

RESOLUTION NUMBER R- 311801

DATE OF FINAL PASSAGE JUN 12 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO APPROVING TENTATIVE MAP NO. 2025414  
AND EASEMENT VACATION NO. 2025415 FOR  
MARYLAND STREET TM – PROJECT NO. 564646.

WHEREAS, Maryland Heights SD, LLC, Subdivider, and John Coffey, Engineering, submitted an application to the City of San Diego for Tentative Map No. 2025414 and Easement Vacation No. 2025415 for the creation of six residential condominium units in an under-construction project, the vacation of a slope easement and to waive the requirement to underground existing offsite overhead utilities. The project site is located at 4155 Maryland Street, in the RM-3-7 zone, within the Uptown Community Plan. The property is legally described as Lots 6 and 7, Block 139 of University Heights, according to amended Map thereof made by G.A. D’Hemecourt, Book 8, Page 36; and

WHEREAS, the Map proposes the Subdivision of a 0.20-acre site into six units for residential condominium development; and

WHEREAS, on February 5, 2018, 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 Guidelines section 15305, and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code (SDMC) 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 SDMC section 144.0220; and

WHEREAS, on April 19, 2018, the Planning Commission of the City of San Diego considered Tentative Map No. 2025414 and Easement Vacation No. 2025415, and pursuant to Resolution No.4932-PC, the Planning Commission voted to recommend City Council approval of the map and vacation; 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 June 12, 2018, the City Council of the City of San Diego considered Tentative Map No. 2025414 and Easement Vacation No. 2025415, including the waiver of the requirement to underground existing offsite overhead utilities, and pursuant to SDMC sections 125.0440, 144.0240, 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. 2025414:

**1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan. (SDMC § 125.0440(a)).**

The requested Tentative Map would consolidate two existing lots into one, vacate an unneeded slope easement, and allow the creation of six residential units in an under-construction development. The 0.20-acre project site is located at 4155 Maryland Street in the RM-3-7 zone, within the Uptown Community Plan area.

The Uptown Community Plan designates the site for multi-family development at rate of 15 to 29 units per acre or three to six units allowed on site. Therefore, the creation of six residential condominium units in an under-construction project complies with the Uptown

Community Plan allowed land use and density. The project would also assist with furthering the Uptown Community Plan Land Use goals to provide residential densities appropriate to each Uptown neighborhood and multi-family development that does not detract from its surrounding neighborhood by providing six residential units in an established, predominantly multi-family, urban neighborhood, surrounded by similar development. 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. (SDMC § 125.0440(b)).**

The subdivision would consolidate two existing lots into one, vacate an existing unneeded slope easement, and create six residential condominium units in a multi-family development that is currently under construction. The 0.20-acre project site is located at 4155 Maryland Street in the RM-3-7 zone, within the Uptown Community Plan area. The RM-3-7 zone allows for multi-family residential development at a rate of one dwelling unit per 1,000 square feet of lot area, or a maximum of eight units allowed on the site.

The development is being constructed by-right in accordance with the SDMC's base zone regulations. The development was determined to comply with the RM-3-7 zone and Land Development Code requirements through the building permit review process under Project No. 541440. The proposed subdivision is consistent with the development regulations of the underlying zone and complies with all applicable regulations, including lot width, density, floor area ratio and landscaping, and no deviations to the Land Development Code are requested with this action.

There are existing off-site overhead utilities abutting the project site along the alley right-of-way. Pursuant to SDMC section 144.0240(b)(5), the applicant has requested a waiver of the requirement to underground these utilities. The project qualifies for the waiver in accordance with SDMC section 144.0242(c)(1)(B), as the conversion involves a short span of overhead facilities (less than a full block in length) and would not represent a logical extension to an underground facility. The site is located in Block 3W of the City of San Diego Utilities Undergrounding Master Plan, which allocates this block for utility undergrounding in 2025. As such, 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. (SDMC § 125.0440(c)).**

The subdivision would create six residential condominium units in a multi-family development that is currently under construction. The proposed Tentative Map would consolidate two existing lots into one, vacate an existing unneeded slope easement, and create six residential condominium units for individual ownership with no enlargement or expansion of use.

The site is located in an urban developed neighborhood with level topography, is served by existing public infrastructure/utilities, and fronts on the fully developed Maryland Street and rear alley rights-of-way. The site is being constructed in compliance with all applicable geologic, engineering and building code requirements, as reviewed under the issued building permit (Project No. 541440). The approved construction permits also include the requirement to install City-standard, curb, gutter, sidewalk and driveway at the project site. Therefore, the site is physically suitable for the type and density of development.

**4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. (SDMC § 125.0440(d)).**

The site is within an existing, developed, in-fill urban area surrounded on all sides by existing residential development. The site does not contain nor is adjacent to any fish or wildlife habitats, environmentally sensitive lands, or Multiple Habitat Planning Area lands. 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. (SDMC § 125.0440(e)).**

The project has been reviewed and is in compliance with the SDMC and the Subdivision Map Act. The Tentative Map includes conditions and corresponding exhibits of approvals relevant to adequate parking, public improvements, and payment of applicable fees in order to achieve compliance with the regulations of the SDMC. The site is being constructed in compliance with all applicable geologic, engineering and building code requirements, as reviewed under the issued building permit (Project No. 541440). The proposed subdivision is consistent with all Uniform Building, Fire, Plumbing, Electrical and Mechanical Code regulations and permitting requirements continue to govern this project. Therefore, the design of the subdivision or the type of improvements 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. (SDMC § 125.0440(f)).**

The site fronts on Maryland Street and is accessed from the alley right-of-way at the rear of the site. Approximately 2,036 square feet of the western portion of the site adjacent to the alley right-of-way contains an easement for earth excavation or embankment slopes, which was recorded on July 16, 1953. Easements of this nature are typically acquired for future road/highway construction. The applicant is requesting this easement be abandoned as a part of the Tentative Map. The surrounding area is completely developed with residential uses and no new or expanded roadways are planned for the site by the Uptown Community Plan or the City's Capital Improvements Program. 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. (SDMC § 125.0440(g)).**

The proposed Tentative Map will not impede or inhibit any future passive or natural heating and cooling opportunities as the purpose of the subdivision is to create residential and commercial condominium units for individual ownership with no enlargement or expansion of use. The development is currently under construction in accordance with the building permit approved under Project No. 541440. The underlying zone provides opportunities through required setbacks, building materials, site orientation, architectural treatments, and landscaping 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. (SDMC § 125.0440(h)).**

The requested Tentative Map would consolidate two existing lots into one, vacate an unneeded slope easement, and allow the creation of six residential units in an under-construction development and does not include any enlargement or expansion of use. The 0.20-acre project site is located at 4155 Maryland Street in the RM-3-7 zone, within the Uptown Community Plan area.

All applicable Developer Impact Fees, school, water/sewer connection and other impact fees have been paid at building permit issuance under Project No. 541440. The applicant has complied with the City's Affordable Housing Regulations through payment of the in-lieu fee at the time of building permit issuance. The project is located in an urban, developed neighborhood and served by existing public infrastructure, including improved right-of-way and water, sewer, electrical and gas lines.

The decision maker has reviewed the administrative record including the project plans, environmental documentation and public testimony to determine the effects of the proposed subdivision on the housing needs of the region. Those needs were balanced against the needs for public services and the available fiscal and environmental resources and found that the proposed subdivision will not adversely impact the housing needs of the Uptown Community Plan area.

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

BE IT FURTHER RESOLVED, that portions of an earth excavation or embankment slope or slope easement, located within the project boundaries as shown in Tentative Map No. 2025414, shall be vacated, contingent upon the recordation of the approved Final Map for

the project, and that the following findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference:

**9. There is no present or prospective 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. (SDMC § 125.1040(a)).**

Approximately 2,036 square feet of the western portion of the site adjacent to the alley right-of-way contains an easement for earth excavation or embankment slopes, which was recorded July 16, 1953. Easements of this nature are typically acquired for future road/highway construction. The applicant is requesting this easement be abandoned as a part of the Tentative Map. The surrounding area is completely developed with residential uses and no new or expanded roadways are planned for the site by the Uptown Community Plan or the City's Capital Improvements Program. Therefore, 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.

**10. The public will benefit from the action through improved utilization of the land made available by the vacation. (SDMC § 125.1040(b)).**

Approximately 2,036 square feet of the western portion of the site adjacent to the alley right-of-way contains an easement for earth excavation or embankment slopes, which was recorded on July 16, 1953. Easements of this nature are typically acquired for future road/highway construction. The applicant is requesting this easement be abandoned as a part of the Tentative Map. The public will benefit from the vacation in that it will allow the site to be fully utilized for residential development in an area zoned and designated by the Uptown Community Plan for multi-family residential uses. The creation of for-sale residential condominium uses will also benefit the public by providing more home ownership opportunities and increasing residential property tax revenues.

**11. The vacation is consistent with any applicable land use plan. (SDMC § 125.1040(c)).**

As outlined within Tentative Map Finding No. 1 listed above, the proposed subdivision and vacation are consistent with the policies, goals, and objectives of the applicable land use plan. The subdivision would allow the creation of residential condominium units in an area zoned and designated by the Uptown Community Plan for multi-family residential uses. Therefore, the vacation is consistent with any applicable land use plan.

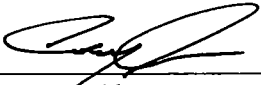
**12. The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation or the purpose for which the easement was acquired no longer exists. (SDMC § 125.1040(d)).**

Approximately 2,036 square feet of the western portion of the site adjacent to the alley right-of-way contains an easement for earth excavation or embankment slopes, which was recorded on July 16, 1953. Easements of this nature are typically acquired for future

road/highway construction. The applicant is requesting this easement be abandoned as a part of the Tentative Map. The surrounding area is completely developed with residential uses and no new or expanded roadways are planned for the site by the Uptown Community Plan or the City's Capital Improvements Program. Therefore, 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.

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 2025414 and Easement Vacation No. 2025415, including the request to waive the requirement to underground the existing offsite overhead utilities, are hereby granted to Maryland Heights SD, LLC, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
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Casey C. Shaw  
Deputy City Attorney

CS:als  
05/04/2018  
Or.Dept:DSD  
Doc. No.: 1741534

CITY COUNCIL  
CONDITIONS FOR TENTATIVE MAP NO. 2025414  
MARYLAND STREET TM – PROJECT NO. 564646  
ADOPTED BY RESOLUTION NO. R-**311801** ON JUN 12 2018

**GENERAL**

1. This Tentative Map will expire JUN 12 2021 [City Clerk to insert 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. 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. Per the City of San Diego Street Design Manual-Street Light Standards, and Council Policy 200-18, the Subdivider will be required to install a new street light adjacent to the site on Maryland Street.
6. The Subdivider shall vacate the embankment and slope easement per Book 4923, Page 343 & 346 of Official Records, satisfactory to the City Engineer.
7. The Subdivider shall reconstruct the AC alley along property frontage with a current City Standard Concrete Pavement Full Width Alley per the approved Exhibit A.
8. The Subdivider shall reconstruct the existing curb with City Standard curb and gutter, adjacent to the site on Maryland Street, satisfactory to the City Engineer.



9. The Subdivider shall reconstruct the damaged portions of the existing sidewalk per current City Standards, adjacent to the site on Maryland Street, satisfactory to the City Engineer.
10. The Subdivider shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the Palm Tree in the Maryland Street Right of Way.
11. The Subdivider shall obtain an Encroachment Maintenance Removal Agreement, from the City Engineer, for the sidewalk underdrains in the Maryland Street right-of-way.
12. 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.
13. 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**

14. "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].
15. "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."
16. The Final Map shall be based on field survey and all lot corners must be marked with durable survey monuments pursuant to Section 144.0311(d) of the City of San Diego Land Development Codes and Subdivision Map Act Section 66495.
17. All survey monuments shall be set prior to the recordation of the Final Map, unless the setting of monuments is deemed impractical due to the proposed improvements and/or grading associated with the project, in which case, delayed monumentation may be applied on the Final Map in accordance with Section 144.0130 of the City of San Diego Land Development Codes.
18. 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 AND SEWER**

19. Prior to any Final Map being recorded, the Subdivider is required to ensure that all separately titled units developed under this permit, which share water or sewer service connections to the City's public utility systems, are encumbered by CC&Rs written so as to ensure (to the satisfaction of the Public Utilities Director) that the operation and maintenance of all such shared water/sewer facilities will be provided for in perpetuity.

### **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).

Internal Order No. 24007398

Passed by the Council of The City of San Diego on JUN 12 2018, 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 JUN 12 2018

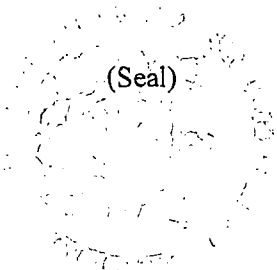
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

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 Linda Irwin, Deputy



Office of the City Clerk, San Diego, California  
Resolution Number R- 311801