

RESOLUTION NUMBER R- **315547**DATE OF FINAL PASSAGE **MAY 20 2024**

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO VACATING A BUILDING RESTRICTED EASEMENT IN LOTS 15,16,19, 20, 21 & 31 AND A SLOPE EASEMENT IN LOTS 12-21, 30 & 31 OF RANCHO DEL SOL UNIT 1 ACCORDING TO MAP NO. 12477, EASEMENT VACATION NO. 1775136, LOT 31 RANCHO GLENS – PROJECT NO. 506590.

WHEREAS, California Streets and Highways Code section 8320 *et seq.* and San Diego Municipal Code section 125.1001 *et seq.* provide a procedure for the vacation of public service easements by resolution of the Council of the City of San Diego (Council); and

WHEREAS, Metcalf Development and Consulting, Inc. filed an application to vacate a Building Restricted Easement located on Lots 15, 16, 19, 20, 21 & 31 of Rancho Del Sol Unit 1 in the City of San Diego, County of San Diego, State of California, according to Map No. 12477, filed October 18, 1989, in the Office of the County Recorder of San Diego County and a Slope Easement located on Lots 12-21, 30 & 31 of Rancho Del Sol Unit 1 in the City of San Diego, County of San Diego, State of California, according to Map No. 12477, filed October 18, 1989, in the Office of the County Recorder of San Diego County, all being described as Easement Vacation No. 1775136; and

WHEREAS, Easement Vacation No. 1775136 is located on property owned by Barczewski Family Trust and on portions of other lots within the Rancho Del Sol subdivision; and

WHEREAS, on November 30, 2023, the Planning Commission of the City of San Diego considered Easement Vacation No. 1775136, and pursuant to 5267-PC the Planning Commission voted to recommend Council approval of the Easement Vacation No. 1775136; and

WHEREAS, the matter was set for public hearing, testimony having been heard, evidence having been submitted, and the Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, under Charter Section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that the information is complete, true, and accurate;  
NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that with respect to Easement Vacation No. 1775136 pursuant to San Diego Municipal Code section 125.1040, the Council finds that:

**1. 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.**

A condition of approval for Planned Residential Development (PRD) Permit No. 83-0896.1, as amended by PRD No. 86-0229, and recorded on Rancho del Sol Unit I Final Map No. 12477, approved certain easements establishing Building Restricted and Slope Easements for the express purpose of future right-of-way and slope grading for Carmel Valley Road. The prospective public use for which the easements were required has been superseded by the

realignment, construction and public use of Carmel Valley Road per the Pacific Highlands Ranch Specific Plan. The Easements are therefore not required for street or highway purposes. Additionally, the original prospective alignment for Carmel Valley Road has been subdivided to the east for Pacific Highlands Ranch Units 23-28 and, to the southwest, SR-56 has been constructed in portions of the prospective alignment. Carmel Valley Road was constructed approximately 3,500 feet west of the site, on the opposite side of SR-56 from the project site.

The project is proposed to be located over portions of both the recorded Building Restricted and Slope easements for the previously envisioned roadway alignment. Due to the change in roadway alignment, the recorded easements were never utilized and are no longer needed for public use. Therefore, there is no present or prospective public use for the easements, either for the facility or purpose for which they were 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 utilization of the land made available by the vacation.**

The recorded easements granted as a condition of approval for Planned Residential Development (PRD) Permit No. 83-0896.1, as amended by PRD No. 86-0229, and recorded on Rancho del Sol Unit 1 Final Map No. 12477 were never utilized for the alignment of Carmel Valley Road and were determined not to be needed for public use. Therefore, there is no present or prospective public use for the easements and the public does not currently benefit from the easements as they are located on private property. The public will benefit from the improved utilization of the land made available by the vacated use which will occur on the least environmentally sensitive land on Lot 31. Additionally, outside the development footprint of the project, the project proposes a public trail easement and a covenant of easement for the remaining Multiple Habitat Planning Area (MHPA) lands on Lot 31.

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

The Pacific Highlands Ranch Specific Plan designates the site as "Multiple Habitat Preservation Area" and "Existing or Approved" land use and zoned AR-1-1 and RX-1-2. The site is surrounded by existing residential land uses and open space as designated by the Plan. The "Existing or Approved" land use in the plan refers to a previous approval, the Rancho Glens project, which subdivided lots for Estate Residential and open space through a Planned Residential Development in 1987. Lot 31 is within the Rancho Glens subdivision and was approved as a single-dwelling residential lot in 1987. The project anticipates a single-dwelling residential unit adjacent to an existing single-dwelling residential neighborhood. The easement vacation is consistent with the Land Use and Circulation elements of the Pacific Highlands Ranch Specific Plan. The site is within Rancho Glen Estates which the Plan, in Table 2-1, refers to as "existing and previously approved project" and identifies the development as Estate Residential. The easements which are to be vacated were established for the construction of Carmel Valley Road, which has since been constructed in an alternate location, and the easements are therefore not required by the Plan. Lot 31 of the project site is within the Multiple Habitat Planning Area (MHPA). The vacation of the easements would allow for the single-dwelling unit to be located in the least environmentally sensitive portion of the site, complying with plan policies to "Preserve and protect the viability of the MHPA while creating a unique

and functional community. Effort is to be made to minimize the impacts of grading on the MHPA.”

The entirety of Lot 31 is within the Multiple Habitat Planning Area (MHPA). Inside the MHPA, development must be located in the least sensitive portion of a given site to comply with the Environmentally Sensitive Lands (ESL) Regulations. The portion of the project on Lot 31 would be located immediately adjacent to existing development off site (i.e., it would not bisect or otherwise fragment MHPA on or off site). All avoided vegetation communities/habitat types on site would be preserved in a covenant of easement. Additionally, the City’s MSCP Subarea Plan calls for 75 percent preservation of private lands within the MHPA, which allows for development on the remaining 25 percent subject to the requirements of the MSCP Subarea Plan. The proposed project would develop 22 percent of Lot 31, consistent with the 25 percent allowable developable area outlined in the SDMC. Therefore, there are no conflicts with the applicable land use plan and implementing policies and regulations.

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

The easements were required as a condition of approval for Planned Residential Development (PRD) Permit No. 83-0896.1, as amended by PRD No. 86-0229, and recorded on Rancho del Sol Unit 1 Final Map No. 12477, for the future alignment of Carmel Valley Road; however, the road was realigned, constructed, and is open for public use per the Pacific Highlands Ranch Specific Plan. The Easements are therefore unnecessary and not required for street or highway purposes.

The project is proposed to be located over portions of both building restricted and slope easements that were recorded with Final Map No. 12477 for the previously envisioned roadway alignment. Due to the change in roadway alignment and its ultimate construction in another location, the recorded easements were never utilized and were determined not to be needed for public use. Therefore, the public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation since the purpose for which the easement was acquired no longer exists.

BE IT FURTHER RESOLVED, that Easement Vacation No. 1775136, as more particularly described in the legal description marked as Exhibit “A” and shown on Drawing No. 39646-1-B, 39646-2-B and 39646-3-B marked as Exhibit “B,” which are incorporated here by reference and made a part hereof, is ordered vacated subject to the following condition(s) which are made a part of this resolution:

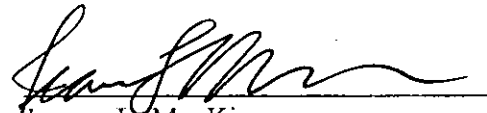
- Prior to the issuance of any construction permits, the Owner/Permittee shall grant the remaining on-site Multiple Habitat Planning Area [MHPA], excluding the development

footprint as shown on Exhibit "A", to the City's Multiple Species Conservation Program [MSCP] preserve through either fee title to the City, or a covenant of easement granted in favor of the City and the U.S. Fish and Wildlife Service [USFWS] and the California Department of Fish and Wildlife [CDFW], as shown on Exhibit "A." Conveyance of any land in fee to the City shall require approval from the Parks and Recreation Department Open Space Division Deputy Director and shall exclude detention basins or other stormwater control facilities, brush management areas, landscape/revegetation areas, and graded slopes. The Owner/Permittee shall ensure all property approved for conveyance in fee title to the City for MHPA purposes shall be free and clear of all private easements, private encroachments, private agreements and/or liens. Any on-site MHPA lands that are not dedicated in fee title to the City shall grant a covenant of easement in favor of the City, USFWS, and CDFW. The Owner/Permittee shall maintain in perpetuity any MHPA lands granted by covenant of easement unless otherwise agreed to by the City.

- Prior to the issuance of any construction permits, including but not limited to, the first Grading Permit, Demolition Plans/Permits and Building Plans/Permits, the owner/permittee shall submit a Long-Term Habitat Management Plan which identifies the managing entity and includes the Property Analysis Record (PAR) or equivalent to ensure adequate funding for the long-term management and monitoring of the mitigation site. The Long-Term Habitat Management Plan must include documentation on how the project would implement the objectives of the MSCP Preserve Management and the area specific management directives. The Long-Term Habitat Management Plan must identify the responsible entity for long-term maintenance and management, the requirements for future management and monitoring reports, and a secure funding source to pay for the management in perpetuity.
- Prior to the issuance of any construction permits, the Owner/Permittee shall execute and record a Covenant of Easement which ensures preservation of the Environmentally Sensitive Lands that are outside the allowable development area on the premises as shown on Exhibit "A" for: Sensitive Biological Resources and Steep Hillsides, in accordance with SDMC 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 as shown on Exhibit "A."

BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the Office of the County Recorder.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
Jeanne L. MacKinnon  
Deputy City Attorney

JLM:hm  
April 19, 2024  
Or.Dept: DSD  
Doc. No. 3628959

Attachments: Exhibit A – Legal Description  
Exhibit B - Drawing No. 39636-1-B, 39636-2-B, 39636-3-B

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAY 20 2024

DIANA J.S. FUENTES  
City Clerk

By   
Deputy City Clerk

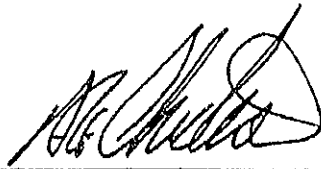
**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**(BUILDING RESTRICTED EASEMENT VACATION)**

PARCEL A:

BEING A VACATION OF ALL OF THE BUILDING RESTRICTED EASEMENT GRANTED TO THE CITY OF SAN DIEGO IN LOTS 15,16,19 THROUGH 21 AND LOT 31 OF RANCHO DEL SOL, UNIT 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 12477, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 18, 1989.

ATTACHED HERETO IS DRAWING NO. 39646-B (EXHIBIT B) AND BY REFERENCE MADE A PART HEREOF.

CONTAINS 206,841.1 SQUARE FEET, 4.748 AC, MORE OR LESS.



ANTONY K. CHRISTENSEN  
PLS 7508

SEPTEMBER 20, 2023

PTS #506590  
DWG #39646-B



EXHIBIT "A"  
LEGAL DESCRIPTION  
(SLOPE EASEMENT VACATION)

PARCEL B:

BEING A VACATION OF ALL THE SLOPE EASEMENT GRANTED TO THE CITY OF SAN DIEGO IN LOTS 12 THROUGH 21 AND LOTS 30 AND 31 OF RANCHO DEL SOL, UNIT 1, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 12477, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 18, 1989.

ATTACHED HERETO IS DRAWING NO. 39646-B (EXHIBIT B) AND BY REFERENCE MADE A PART HEREOF.

CONTAINS 108,879.3 SQUARE FEET, 2.500 AC, MORE OR LESS.



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ANTONY K. CHRISTENSEN  
PLS 7508

SEPTEMBER 20, 2023

PTS # 506590  
DWG # 39646-B











Passed by the Council of The City of San Diego on MAY 20 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 20 2024.

**(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:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Connie Patterson Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- **315547**