

RESOLUTION NUMBER R- 311431

DATE OF FINAL PASSAGE DEC 04 2017

ITEM # 205

12/4/17

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING TENTATIVE MAP NO. 1384952 AND PUBLIC RIGHT OF WAY AND EASEMENT VACATIONS FOR DISCOVERY PLACE – PROJECT NO. 396636.

WHEREAS, Palmetto Hospitality of San Diego, LLC, Subdivider, and Pasco Laret Suiter and Associates, Engineer, submitted an application to the City of San Diego for a tentative map (Tentative Map No. 1384952) with summary public right-of-way and easement vacations for the Discovery Place Tentative Map, Project No. 396636. The project site is located at 2315 Camino Del Rio North, east of Qualcomm Way, south of Camino Del Rio North, and north of the Interstate 8 westbound off ramp to Qualcomm Way within the Mission Valley Planned District (MVPD) MV-CO Base Zone, Airport Land Use Compatibility Overlay Zone (Montgomery Field), Airport Influence Area - Review Area 2 (Montgomery Field and San Diego International Airport), FAA Part 77 Noticing Area (Montgomery Field and San Diego International Airport), Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone within the Mission Valley Community Plan. The property is legally described as Parcel 3 of Parcel Map 16900, in the City of San Diego, County of San Diego, State of California, according to Map thereof, filed in the Office of the County Recorder of San Diego County, July 10, 1992; and

WHEREAS, the Map proposes the Subdivision of a 3.29-acre site into three lots for commercial development; and

WHEREAS, on March 3, 2017, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources

Code section 21000 et. seq.) under CEQA Guideline Section 15304, Minor Alterations to Land; and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; 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, on July 27, 2017, the Planning Commission of the City of San Diego considered Tentative Map No. 1384952 with summary Public Right-of-Way and Easement Vacations, and pursuant to Resolution No. 4878-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 December 4, 2017, the City Council of the City of San Diego considered Tentative Map No. 1384952 with summary Public Right-of-Way and Easement Vacations, 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 Tentative Map No. 1384952:

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

The proposed Discovery Place project (Project) will subdivide the existing 3.29-acre lot into three commercial parcels. The existing development of the property consists of commercial uses comprised of retail restaurants, entertainment uses, and a hotel. The Project site is designated as Commercial Employment, Retail, & Services in the City of San Diego's General Plan. Commercial Employment, Retail, & Services are areas that are comprised of uses that are evenly distributed throughout the City to access the commercial related needs of various community planning areas. The Project site is also located within Subarea I of the Mission Valley Community Plan and is designated as Commercial land use. The Project site currently implements the General Plan and Mission Valley Community Plan by having a commercial development consisting of commercial retail uses and a hotel use on the existing site. The property was previously developed under a ministerial process. The Project implements the land uses and complies with the land use designations and policies of the Mission Valley Community Plan, therefore, the 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 Project proposes a commercial subdivision development that is consistent with the existing MVPD-MV-CO Zone, a base zone that provides for commercial development. Consistent with the Land Development Code requirements, the Project includes a Tentative Map to subdivide the property into three legal parcels and does not require any variances or deviations. The Project has already recorded shared parking agreements against the subject property for internal shared parking and circulation of the commercial center. 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 site was fully developed in late 2014 through early 2016 with existing commercial uses to include a 1,800 square-foot Starbucks restaurant, a 6,000 square-foot iFly Indoor Skydiving venue, and a five-story, 81,475 square-foot Springhill Suites by Marriott Hotel, all consistent with the Base Zone regulations and the adopted community plan. The parcel lot is accessed by three driveways along Camino Del Rio North and the commercial development provides a total of 162 parking spaces. Therefore, the Project site remains 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 site was fully developed in late 2014 through early 2016 with existing commercial uses to include a 1,800 square-foot Starbucks restaurant, a 6,000 square-foot iFly Indoor Skydiving venue, and a five-story, 81,475 square-foot Springhill Suites by Marriott Hotel, all consistent with the Base Zone regulations and the adopted community plan. This subdivision was reviewed by the City of San Diego for conformance with the Land Development Regulations, California Building Code, and Land Use Policies. The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15304, Minor Alterations to Land, of the State CEQA Guidelines which determined that the subdivision will have no substantial impact to the environment. The project is located within an urbanized and built-out environment where there are no watercourses or environmentally sensitive lands harboring fish or wildlife on the site. Therefore, the subdivision or the proposed improvements will not cause substantial environmental damage or substantially 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 Project proposes to subdivide the existing 3.29-acre lot into three commercial parcels for opportunities of separate private ownership. The Project site was fully developed in late 2014 through early 2016 with existing commercial uses to include a 1,800 square-foot Starbucks restaurant, a 6,000 square-foot iFly Indoor Skydiving venue, and a five-story, 81,475 square-foot Springhill Suites by Marriott Hotel, all consistent with the Base Zone regulations, adopted community plan, and building code regulations. The proposed subdivision will not change access, internal, or external circulation, or utilities of the previously developed project. 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 proposed subdivision proposes to vacate two public right-of-way easements and two public utility easements. The public right-of-way easements currently lie underneath an existing private parking lot. The existing public right-of-way easements are proposed to be vacated since no prospective use for the easement that is identified in the community plan or current zoning that could be reasonably anticipated. In addition, two public utility easements will be vacated. The existing public utility easements are currently located under an existing private parking lot. The public sewer main which previously resided in the easements has been relocated on the site and a new public utility easement has been dedicated to the City of San Diego. Therefore, the design of the subdivision 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 proposed subdivision of a 3.29-acre parcel into three lots with existing development 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 resources. With the independent design of the proposed subdivision each structure will continue to have the opportunity through building materials, site orientation, architectural treatments, placement and selection of plant materials to provide to the extent feasible, for continued 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 decision maker has reviewed the administrative record, including project plans, technical studies, environmental documentation, and public testimony, in considering the effects of the proposed subdivision. The Project site was fully developed in late 2014 through early 2016 with existing commercial uses to include a 1,800 square-foot Starbucks restaurant, a 6,000 square-foot iFly Indoor Skydiving venue, and a five-story, 81,475 square-foot Springhill Suites by Marriott Hotel, all consistent with the building code regulations. Public services and utilities exist and are available to continue serving the site. The Project proposes to subdivide the existing 3.29-acre lot into three commercial parcels for opportunities of separate private ownership. Although the proposed subdivision does not include development of housing, it does provide for further development of what the General Plan identifies in its Land Use and Community Planning Element with Commercial Employment, Retail, and Services that serves to support jobs that are most beneficial to the local economy and local residents. Therefore, the decision maker has reviewed the administrative record including the Project plans, environmental documentation and public testimony in order to consider and balance the effects of the proposed subdivision on the housing needs of the region, 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 portions of Right-of-Way Easement recorded September 21, 1990, as Instrument No. 90-0518597; Road Right-of-Way Easement recorded September 21, 1990, as Instrument No. 90-0518599; Sanitary Sewer Easement recorded September 21, 1990, as Instrument No. 90-518599; and Sewer Facilities Easement recorded January 5, 1993, as Instrument No. 1993-0004034, all located within the project boundaries as shown in Tentative Map No. 1384952, shall be vacated, contingent upon the recordation of the

approved Parcel 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 public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated.**

The existing public utility services within the existing easements have been previously relocated on site in order to permit the existing parking lot to be constructed over the existing public utility easement. Since construction and the public utility relocation is complete, the intended purpose of the existing easements is no longer necessary in their current configuration or are they required in the future since a new easement accompanying the relocated public sewer main has been granted to the City of San Diego as Instrument No. 2014-0344801. Therefore, there is no present or prospective use for the easements, 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 action through improved utilization of the land made available by the vacation.**

There will no longer be any use for the easements as the utility services within the existing easements have been relocated; therefore, the abandonment of the easements and removal of the utility services eliminates any physical and legal restraints for future improvements. The vacated area is currently be used as a private parking lot which currently supports the existing commercial uses on site. Therefore, the public will benefit from the abandonment through improved utilization of the land made available by the abandonment.

**11. The vacation is consistent with any applicable land use plan.**

The Project site is zoned MVPD-MV-CO and designated as Commercial Employment, Retail, & Services in the City of San Diego's General Plan. The site is also located within Subarea I of the Mission Valley Community Plan and is designated as Commercial land use. Since the public sewer main has already been relocated on site and a public utility easement has been dedicated to the City of San Diego for the relocated utility, there will no longer be any use for the existing easements. The proposed public utility easement abandonment has no effect on and is consistent with the 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 existing utility services which relied on the original acquired easements have already been relocated on site. Therefore, the purpose for which the utility easements were acquired no longer exist. Therefore, the public facility or purpose for which the easement was originally acquired will not be detrimentally affected by this abandonment and the purpose no longer will exist.

**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.**

The Project proposes to vacate two public right-of-way easements which bisect the project site near the westerly end of the subject property. The existing right-of-way was granted to the City of San Diego by grant deeds as Instrument Numbers 90-0518597 and 90-0518599. The existing right-of-way easement area has been developed as a private parking lot which supports the existing, adjacent commercial development. The proposed right-of-way vacations would remove the existing easements from underneath the existing private parking lot. The existing public rights-of-way abutting the Project site would continue to maintain external and internal circulation consistent with the community plan's transportation element while simultaneously continuing to provide pedestrian and driveway access needs to the Project site. Therefore, there is no present or prospective use for the public rights-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.

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

The Project proposes to vacate the two public right-of-way easements which bisect the project site near the westerly end of the subject property. The existing right-of-way easement area has been developed as a private parking lot which supports the existing, adjacent commercial development. The right-of-way vacations would continue to maintain external and internal circulation consistent with the community plan's transportation element while simultaneously meeting the needs of the proposed project. The right-of-way vacations would provide the land to be unburdened by the public right-of-way easements and continue to function as a private parking lot and provide internal project circulation which supports the existing commercial development on site. The existing commercial project serves the commercial retail needs of the community, provides employment opportunities, sales tax revenue, and hotel tax revenue benefitting the City of San Diego and the public. Therefore, the public will benefit from the vacation through improved use of the land made available by the vacation.

**15. The vacation does not adversely affect any applicable land use plan.**

The Project site is zoned MVPD-MV-CO and designated as Commercial Employment, Retail, & Services in the City of San Diego's General Plan. The site is also located within Subarea I of the Mission Valley Community Plan and is designated as Commercial land use. The Project proposes to vacate two public right-of-way easements which bisect the project site near the westerly end of the subject property. The existing rights-of-way was granted to the City of San Diego by grant deeds as Instrument Numbers 90-0518597 and 90-0518599. The existing right-of-way easement areas have been developed as a private parking lot which supports the existing, adjacent commercial development. The right-of-way vacations would continue to maintain external and internal circulation consistent with the community plan's Transportation Element while simultaneously meeting the needs of the proposed project. Therefore, the proposed subdivision will not adversely affect the applicable land use plan.

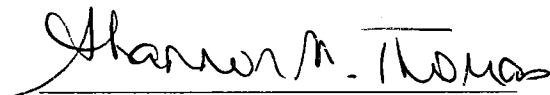
**16. The public facility for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.**

The Project proposes to vacate two public right-of-way easements which bisect the project site near the westerly end of the subject property. The existing right-of-way was granted to the City of San Diego by grant deeds as Instrument Numbers 90-0518597 and 90-0518599. The existing right-of-way easement areas have been developed as a private parking lot which supports the existing, adjacent commercial development. The right-of-way vacations would continue to maintain external and internal circulation consistent with the community plan's transportation element while simultaneously meeting the needs of the proposed project. Therefore, the public facility for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 1384952 with summary Public Right-of-Way and Easement Vacations is hereby granted to Palmetto Hospitality of San Diego, LLC, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MARA W. ELLIOTT, City Attorney

By



Shannon M. Thomas  
Deputy City Attorney

SMT:als  
11/14/2017  
Or.Dept: DSD  
Doc. No.: 1611071

Attachment: Tentative Map Conditions



CITY COUNCIL  
CONDITIONS FOR TENTATIVE PARCEL MAP NO. 1384952, DISCOVERY PLACE  
TENTATIVE MAP - PROJECT NO. 396636

ADOPTED BY RESOLUTION NO. R- 311431 ON DEC 04 2017

**GENERAL**

1. This Tentative Parcel Map will expire on December 4, 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 Parcel Map, unless otherwise noted.
3. Prior to the recordation of the Parcel 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 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**

5. Prior to the recording of the Parcel Map, the Subdivider shall assure, by permit and bond, the reconstruction of the existing curb ramp at the southeast corner of Camino Del Rio North and Qualcomm Way, with current City standard curb ramp, satisfactory to the City Engineer.
6. The Subdivider shall underground any new service run to any new or proposed structures within the subdivision.
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 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. Prior to the expiration of the Tentative Map, a Parcel Map to subdivide lots shall be recorded in the office of the County Recorder.
10. The four existing public easements as shown on the Tentative Map Exhibit "A" are proposed to be vacated; two public right-of-way and two sewer utility easements will be Subdivision Map Act Vacations on the Parcel Map pursuant to Subdivision Map Act Section No. 66445 (j).
11. "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].
12. "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."
13. The Parcel Map shall:
  - a. Use the California Coordinate System for its "Basis of Bearings" 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 shall be shown on the map.

## **PUBLIC UTILITIES**

14. The Subdivider shall grant sewer easement, as shown on the approved Tentative Map Exhibit "A," satisfactory to the Public Utilities Director and the City Engineer.
15. The Subdivider shall obtain an Encroachment Maintenance and Removal Agreements, for all acceptable encroachments into the sewer easement, including but not limited to

structures, enhanced paving, or landscaping, satisfactory to the Public Utilities Director and the City Engineer. No structures or landscaping of any kind shall be installed in or over any vehicular access roadway.

**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 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 Tentative Map, may protest the imposition within ninety days of the approval of this 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 DEC 04 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 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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>


Date of final passage DEC 04 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- 311431