, shall be included in the Affordable Housing Agreement, provided that the following timetable is incorporated into the Affordable Housing Agreement:
  1. Issuance of building permits for the Affordable Project shall occur on or before the earlier of: (A) the issuance of building permits for construction of the 126th market rate dwelling unit; or (B) twenty-four (24) months after the issuance of the first residential building permit.
  2. In no event shall the issuance of building permits for the construction of the 126th market rate dwelling unit occur until building permits for construction of the forty-eight (48) affordable units are authorized by the City and are obtained by the Subdivider. Further, if individual parcels are sold initially by Owner/Permittee without first obtaining building permits for construction of market rate units, every such parcel sold shall nonetheless be included with the total number of the building permit issued, in determining when the issuance of the building permit occurs for the 86th market rate unit.
  3. Completion of construction of the Affordable Project shall occur upon the earlier of:
    - (A) Eighteen (18) months after the issuance of building permit for the Affordable Project as referenced in Paragraph 1.b.1., hereof; or
    - (B) Three and one-half years after the issuance of the first residential building permit.
  4. Occupancy of the Affordable Project shall occur not later than one hundred eighty (180) days after the completion of construction as referenced in Paragraph 1.b.3., above.
- c. For "good cause" shown to the satisfaction of the President and CEO, the thresholds and dates referenced herein may be adjusted and/or extended one or more times. Good cause shall include, but not be limited to, Acts of God, labor strikes, war, riots, etc., as shall be determined by the President and CEO, in his/her sole discretion.
- d. The successors, heirs and assigns of the Owner/Permittee shall enter into and execute such other and further documents as the President and CEO shall require, from time to time, as may be needed to effectuate the affordable housing requirements of this Site Development Permit, the North City Future Urbanizing Area Framework Plan, and the Black Mountain Ranch Subarea Plan.

The North City Future Urbanizing Area Framework Plan and the Black Mountain Ranch Subarea Plan is on file in the Office of the Development Services Department and is incorporated herein. The provisions of the North City Future Urbanizing Area Framework Plan and the Black Mountain Ranch Subarea Plan shall not in any way modify or change any provisions of the Site Development Permit. To the extent that there is any inconsistency between them, the terms of the permit conditions shall prevail.

**ENGINEERING**

8. The Subdivider shall underground existing and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.
9. The Subdivider shall grant a twenty-five feet wide Public Utility Easement to the City of San Diego for Sewer purposes.
10. The project proposes to export no material from the project site. Any excavated material that is exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2003 edition and Regional Supplement Amendments adopted by Regional Standards Committee.
11. The drainage system proposed for this development, as shown on the site plan, is private and subject to approval by the City Engineer.
12. Prior to the issuance of any building permits, the Subdivider shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
13. Prior to the issuance of any building permits, the Subdivider shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the private storm drain in the Public Utility Easement.
14. Prior to the issuance of any building permits, the Subdivider shall assure, by permit and bond, the construction of two current City Standard concrete driveways per the approved Exhibit "A," adjacent to the site on Camino San Bernardo, satisfactory to the City Engineer.
15. Prior to the issuance of any building permits, the Subdivider shall assure, by permit and bond, to remove the existing asphalt concrete berm and construct current City Standard curb & gutter, adjacent to the site on Camino San Bernardo, satisfactory to the City Engineer.
16. Prior to the issuance of any building permits, the Subdivider shall assure, by permit and bond, to remove the existing asphalt concrete sidewalk and construct current City

- Standard non-contiguous sidewalk, adjacent to the site on Camino San Bernardo, satisfactory to the City Engineer.
17. Prior to the issuance of any construction permit, the Subdivider shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practice (BMP) maintenance, satisfactory to the City Engineer.
  18. Prior to the issuance of any construction permit, the Subdivider shall incorporate any construction BMPs necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.
  19. Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 2009-0009 DWQ and the San Diego Regional Water Quality Control Board (SDRWQCB) Order No. R9-2007-001, 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.
  20. 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. 2009-0009-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in SWRCB Order No. 2009-0009-DWQ.
  21. Prior to the issuance of any construction permit, the Water Quality Technical Report will be subject to final review and approval by the City Engineer.
  22. 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**

23. Prior to the recordation of the Final Map taxes must be paid or bonded for this property pursuant to section 66492 of the Subdivision Map Act. A current original tax certificate, recorded in the office of the San Diego County Recorder must be provided to satisfy this condition.

24. Pursuant to California Government Code section 66434(g), the following public service easements, located within the project boundaries as shown in Vesting Tentative Map No. 856427, shall be vacated, contingent upon the recordation of the approved final map for the project.
25. The Vesting Tentative Map Exhibit has been signed-off by the Map Check discipline. Once the Vesting Tentative Map is approved by the City, a FINAL MAP based on a field survey will be required. The map shall be recorded prior to the expiration date of the Vesting Tentative Map.
26. Prior to the recordation of the Final Map the General Utility & Access Easement outside the project boundary shall need to be granted to the City of San Diego.
27. The emergency access easement shall be granted on the Final Map.
28. "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 (NAD 83).
29. "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."
30. 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 First Order accuracy. 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.

**PUBLIC UTILITIES DEPARTMENT (PUD)**

31. The Subdivider shall grant adequate sewer easements, including vehicular access to each appurtenance for all public sewer facilities that are not located within fully improved public right-of-ways, satisfactory to the Public Utilities Director. Easements shall be located within single lots, when possible, and not split longitudinally. Vehicular access roadbeds shall be a minimum of 20 feet wide and surfaced with suitable approved material satisfactory to the Public Utilities Director and the City Engineer.

32. The Subdivider shall process encroachment maintenance and removal agreements (EMRA), for all acceptable encroachments into the sewer easement, including but not limited to structures, enhanced paving, or landscaping. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.
33. The Subdivider shall provide a 10 feet minimum (edge to edge) separation between the water and sewer mains, and provide a 5 feet minimum separation between the water main and face of curb, per the Water and Sewer Design Guide.

### **GEOLOGY**

34. Prior to issuance of any construction permits, the Subdivider shall submit a geotechnical investigation report or update letter that specifically addresses the proposed construction plans. The geotechnical investigation report or update letter shall be reviewed for adequacy by the Geology Section of the Development Services Department.
35. The Subdivider shall submit an as-graded geotechnical report prepared in accordance with the City's "Guidelines for Geotechnical Reports" following completion of the grading. The as-graded geotechnical report shall be reviewed for adequacy by the Geology Section of the Development Services Department prior to exoneration of the bond and grading permit close-out.

### **PLANNING**

36. Prior to the recordation of the Final Map, the Subdivider shall execute and record a Covenant of Easement which ensures preservation of the Environmentally Sensitive Lands that are outside the allowable development area on the premises as shown on Exhibit "A" for Sensitive Biological Resources, Steep Hillside, and Special Flood Hazard Areas, in accordance with San Diego Municipal Code section 143.0152. The Covenant of Easement shall include a legal description and an illustration of the premises showing the development area and the Environmentally Sensitive Lands that will be preserved as shown on Exhibit "A." Areas of Sensitive Biological Resources, Steep Hillside, and Special Flood Hazard Areas that are also within the MHPA and are granted to the City's Multiple Species Conservation Program (MSDP) preserve through fee title to the City, shall not require the covenant of easement.

### **MSCP**

37. Prior to the recordation of the Final Map, or any construction permits, the Subdivider shall grant the on-site Multiple Habitat Planning Area (MHPA) to the City's Multiple Species Conservation Program (MSCP) preserve through either a covenant of easement granted in favor of the City and the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Game (CDFG), or in fee title to the City through an Irrevocable Offer of Dedication, as shown on Exhibit "A." Said offer of fee-title shall be accepted by the City upon completion of the project grading and construction and approval from the Park and Recreation Department Open Space Division Deputy Director.

38. The Subdivider shall ensure that there is no net loss of biological functions and values of all property identified as MHPA conveyed by covenant of easement, or fee-title, upon approval of Vesting Tentative Map No. 856427.
39. The Subdivider shall ensure all property approved for conveyance in fee title to the City for MHPA purposes exclude detention basins or other stormwater control facilities, brush management areas, landscape/revegetation areas and graded slopes and be free and clear of all private easements, private encroachments, private agreements and/or liens.
40. The Subdivider shall grant a covenant of easement in favor of the City and USFWS and CDFG on any on-site MHPA lands that are not dedicated in fee title to the City.
41. The Subdivider shall maintain in perpetuity any MHPA lands granted by covenant of easement unless otherwise agreed by the City.
42. Prior to the recordation of the Final Map, the Subdivider shall schedule an inspection with the Park & Recreation Department, Open Space Division for all property approved for conveyance in fee title to the City for MHPA purposes. All trash, illegal use and associated structures on the lot(s) shall be removed prior to the City acceptance.
43. Recordation of the Final Map by the City of San Diego does not authorize the Subdivider for this Map to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 (ESA) and any amendments thereto (16 U.S.C. § 1531 et seq.)
44. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service (USFWS) pursuant to Section 10(a) of the federal Endangered Species Act (ESA) and by the California Department of Fish and Wildlife (CDFW) pursuant to California Fish and Wildlife Code section 2835 as part of the Multiple Species Conservation Program (MSCP), the City of San Diego through the recordation of this Map hereby confers upon the Subdivider the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement (IA), executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon the Subdivider by the City: (1) to grant the Subdivider the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure the Subdivider that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFW, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon the Subdivider maintaining the biological values of any and all lands committed for mitigation pursuant to this Permit and of full satisfaction by the Subdivider of mitigation obligations required by this Permit, in accordance with Section 17.1D of the IA

**BRUSH MANAGEMENT PROGRAM REQUIREMENTS**

45. Prior to recordation of the Final Map, the Owner/Subdivider shall identify on a separate sheet titled 'Non-title Sheet' the brush management areas in substantial conformance with Exhibit "A." These brush management areas shall be identified with a hatch symbol with no specific dimensions or zones called out. The following note shall be provided on the 'Non-Title Sheet' to identify the hatched areas: "Indicates fire hazard zone(s) per Section 142.0412 of the Land Development Code.

**INFORMATION:**

- The approval of this Vesting Tentative Map by the City Council of the City of San Diego does not authorize the Subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC § 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.



Passed by the Council of The City of San Diego on MAY 19 2015, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 19 2015.

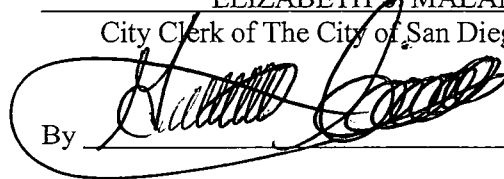
**(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)**

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California  
Resolution Number R- 309754