Hem 333 7/11/17 (R-2017-651) Subitem B'

RESOLUTION NUMBER R- 311236

DATE OF FINAL PASSAGE JUL 11 2017

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING VESTING TENTATIVE MAP NO. 1424164, INCLUDING EASEMENT VACATION NO. 1328846, FOR THE UNITAS PROJECT – PROJECT NO. 375001.

WHEREAS, CROUCH STREET, LLC, a California limited liability company,
Subdivider, and Bradley D. Sager, Engineer, submitted an application to the City of San Diego
for a vesting tentative map (Vesting Tentative Map No. 1424164) and public water easement
vacation (Easement Vacation No. 1328846) for the Unitas Project, a six-lot subdivision (five
residential lots and one homeowner association lot for a private drive)(Project); and

WHEREAS, the Project site is located south of Carmel Valley Road and east of Rancho Santa Fe Road, at 6645 Carmel Valley Road, in the RX-1-2 Zone of the Pacific Highlands Ranch Community Planning area. The property is legally described as Lot 19 of Costa del Sol Unit No. 2, according to Map thereof No. 14958, recorded in the Office of the County Recorder of San Diego County on February 3, 2005; and

WHEREAS, the Map proposes the subdivision of a 0.66-acre site into six (6) residential lots (five residential lots and one homeowner association lot for a private drive); 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 4125 and filed pursuant to the Subdivision Map Act. The total number of condominium dwelling units is five; and

WHEREAS, on April 27, 2017, the Planning Commission of the City of San Diego considered Vesting Tentative Map No. 1424164 and Easement Vacation No. 1328846, and pursuant to Resolution No. 4856-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 July 11, 2017, the City Council of the City of San Diego considered Vesting Tentative Map No. 1424164, and Easement Vacation No. 1328846, pursuant to San Diego Municipal Code section(s) 125.0440, 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. 1424164 and Easement Vacation No. 1328846:

A. <u>VESTING TENTATIVE MAP – San Diego Municipal Code § 125.0440</u>

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan. The 0.66-acre site is designated for residential uses by the Pacific Highlands Ranch Subarea Plan. The proposed sixlot subdivision includes five detached single family homes. The proposed residential development is consistent with the residential designation (Peripheral Residential) and density range of 5-9 dwelling units per acres (du/ac = 7.6) of the Plan. The Project fulfills a community need by providing needed housing in the City of San Diego. The Peripheral Residential portion

of the Subarea Plan calls for residential areas that can include diverse housing products such as small-lot single family homes. General Plan Policy LU-C.1b of the Land Use and Community Planning Element relies on community plans for site-specific land use density regulations and recommendations. The Project does not propose a change in the land use or zoning of the site. In conformance with the Subarea Plan, the project concentrates residential development as part of a series of compact and diverse neighborhoods. The Project, therefore, is consistent with General Plan Policy LU-C.1b. The proposed project has been designed in harmony with the adjacent neighborhood pattern as well as the Pacific Highlands Ranch Subarea Plan, and the project will implement the goals and policies of the Subarea Plan. Therefore, the subdivision will not adversely affect the applicable land use 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 proposed subdivision will comply with the regulations of the Land Development Code with proposed deviations. The deviations requested for the subdivision are needed in order to create a balanced site plan consistent with neighboring properties to the south and west in the Pacific Highlands Ranch Community.

The project site is unique. The parcel is a remainder lot from the Costa del Sol Subdivision, and due to its irregular shape and being surrounded by existing development, requires the following proposed deviations in order to create a functional project.

Deviations Table							
No.	Regulation	Requirement	Proposed	Lots			
1	131.0443(b)(1); Front Setbacks in RX Zones	Variable Front Setbacks	Setbacks as proposed	1-5			
2	Table 131-04E; Standard Front Setback	15'	11.9 feet	4			
3	Table 131-04E; Minimum Lot Width	35'	20 feet	1 and 5			
4	131.0443(b)(2)(a)(i); Minimum Side Setback	4.5' Lot 2 4.7' Lot 3	4 feet	2 and 3			
5	131.0443(b)(2)(a)(iii) Minimum Setback, Building Separation	10'	8-foot building separation	Between lots 1-2 and lots 2-3			
6	Table 131-04E; Minimum Rear Yard Setback	10'	Allow 4 foot rear yard setback.	1 and 4			
7	142-05B, Footnote 1 Driveway Length	20'	Allow 18 feet	3			
8	142.0340; Front and Side Yard Retaining Wall Height	Two walls – 3' max each	One wall, 6 feet high	2 - 5			

The subdivision requires a deviation from San Diego Municipal Code (SDMC) Section 131.0443(b)(1) to remove the requirement for variable front setbacks. Variable setbacks are required for developments in the RX zone exceeding four dwelling units: 15-foot setbacks are required for at least 25 percent of the total dwelling units, 10-foot setbacks are required for at least 25 percent of the total dwelling units, and 20-foot setbacks are required for at least 25 percent of the total dwelling units. No more than 40 percent of the total number of dwelling units are permitted to have front setbacks in any one category (10 feet, 15 feet, 20 feet). However, with only five units in a constricted, irregularly-shaped remainder parcel, it is not feasible to satisfy this regulation. The proposed buildings are sited relative to site constraints and in harmony to the adjacent neighborhood and street pattern, as guided by the community plan. This results in a site-sensitive, varying setback among all lots of the project that takes into account the best use of the land to minimize grading. Each home provides a setback that is different from the next, as a response to the sloping-nature and constraints of the parcel. This provides visual interest and facade articulation, and a reduction in perceived bulk and scale. Therefore, the applicant is requesting to deviate from the variable front setback regulation as the project meets the intent of the regulation.

If the variable setback deviation is granted, the applicant would request a deviation (No. 2) to the standard minimum 15-foot setback requirement. Lot 4 encroaches into the front yard setback by approximately three feet due to the angled nature of the house to the private drive frontage and the arrangement of all lots on the remainder parcel. Lot 4 would observe an 11.9-foot front yard setback.

There are two lots with minimum lot width deviations. The minimum lot width requirement for RX-1-2 is 35 feet. Using lot width measurements unique to irregularly shaped lots (per 113.0243(c)(1)), Lots 1 and 5 require a deviation (No. 3). These lots are flag shaped or pinched in order to fit into the irregular shape of the remainder parcel. The average width of the first 50 feet of lot depth is less than the required 35 feet. The extended driveway and flag lot shape require a deviation for Lot 5. The pinched lot shape requires a deviation for Lot 1. Granting the deviations on Lots 1 and 5 would also help create a varied streetscape along Carmel Valley Road and the proposed private drive.

The subdivision is requesting deviations (Nos. 4 and 5) from SDMC Section 131.0443(b)(2)(a)(i) and (iii) to reduce the side yard setbacks and building separation distances. Minimum side- and street-side setbacks are at least three feet or 10 percent of the lot width, whichever is greater, but are not required to be more than five feet. Because the proposed lots are irregularly shaped, the setback requirement is 4.5- and 4.7-foot setbacks for Lots 2 and 3, respectively. Therefore, the applicants are requesting a deviation (No. 4) for a four-foot setback between lots to allow the dwellings to be sited on the constricted parcel shape. Adhering to these proposed four-foot setbacks requires an additional deviation to building separation setback requirements. The applicant is requesting a deviation (No. 5) for an 8-foot building separation between Lots 1 and 2, and Lots 2 and 3 to distribute useable side-yards among the project.

The proposed subdivision requires a deviation (No. 6) from SDMC Section 131.0443(b)(3) to reduce the minimum rear yard setback. Due to the remainder parcel irregular shape, and siting of buildings, a reduction to the rear yard setback to four feet is requested on Lots 1 and 4. These deviations, in conjunction with the retaining wall deviations, provide useable side- or rear- yard spaces for each dwelling.

Lot 3 requires a deviation (No. 7) from SDMC Section 142.0560, Table 142-05K, to reduce the required driveway length. Single family dwelling units that do not provide a driveway of at least 20 feet in length require two additional parking spaces (Table 142-05B, Footnote 1). Due to the necessary siting of the building in relation to the irregular parcel shape, Lot 3 proposes an 18-foot long driveway. The driveway length of 18-feet would meet the required length for standard off-street parking space (8' x 18'), thus meeting the intent of the regulation. Additionally, the proposed driveway length contributes to the varying setback of the project.

As a result of the sloping, irregularly shaped lot, the applicant is requesting a deviation (No. 8) to the maximum height of retaining walls in SDMC Section 142.0340. Two retaining walls with a maximum height of three feet are permitted in the required front and street side yards. The applicant is requesting a deviation to allow one six-foot-high wall between Lots 2 and 3, to maintain useable yards and transition the elevation drop along the private drive. A similar situation between Lot 4 and 5 would occur, resulting in a transition of the private drive and the driveway into Lot 5, while retaining a useable side yard for Lot 4. These retaining walls would result in generally flat, usable side yard spaces between dwellings on this southerly-sloping irregularly shaped remainder parcel and takes into account the best use of the land while minimizing grading.

The requested deviations noted above would provide a similar product type to the adjacent neighborhood to the south and creates continuity with the community, a development pattern goal of the community plan. If the project were designed in strict conformance to the development regulations, the project would be under-density and dissimilar in bulk, scale, and pattern to the prevailing neighborhood, resulting in an incongruous project within the community that does not align with the City's Strategic Plan Goals. Through the requested deviations, a more desirable project is created than would be achieved if designed in strict conformance with the development regulations of the RX-1-2 zone. Therefore, 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.

- 3. The site is physically suitable for the type and density of development. The project proposes five single family detached dwelling units on a remainder parcel. The density is within the 5-9 dwelling units/acre envisioned within the Peripheral Residential land use area of the Pacific Highlands Ranch Subarea Plan. The site is surrounded by existing residential development to the south and southwest, and single family residential development to the east. Carmel Valley Road is improved to the north and existing facilities that will serve this site are located within that right-of-way. Therefore, the site is physically suitable for the type and intensity 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 site area was previously analyzed in the Master Environmental Impact Report for the Pacific Highlands Ranch Subarea Plan. There are no sensitive habitats, species or water courses on-site. Therefore, the design of the subdivision would not likely cause substantial environmental damage or substantially and avoidably injure fish or wildlife in 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 proposed development as designed will not be detrimental to the public health, safety, and welfare. The proposed development has been designed to conform with the City of San Diego's codes, policies, and regulations whose primary focus is the public's health, safety and welfare. The proposed development will construct necessary sewer and water facilities to serve the occupants. All structures constructed will be reviewed by City staff for compliance with all relevant and applicable building, electrical, mechanical, and fire codes to assure the structures will meet or exceed the current City regulations. The proposed development has been reviewed by City staff and is consistent with the City's policies and requirements. Additionally, the permit controlling the development contains conditions addressing the project compliance with the City's regulations and policies, and other regional, state, and federal regulations to prevent detrimental impacts to the public health, safety, and welfare. Compliance with these regulations and project conditions would result in a development that 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 design of the subdivision and the type of improvements are such that they do not conflict with any easements, acquired by the public at large, for access through or use of the property within the proposed subdivision as demonstrated by the City Engineer. However, water easements along the southerly and easterly boundaries of the site will be vacated with this project, as they have been removed per the Pacific Highlands Ranch Unit 23 and Unit 25 approvals and made redundant by the new Del Mar Heights Pipeline as part of the Carmel Valley Road East-Phase 2 realignment project. See Easement Vacation Findings below.
- 7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities. The design and proposed improvements for the subdivision are consistent with California Government Code Section 66473.1 and San Diego Municipal Code Section 125.0440(g) regarding the design of the subdivision for 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. Each structure 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 proposed project is the subdivision of a 0.66-acre parcel into five lots for residential development. The North City Future Urbanizing Area (NCFUA) Framework Plan and the Pacific Highlands Ranch Community Plan require new development to provide housing to accommodate the needs of low income households, as certified by the San Diego Housing Commission. The applicant has chosen the option of paying an in-lieu fee to the City's NCFUA Affordable Housing Trust Account to meet their affordable housing requirement rather than provide the dwelling units. The Pacific Highlands Ranch Plan allows an in-lieu fee option in the amount determined by the San Diego Housing Commission. Balanced needs for public facilities were taken into consideration with the development of the Pacific Highlands Community Plan and the projected build-out with the applied zone designations. The subdivision of this parcel into five residential lots is

consistent with what was anticipated in the community plan. The project design has taken into account the best use of the land to minimize grading. 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 addition of five residential lots for private development is consistent with the housing needs anticipated for the area.

B. <u>EASEMENT VACATION - San Diego Municipal Code § 125.1040</u>

- 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. The two City of San Diego water mains within the easements to be vacated are no longer in use. The 36-inch water main was abandoned in place as per City Drawings No. 37497-9-D, and the 30-inch water main was cut and slurried (terminated). The 30-inch water main was abandoned by omission of the Pacific Highlands Ranch plans for Units 23 (Map Nos. 15987 and 16004). The portion remaining on the subject project site is no longer needed and redundant with the new water main located within the widened Carmel Valley Road (per Map No. 37497). As the water mains have been removed, there is no longer a present or prospective use for the water easements as originally acquired or for any other public use of a like nature that can be anticipated.
- 10. The public will benefit from the vacation through improved utilization of the land made available by the vacation. The vacation of the water easements will allow the development of the subdivision in a manner consistent with the Pacific Highlands Ranch Subarea Plan. The project is proposing five dwelling units on a remainder parcel, and the building of more dwelling units helps meet the region's need for housing. Therefore, the public will benefit through the improved utilization of the land made available by the vacation.
- 11. The vacation is consistent with any applicable land use plan. The project is located within the Pacific Highlands Ranch Subarea Plan which designates the site as Peripheral Residential. The community plan does not provide guidance for the vacation of easements, however, the vacation of the water easement allows greater utilization of the land in the Peripheral Residential use. The vacation will allow additional housing to be built, consistent with the land use plan.
- 12. The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation or the purpose for which the easement was acquired no longer exists. The water mains are no longer in use. Their function as the Del Mar Height Pipeline has been relocated to Carmel Valley Road as per Grading and Improvement Plans for Carmel Valley Road City Drawing No. 37497-D. The easements in place served water mains that are no longer in use, making them redundant to the Carmel Valley Road Water Main. Therefore, the purpose for which the easement was acquired no longer exists.

(R-2017-651)

BE IT FURTHER RESOLVED, that existing water easements located within the project

boundaries as shown in Vesting Tentative Map No. 1424164, shall be vacated contingent upon

the recordation of the approved Final Map for the project.

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the

City Council, Vesting Tentative Map No. 1424164 and Easement Vacation No. 1328846 are

approved and hereby granted to CROUCH STREET, LLC, Subdivider, subject to the attached

conditions which are made a part of this resolution by this reference.

APPROVED: MARA W. ELLIOTT, CITY ATTORNEY

By:

Deputy City Attorney

IBL: mcm 6/22/2017

Or.Dept: DSD

Doc. No. 1517994

ATTACHMENT(S): Exhibit A, Conditions for Vesting Tentative Map No. 142164

EXHIBIT A

CITY COUNCIL CONDITIONS FOR VESTING TENTATIVE MAP NO. 1424164, UNITAS - PROJECT NO. 375001

ADOPTED BY RESOLUTION NO. R. 1123 6 NUL 11 2017

GENERAL

- 1. This Vesting Tentative Map will expire 3 years from date of final approval][City Clerk to stamp date]
- 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. This Tentative Map shall comply with the conditions of the Planned Development Permit No. 1328845.
- 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.

ENGINEERING

6. The Subdivider shall ensure that all existing and proposed 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. The Subdivider shall underground existing and/or proposed public utility systems and service facilities in accordance with the San Diego Municipal Code.

- 7. 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.
- 8. 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

- 9. "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].
- 10. "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."
- 11. 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

12. Prior to recordation of the Final Map, the Subdivider shall sign and provide to the City a letter acknowledging their obligation and intent to create, via CC&Rs on each Unit's title, provisions for the continuous future operation and maintenance of the development's private sewer main in a manner satisfactory to the Public Utilities Director and the City Engineer.

TRANSPORTATION

13. Prior to the recordation of the Final Map, the Subdivider shall provide recorded reciprocal access easements in favor of all parcels within the project site, to the satisfaction of the City Engineer.

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).

Internal Order No. 24004790

Passed by the Council of The City	of San Diego on	JUL 11 2017		, by the following vote:		
Councilmembers	Yeas	Nays	Not Present	Recused		
Barbara Bry	\mathbb{Z}			Q		
Lorie Zapf			Ø			
Chris Ward	\square					
Myrtle Cole	Ø					
Mark Kersey						
Chris Cate	$ ot\!\!\!/$					
Scott Sherman	$ ot \hspace{-1em} \square$					
David Alvarez	$ ot \hspace{-1em} Z$					
Georgette Gomez	Ø					
Date of final passage				ge is the date the		
AUTHENTICATED BY:		KEVIN L. FAULCONER Mayor of The City of San Diego, California.				
			ELIZABETH	S MALAND		
(Seal)		City Clerk of The City of San Diego, California.				
		Ву	<u> </u>	, Deputy		
		Office of the	ice of the City Clerk, San Diego, California			
	Resol	ution Numb	er R-	11236		

Resolution Number R-___