

RESOLUTION NUMBER R- 311372

DATE OF FINAL PASSAGE OCT 17 2017

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO APPROVING VESTING TENTATIVE MAP WITH
EASEMENT VACATIONS NO. 1162656 FOR LEGACY
INTERNATIONAL CENTER – PROJECT NO. 332401.

WHEREAS, MORRIS CERULLO LEGACY CENTER FOUNDATION, LLC filed an application with the City of San Diego for a Vesting Tentative Map with easement vacations to redevelop the existing Mission Valley Resort property into a mixed-use development consisting of religious, lodging, administrative, recreational, and commercial uses known as the Legacy International Center project, located at 875 Hotel Circle South, and legally described as Lot 1 of Mission Valley Inn, in the City of San Diego, County of San Diego, State of California, according to map thereof No. 3347, filed in the Office of the County Recorder of San Diego County, December 28, 1955, in the Mission Valley Community Plan area, in the MVPD-MV-M/SP zone, which is proposed to be rezoned to the MVPD-MV-CV zone; and

WHEREAS, the Map proposes the subdivision of an 18.13-acre site into five commercial lots; and

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

WHEREAS, on June 8, 2017, the Planning Commission of the City of San Diego considered Vesting Tentative Map with easement vacations No. 1162656 and pursuant to Resolution No. 1897177, 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 October 17, 2017, the City Council of the City of San Diego considered Vesting Tentative Map with easement vacations No. 1162656 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. 1162656:

FINDINGS:

VESTING TENTATIVE MAP SECTION 125.0440

1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan.

The Legacy International Center project (Project) will demolish the existing structures and parking lots, and construct a mixed-use development consisting of religious, lodging, administrative, recreational, and commercial uses dispersed among five buildings:

1. A 41,071-square-foot "Legacy Vision Center" building (with a welcome center, a dome theater, a museum, a gallery, and retail uses);
2. A 63,477-square-foot pavilion (with a restaurant, gift shops, learning center, theater, and wellness center);
3. A five-story, 88,120-square-foot Legacy Village building containing 127-room hotel, a restaurant, and a wellness center;

4. A parking structure; and
5. A 7,783-square-foot outdoor plaza;

The Project would include a maximum of 659 parking stalls (435 within a parking structure and 224 surface spaces) where 524 spaces are required. The Project will also include outdoor recreation amenities, hiking trails, a linear park, plazas, a water feature, and other accessory uses and amenities.

The Project would also provide pedestrian plazas and walkways, an amphitheater, prayer garden, wailing wall, and water feature. A linear green space with a pedestrian pathway, shade trees, drought tolerant landscaping, and shaded seating would provide passive recreation opportunities. A pedestrian trail would also be provided along an existing bench that traverses the southern portion of the hillside. This trail would include an overlook area and provide interpretive signage regarding the history of Mission Valley. Signage would also be provided along the project frontage to invite people into the site and direct them to the public amenities (e.g. the pedestrian plazas, hillside trail, and amphitheater area).

The project site, located in the Mission Valley Community Plan area, is designated as Commercial Recreation and zoned MVPD-MV-M/SP (Multiple Use Zone in the Mission Valley Planned District in a Specific Plan). The site is located at 875 Hotel Circle South, San Diego, California. The site is urban and was previously developed for multiple uses within the Atlas Specific Plan, which was approved by the City of San Diego City Council, Resolution Number R-272571, dated December 13, 1988 ("Atlas Specific Plan") which permits, among other things, the use of the property for the operation of a hotel. The site is presently used for a 202 room hotel, a 5,300 square foot restaurant, and 1,200 square foot liquor store. An eight pump gas station and a gym were also operated on the site until the spring of 2013. Commercial and hotel developments occur east and west of the Project site and across Interstate 8, north of the Project. Located along Hotel Circle South, the Project site is south of Interstate 8, west of State Route 163, and east of Interstate 805.

The Project is proposing to continue to be designated as Commercial Recreation, but will no longer be governed by the Atlas Specific Plan. The Atlas Specific Plan sets forth a land use and urban design element for properties owned by Atlas Hotels, Inc. to ensure the orderly and integrated development of the affected parcels and sites. Since the Project will demolish the existing hotel, the Project is requesting an amendment to be removed from the Atlas Specific Plan. The land use and development restrictions in the Atlas Specific Plan are specifically related to the hotel uses on the property and are not applicable or appropriate for the Project. Once the site is removed from the Atlas Specific Plan, those regulations will no longer apply. However, the Project intends to meet the underlying objectives of the Atlas Specific Plan of balanced circulation with ample opportunities for alternative modes of transportation, including light rail transit, bus, bicycle and pedestrian movement, and improved streetscape design. Improved streetscape design will be achieved through the provision of parks and open spaces, utilizing native, drought resistant plants and trees, and maintaining large portions of the steep hillsides, which will continue to be visible from Interstate 8 and Hotel Circle South.

The Project will implement the policies of the Mission Valley Community Plan intended for the Project site. The objectives for commercial uses in the Mission Valley Community Plan applicable to this Project are: 1) encourage multi-use development in which commercial uses are combined or integrated with other uses; 2) encourage visitor-oriented commercial development; and 3) encourage new commercial development which relates (physically and visually) to existing adjacent development. The Legacy International Center would integrate a variety of uses including lodging, retail, entertainment, and recreational uses. These uses would be connected by open plazas and a pedestrian network. The Project would include visitor-oriented commercial development, such as a 127-room hotel, a restaurant, and a wellness center. The Project would also relate to existing adjacent development made up of hotel and office properties that currently ranges from two to five stories. It has been designed to be compatible with the scale and massing of existing development in the area.

The primary basis for analyzing development intensity according to the MVCP is trip generation. The MVCP divides the community plan area into 13 Development Intensity Districts (DIDs) and assigns allowable trip generation rates (in terms of trips/acre) to each DID. The project site is located within the "D" DID, which allows for 380 gross trips per acre. Projects that exceed the threshold of 380 ADT per gross acre are required to be processed as a Community Plan Amendment and are required to submit a traffic study identifying the traffic impacts and mitigation required by the project as well as an environmental study prepared in accordance with the California Environmental Quality Act. The proposed project totals 221 gross trips per acre, which is well below the 380 trip threshold. As such, the project is consistent with the development intensity provisions of the MVCP. Therefore, the proposed subdivision and its design or improvement are consistent with the policies, goals and objectives of the applicable land use plan.

2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The Planned Development Permit pursuant to SDMC Section 126.0602(b)(1) will allow a deviation to retaining wall height restrictions set forth in 142.0340(e) which restricts retaining wall heights to nine feet within required yards and 12 feet for walls outside the require yards. Section 142.0340 limits retaining walls to nine feet within required side yard and rear yards. Two walls are located within required setbacks and have maximum heights of 13.5 feet (Wall 11) and 14.0 feet (Wall 12). These walls are located within the rear setback adjacent to a parking lot and are required to avoid impacts to the abutting hillside and would not be visible from public viewpoints. The proposed retaining wall heights are necessary due to the hillside located at the rear of the site and the grade differential between the project site and the site to the east. The 14-foot (max.) wall is located at the rear portion of the site within the side setback between the subject site and the adjacent property to the east. This wall is required due to the significant grade differential between the properties and is necessary to avoid grading encroachments on the adjacent property. The other two retaining walls are located outside of required setbacks and have the following maximum heights: 17.5 feet (Wall 15, and 16.5 feet (Wall 16). These walls are located to the rear of the site and would be obscured from public viewpoints. They are located to the eastern side of the hotel building. There is a grade change of 45 feet on site and the

requested deviations allow for site function and access. Raising the site to lower retaining wall heights would result in exceeding maximum grades for drive isles. The proposed development will comply with all other relevant regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The Project as proposed complies with required setbacks, parking, landscaping regulations transportation, drainage, and storm water requirements. Therefore, the proposed development will comply with the regulations of the Land Development Code including any deviations pursuant to the Land Development Code.

3. The site is physically suitable for the type and density of development.

The Project will re-develop approximately 12.6 acres of an 18.13-acre property located in the Mission Valley community, within a built urban environment. The project site is a previously developed site and is currently zoned MVPD-MV-M/SP (Multiple Use in a Specific Plan). The Project site currently contains a 202-room hotel, a 5,300-square-foot restaurant, and a 1,200-square-foot liquor store, and several additional buildings. An eight-pump gas station and a gym were also operated on the site until the spring of 2013. Commercial and hotel developments exist east and west of the Project site and across Interstate 8, north of the Project. In this setting, the proposed Project functions as development of an infill site; reusing and repositioning buildings with updated structures with portions of the Project to be accessed by the general public. The Project site has convenient access to an existing network of surface streets, freeways, and transit routes (e.g., bus and trolley) and all public utilities are in place to allow connections to serve the Project.

The Project is limited to areas of the site that have been previously graded or disturbed. Technical reports prepared for the Project demonstrate that the site is physically suitable for the proposed development. No grading into areas qualifying as Environmentally Sensitive Lands (ESL) Steep Hillsides will occur.

A hotel and other structures exist on the site today and the Project will also provide a new hotel and other structures within the same project footprint. Therefore, the site is physically suitable for the proposed 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.

An Environmental Impact Report No. 332401 and findings have been prepared for the Project in accordance with State of California Environmental Quality Act (CEQA) Guidelines. A Mitigation, Monitoring, and Reporting Program (MMRP) has been provided and will be implemented which will reduce, to a level of insignificance, the potential impacts identified in the environmental review process.

Regarding biological resources, the Project will have impacts to two sensitive vegetation communities: disturbed southern mixed chaparral and non-native grassland. Mitigation for

impacts to these vegetation communities may be achieved by payment into the City of San Diego Habitat Acquisition Fund. No sensitive plant species were observed within the survey area. No direct impacts to sensitive wildlife species would occur. The project would comply with the Migratory Bird Treaty Act of 1918 and California Department of Fish and Wildlife Code 3503. Potential direct and indirect impacts to bird species would be avoided through implementation of pre-construction surveys if work were to be conducted during the breeding season. If nesting birds are identified, then mitigation measures to avoid impacts to these breeding birds would be implemented. A wetland delineation conducted on-site identified non-wetland waters within the southern half of the survey area. The non-wetland waters occur as upland vegetated ephemeral streambeds and impacts would occur to a portion of these ephemeral drainages. Mitigation for impacts to ephemeral waters would be achieved on-site through creation, restoration, and/or enhancement of drainage courses. Permits from the resource agencies would be required in order to authorize impacts to jurisdictional waters. No impacts to wetlands would occur. No grading into areas qualifying as Environmentally Sensitive Lands (ESL) Steep Hillside will occur.

While the proposed project would be developed partially within the 100-year floodplain, the project design includes waterproofing of structures within the floodplain. Development of the proposed project would maintain the same drainage characteristics in the post-project condition as compared to the pre-project conditions. In addition, the proposed storm drain system upgrades would be designed to reduce the potential for on- and off-site flows to exceed the capacity of the storm drain system and result in local flooding. Development of the project would not cause significant flooding impacts on-site or to upstream or downstream properties, nor would it have a significant effect on local or global drainage patterns. Impacts related to flood hazards would be less than significant. Therefore, the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

5. The design of the subdivision or the type of improvement will not be detrimental to the public health, safety, and welfare.

The proposed development will not be detrimental to public health, safety and welfare because the permits controlling the development and continued use of the proposed Project for this site contain specific conditions addressing the Project's compliance with the City's codes, policies, regulations and other regional, state, and federal regulations related to public health and safety. Conditions of approval require compliance with several operational constraints and developmental controls such as control of drive aisle and parking space width, provision of Brush Management Zones, and closure of non-utilized driveways. Review of all construction plans and the final construction and provision of a linear park and steep hillside maintenance will ensure compliance with all regulations. Therefore, the proposed development will not be detrimental to 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 site contains easements acquired by the public at large for access through or use of property within the proposed subdivision that will be vacated on the Vesting Tentative Map. In addition, the Project proposes to grant a public access easement along the pathway that transcends the linear greenbelt along the project frontage. The Project would also provide full-width dedication (varying width up to 28 feet) along the project frontage and would construct an additional eastbound and westbound travel lane along Hotel Circle South. Existing conditions would be matched at the western and eastern limits of the site with appropriate transitions. In addition, a public access easement would be granted along the proposed trail along the base of the southern hillside leading to an overlook area. The trail generally follows an existing sewer easement (to be vacated). This trail/overlook area will include some interpretive signage that may provide information regarding the history of Mission Valley. Therefore, 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.

7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities.

The design of the subdivision, the Project and related site improvements, will provide, to the extent feasible, for future passive or natural heating and cooling opportunities. The design of the subdivision has taken into account the best use of the land and has located development within previously disturbed areas. Each structure to be constructed on the site 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. Therefore, the design of the proposed subdivision provides, 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 site is located within a Commercial-Recreation designation and was not planned for residential use. The Project is proposed on a previously developed site, which currently contains a 202-room hotel, a 5,300-square-foot restaurant, and a 1,200-square-foot liquor store, and several additional buildings. An eight pump gas station and a gym were also operated on the site until in or around the spring of 2013. Commercial and hotel developments occur east and west of the Project site and across Interstate 8, north of the Project. In this setting, the proposed Project functions as development of an infill site; reusing and repositioning obsolete and underutilized buildings with updated, aesthetically pleasing buildings with large portions of the Project to be used and enjoyed by the general public. The proposed use is consistent with the surrounding visitor-serving uses. The Project site has convenient access to an existing network of surface streets, freeways, and transit routes (e.g., bus and trolley); and all public utilities are in place to allow easy connections to serve the Project. All public utilities are available to the project site. The Project will provide additional retail uses on the site, which will increase the tax base in the community. Therefore, 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 above findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the easement vacations located within the project boundaries as shown in Vesting Tentative Map No. 1162656, shall be vacated, contingent upon the recordation of the Final Map for the project, and that the following findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference:

1. There is no present or prospective use for the public easement, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated.

The 18.13-acre project site, located at 875 Hotel Circle South contains public easements to be vacated:

1) Along Hotel Circle South, a 25-foot wide area reserved for a future street which was offered and rejected, as shown on Map 3347, is proposed to be vacated. Per Map 3347, a rejected offer of dedication shall remain open and subject to future acceptance by the City of San Diego. The Project proposes to replace this 25-foot wide strip of land with a new proposed right-of-way line that generally maintains the area reserved for future road widening with a configuration that improves functionality with the layout of the proposed Project and the alignment of Hotel Circle South.

2) Along the eastern side of the project site, an approximately 10-foot wide storm drain easement is proposed to be vacated. This easement is no longer necessary as the storm drain is being relocated. (Easement No. 5 on Sheet C-2).

3) Along the eastern side of the project site, a portion of an approximately 15-foot wide storm drain easement is proposed to be vacated. This portion of the easement is no longer necessary because the storm drain is being relocated. (Easement No. 9 on Sheet C-2).

4) Portions of an easement for storm drains, water, and sewers located along the eastern part of the Project site is proposed to be vacated. These portions of the easement are no longer necessary because utilities are being relocated or removed. (Easement No. 19 on Sheet C-2).

5) Portions of an easement for an approximately 10-foot wide sewer easement are proposed to be vacated. This easement is no longer necessary because the sewer main will be abandoned and no longer in use. (Easement No. 12 on Sheet C-2).

6) Along the rear of the Project site, portions of the existing open space easement are proposed to be vacated. These areas encompass approximately 0.013 acres. However, a new proposed covenant of easement would be dedicating additional open space, resulting in a net gain of 0.22 acres. (Easement No. 17 on Sheet C-2).

7) A portion of an existing sewer easement is proposed to be vacated. This easement is no longer necessary because there is no public sewer in that location. (Easement No. 19 on Sheet C-2).

As the portions of the easements to be vacated are either being replaced or the easements are being relocated, there is no present or prospective use for the public easements, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated.

2. The public will benefit from the action through improved use of the land made available by the vacation.

The area to be vacated along Hotel Circle South would be replaced by a new proposed right-of-way line that generally follows the existing area to be reserved for future street widening. The proposed right-of-way is sufficient to permit Hotel Circle South to expand to a four-lane roadway. It also accommodates a bus stop. The Project has been designed to be pedestrian-friendly with a non-contiguous sidewalk within a linear green space along the Project frontage, which is approximately 22,000 square feet in excess of the required street yard area planting.

The utility easements are being vacated because existing utilities are being removed as part of the proposed Project. Therefore, the easements are no longer needed. Some utilities are being relocated and new easements are being provided and other easements are being removed and no replacement is needed. The benefit provided is the removal of unnecessary utility easements where they are not needed because there is no public use and a reduced liability to the City of San Diego.

The portions of the open space easements being vacated are necessary for implementation of the proposed Project. However, the public will benefit as an additional land (0.22 acres) will be added to the open space as part of the new covenant of easement.

3. The vacation is consistent with any applicable land use plan.

The Legacy International Center Project will demolish the existing structures and parking lots and construct a mixed-use development consisting of religious, lodging, administrative, recreational, and commercial uses dispersed among three buildings: 1) a 63,477 square foot pavilion (with a restaurant, gift shops, learning center, and theater), 2) a 41,071 square foot "Legacy Vision Center" building (with a welcome center, a dome theater, a museum, a gallery, and retail uses), and 3) a 7,783 square foot outdoor plaza, and a five story 88,120 square foot Legacy Village building containing 127 room hotel, a restaurant, and a wellness center. The Project would include a minimum of 524 parking stalls, up to a maximum of 659 parking stalls (435 within a parking structure and 224 surface spaces).

The Project would also provide pedestrian plazas and walkways, an amphitheater, prayer garden, wailing wall, and water feature. A linear green space with a pedestrian pathway, shade trees, drought tolerant landscaping, and shaded seating would provide passive recreation opportunities. Signage would also be provided along the Project frontage to invite people into the site and direct them to the public amenities (e.g. the pedestrian plazas, and amphitheater area).

The Project site, located in the Mission Valley Community Plan area, is designated as Commercial Recreation and zoned MVPD-MV-M/SP (Multiple Use Zone in the Mission Valley Planned District in a Specific Plan). The site is located at 875 Hotel Circle South, San Diego, California. The site is urban and was previously developed for multiple uses within the Atlas Specific Plan, which was approved by the City of San Diego City Council, Resolution Number R-272571, dated December 13, 1988 (Atlas Specific Plan) which permits, among other things, the use of the property for the operation of a hotel. The site is presently used for a 202 room hotel, a 5,300 square foot restaurant, and 1,200 square foot liquor store. An eight pump gas station and a gym were also operated on the site until in or around the spring of 2013. Commercial and hotel developments occur east and west of the Project site and across Interstate 8, north of the Project. Located along Hotel Circle South, the Project site is south of Interstate 8, west of State Route 163, and east of Interstate 805.

The Project is proposing to continue to be designated as Commercial Recreation, but will no longer be governed by the Atlas Specific Plan. The Atlas Specific Plan sets forth a land use and urban design element for properties owned by Atlas Hotels, Inc. to ensure the orderly and integrated development of the affected parcels and sites. Although the site would be removed from the Specific Plan, the Project intends to meet the underlying objectives of the Atlas Specific Plan of balanced circulation with ample opportunities for alternative modes of transportation, including light rail transit, bus, bicycle and pedestrian movement and improved streetscape design. Improved streetscape design will be achieved through the provision of parks and open spaces, utilizing native, drought resistant plants and trees, and maintaining large portions of the steep hillsides, which will continue to be visible from Interstate 8 and Hotel Circle South.

The Project will implement the policies of the Mission Valley Community Plan intended for the Project site. The objectives for commercial uses in the Mission Valley Community Plan applicable to this Project are: 1) encourage multi-use development in which commercial uses are combined or integrated with other uses; 2) encourage visitor-oriented commercial development; and 3) encourage new commercial development which relates (physically and visually) to existing adjacent development. The Legacy International Center would integrate a variety of uses including lodging, retail, entertainment, and recreational uses. These uses would be connected by open plazas and a pedestrian network. The Project would include visitor-oriented commercial development, such as a 127-room hotel, a restaurant, and a wellness center. The Project would also relate to existing adjacent development. The Project would range in height, from two to five stories, which is consistent with surrounding development, which consists of hotel and office properties that range from two to ten stories. It has been designed to be compatible with the scale and massing of existing development in the area.

The proposed vacation of the offer to dedicate a 25-foot wide area along Hotel Circle South is being replaced by a new proposed right-of-way line. This new right-of-way allows Hotel Circle South to be widened to a four lane road as planned in the current Mission Valley Community Plan. The other public easement vacations are necessary in order to implement the Project and would not adversely affect any applicable land use plan.

12. The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by this vacation or the purpose for which the easement was acquired no longer exists.

The proposed vacation of the offer to dedicate a 25-foot wide area along Hotel Circle South is being replaced by a new proposed right-of-way line. This new right-of-way allows Hotel Circle South to be widened to a four lane road as planned in the current Mission Valley Community Plan.

The utility easements are being vacated because existing utilities are being removed as part of the proposed Project. Therefore, the easements are no longer needed. Some utilities are being relocated and new easements are being provided, others are being removed and no replacement is needed. The benefit provided is the removal of unnecessary utility easements where they are not needed because there is no public use and a reduced liability to the City of San Diego.

The portions of the open space easements being vacated are necessary for implementation of the proposed Project. However, the public will benefit as an additional land (0.22 acres) will be added to the open space as part of the new covenant of easement.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the City Council of the City of San Diego, Vesting Tentative Map with easement vacations No. 1162656 are hereby GRANTED by the City Council of the City of San Diego to the referenced Owner/Permittee, subject to the attached conditions which are made a part of this Resolution by this reference, contingent upon final passage of the R- 311371 approving amendments to the General Plan, Mission Valley Community Plan, and Atlas Specific Plan and O- 20872 rezoning the Project site to the MVPC-MV-CV zone.

APPROVED: MARA W. ELLIOTT, City Attorney

By


Corrine L. Neuffer
Deputy City Attorney

CLN:dkr
August 16, 2017
October 23, 2017 COR. COPY
Or.Dept:Planning
Doc. No.: 1561547_2

ATTACHMENT: Vesting Tentative Map and Easement Vacation Conditions

CITY COUNCIL CONDITIONS FOR VESTING TENTATIVE MAP NO. 1375776

LEGACY INTERNATIONAL CENTER – PROJECT NO. 332401 [MMRP]

ADOPTED BY RESOLUTION NO. R-**311372** ON **OCT 17 2017**

GENERAL

1. This Vesting Tentative Map will expire on **OCT 17 2020**
2. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the recordation of the Final Map, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
4. The Vesting Tentative Map shall conform to the provisions of Site Development Permit No. 1162659, Conditional Use Permit No. 1162655, Planned Development Permit No. 1162654.
5. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, “Indemnified Parties”]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City’s approval of this Project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify Subdivider of any claim, action, or proceeding, or if City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney’s fees and costs, City defends the action in good faith, and Subdivider is not required to pay or perform any settlement unless such settlement is approved by the Subdivider.

AIRPORT

6. Prior to recordation of the, the Subdivider shall provide a valid “Determination of No Hazard to Air Navigation” issued by the Federal Aviation Administration [FAA].

MAPPING

7. “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].

8. "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."
9. 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.
10. All subdivision maps in the City of San Diego are required to be tied to the California Coordinate System of 1983 (CCS '83), Zone 6, pursuant to Section 8801 through 8819 of the California Public Resources Code.
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.

WATER/WASTEWATER

12. The Subdivider shall grant water and sewer easements, as shown on the approved Tentative Map Exhibit "A," satisfactory to the Public Utilities Director and the City Engineer.
13. The Subdivider shall process encroachment maintenance and removal agreements, 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.
14. Prior to the recording of the Final Map, all public water and sewer facilities shall be complete and operational in a manner satisfactory to the Public Utilities Director and the City Engineer.

PLANNING

15. 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," 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."

LANDSCAPE/BRUSH MANAGEMENT

16. 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 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. 24006955.

Project No. 332401

VTM No. 1375776

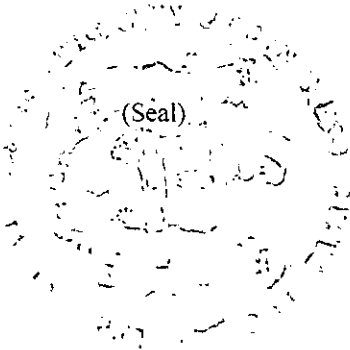
Passed by the Council of The City of San Diego on OCT 17 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<input type="checkbox"/>	<input checked="" 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"/>
Georgette Gomez	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 17 2017


(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.

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- 311372