

RESOLUTION NUMBER R- 313182

DATE OF FINAL PASSAGE JUL 28 2020

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO ADOPTING FINDINGS AND GRANTING VESTING TENTATIVE MAP NO. 2167006 AND EASEMENT VACATION NO. 2362268 ALL RELATING TO THE FROUDE RESIDENCES—PROJECT NO. 604010.

WHEREAS, Richard Harmon, Subdivider, and Kettler Leweck Engineering, Engineer, submitted an application to the City of San Diego for a Vesting Tentative Map No. 2167006 and Easement Vacation 2363368 to consolidate and subdivide four existing lots into two legal lots and to vacate an existing four-foot wide sewer, water and drainage easement and waive the requirement to underground existing off-site overhead utilities on a 0.21-acre site located at 1750 Froude Street. The property is legally described as Lot 21, 22, 23 and 24 in Block 22 of Ocean Beach, in the City of San Diego, County of San Diego, State of California, per Map thereof 279, filed in the Office of San Diego County Recorder on May 28, 1887; excepting therefrom the Northeasterly 50' thereof, in the Ocean Beach Community Plan area, in the RM-1-1 zone; and

WHEREAS, the Map proposes the Subdivision of a 0.21-acre site into two lots for the creation of two new, two-story single-dwelling units; 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, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the

decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, on July 28, 2020, the City Council of the City of San Diego considered Vesting Tentative Map No. 2167006, and Easement Vacation No. 2363368, including the waiver of the requirement to underground existing offsite overhead utilities, and pursuant to San Diego Municipal Code section(s) 125.0430, 125.0440, 125.0941, 125.1040, 144.0240, 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. 2167006:

Findings for Vesting Tentative Map San Diego Municipal Code 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 proposed Vesting Tentative Map shows the consolidation and subdivision of four existing lots into two legal lots which would allow the construction of two new, two-story single-family residences and vacation of an existing four-foot wide sewer, water, and drainage easement for a small-lot subdivision. Proposed Lot 1 would be approximately 4,844 square feet and the proposed Lot 2 would be approximately 4,135 square feet. The 0.21-acre project site is located at 1750 Froude Street and is developed with one single-dwelling unit that would be demolished. The proposed project will maintain the view corridor along Del Monte Avenue, and the existing landscaping along the frontages will remain the same. The project site is located in a

developed neighborhood served by existing public services and utilities and is surrounded by existing development on all sides, including residential and commercial uses.

The project would implement the land use designation and goals of the Ocean Beach Community Plan and Local Coastal Program by providing a residential development that is compatible with the surrounding residential uses. The Ocean Beach Community Plan and Local Coastal Program designate the site for Low-Medium Density Residential at the rate of 10-14 units per acre (du/ac), or one to two units for this project site. The site is currently zoned RM-1-1, which allows only one dwelling unit for each 3,000 square feet of lot area, which allows a maximum of two units for this project site which is consistent with the land use density. One goal of the community plan is to maintain the low-medium density residential nature of the neighborhoods in Ocean Beach Community Plan and Local Coastal Program. This proposal follows this goal and complies with the remaining policies, goals, and objectives of the applicable land use plan accordingly.

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 0.21-acre site is located at 1750 Froude Street on a corner lot with one existing single-dwelling unit. The project will demolish the existing dwelling unit, consolidate and subdivide four existing lots into two legal lots, and construct two new, two-story single-family residences, vacation of an existing four-foot-wide sewer, water, and drainage easement. This project complies with the requirements of the RM-1-1 zone as modified by the Supplemental Site Development Permit Regulations for Small-lot Subdivisions (SDMC 143.0365), which allow the subdivision of multi-family zoned land, consistent with the density of the zone, for the

construction of single dwelling units. All lots would front on and take access from the rear of the property through a new shared access easement. The RM-1-1 zone allows for one unit per minimum 3,000-square-foot lot, and the subdivision is consistent with that requirement. The subdivision complies with all development regulations and no deviations are proposed. Therefore, the proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code.

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

The 0.21-acre site is located at 1750 Froude Street on a corner lot and is developed with one existing residential unit. The project site is surrounded on all sides by existing single-family and multi-family residential uses and other two-story structures along Froude Street. Site elevations vary from approximately 129 feet to 138 feet. In addition, the project site is located in a developed area currently served by existing public services and utilities.

The proposed subdivision will include the construction of a new 20-foot driveway per City Standards, adjacent to the site on Del Monte Avenue. A Declaration of Covenants and a Reservation of Easements for the cross-lot drainage easement for the two lots, will be required. A Mutual Access Agreement will be required for the new shared access from Del Monte Avenue. An Encroachment Maintenance and Removal Agreement for the removal of existing driveways, and replacement of curb, gutter and sidewalk, adjacent to Froude Street.

The site is bordered by existing (single-family residential and multi-family residential) development on all sides. It is not located within or adjacent to a floodplain or floodway area, Multi-Habitat Planning Area (MHPA) lands, Environmentally Sensitive Lands (ESL), riparian habitat, or wetlands, and no sensitive species were observed on-site. The project would not expose the public to undue geologic hazards as no known active faults traverse the project site as

confirmed by the Geotechnical Investigation that was prepared for the project. Therefore, the site is physically suitable for the type and density of the proposed 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 proposed Vesting Tentative Map shows the consolidation and subdivision of four existing lots into two legal lots, which would allow the construction of two new, two-story single-dwelling units and vacation of an existing four-foot-wide sewer, water, and drainage easement for a small-lot subdivision. Proposed Lot 1 would be approximately 4,844 square feet and the proposed Lot 2 would be approximately 4,135 square feet. The 0.21-acre project site is located at 1750 Froude Street and is developed with one single-dwelling unit that would be demolished. The proposed project will maintain the view corridor along Del Monte Avenue, and the existing landscaping along the frontages will remain the same. The project site is located in a developed neighborhood served by existing public services and utilities and is surrounded by existing development on all sides, including residential and commercial uses.

A resolution of an exemption has been prepared for this project in accordance with the State of California Environmental Quality Act (CEQA) guidelines Sections 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), 15305 (Minor Alterations in Land Use Limitations), and 15315 (Minor Divisions). Therefore, the design of the subdivision or and 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 permit controlling the development and continued use of the site contains specific conditions addressing compliance with the City's codes, policies, and regulations, as well as other regional, state, and federal regulations to prevent detrimental impacts to the health, safety and general welfare of persons residing and/or working in the area. Prior to issuance of any building permit for the proposed development, the plans will be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements in addition to all associated conditions of approval.

The proposed subdivision will include the construction of a new 20-foot driveway per City standards, adjacent to the site on Del Monte Avenue. A Declaration of Covenants and a Reservation of Easements for the cross-lot drainage easement for the two lots, will be required. A Mutual Access Agreement will be required for the new shared access from Del Monte Avenue. An Encroachment Maintenance and Removal Agreement for the removal of existing driveways, and replacement of curb, gutter and sidewalk, adjacent to Froude Street.

The project would not result in risk from fire hazards because it is surrounded by existing development and is not located within a fire hazard severity zone. The project would not expose the public to undue geologic hazards because no known active faults traverse the project site, as confirmed by the Geotechnical Investigation that was prepared for the project. A resolution has been prepared for this project in accordance with CEQA guidelines. The project has been reviewed pursuant to the California Environmental Quality Act (CEQA) and has been determined by Development Services Department that the project qualifies for a categorical exemption pursuant to CEQA Guidelines Sections 15301 (Existing Facilities), 15303 (New

Construction or Conversion of Small Structures), 15305 (Minor Alterations in Land Use Limitations), and 15315 (Minor Divisions).

Therefore, the proposed development will not be detrimental to the public health, safety and welfare.

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

The proposed Vesting Tentative Map shows the consolidation and subdivision of four existing lots into two legal lots, which would allow the construction of two new, two-story single-dwelling units and vacation of an existing four-foot-wide sewer, water, and drainage easement for a small-lot subdivision. Proposed Lot 1 would be approximately 4,844 square feet and the proposed Lot 2 would be approximately 4,135 square feet. This project 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 would be developed in accordance with the SDMC requirements for setbacks and height to allow natural ventilation and light between structures. With the independent design of the proposed subdivision each structure will have the opportunity through building materials, site orientation, architectural treatments, placement and selection of plant materials to provide to the extent feasible, for future passive or natural heating and cooling opportunities.

7. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.

The proposed Vesting Tentative Map shows the consolidation and subdivision of four existing lots into two legal lots, which would allow the construction of two new, two-story

single-dwelling units and vacation of an existing four-foot-wide sewer, water, and drainage easement for a small-lot subdivision consistent with the Ocean Beach Community Plan and Local Coastal Program land use designation. No environmental impacts have been identified during the CEQA process.

All necessary public services (including fire, police, medical, schools, public parks, and libraries) as well as necessary utilities such as electricity, water, and sewer, will be available to and adequate for the proposed project. At ministerial building permit issuance, the applicant will be required to comply with the SDMC affordable housing requirements and pay the required Development Impact Fees (DIFs) for project impacts to public facilities, as required by the San Diego Municipal Code.

BE IT FURTHER RESOLVED, that a four-foot wide sewer, water and drainage and public utilities granted to the City of San Diego on April 3, 1958 in BK 7021, PG 427, located within the project boundaries as shown in the Vesting Tentative Map, 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:

Findings for Easement Vacation San Diego Municipal Code Section 125.1040:

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. (San Diego Municipal Code § 125.1040(a)).

The project proposes a vacation of an unutilized four-foot-wide easement for sewer, water, drainage and public utilities located adjacent to the northwestern portion of the property line. This easement is not currently occupied by utilities serving the project site or adjacent

properties. The project site will be served by public utilities along Froude Street and Del Monte Avenue. As such, there will be no present or prospective use for the public 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.

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

The 0.21-acre site is located at 1750 Froude Street on a corner lot with one existing residential unit to be demolished for the consolidation and subdivision of four existing lots into two legal lots and construction of two new, two-story single-family residences.

Vacating the unused easement will allow for more developable area. The project would provide needed housing units in an area served by existing amenities. Therefore, the public will benefit from the action through improved utilization of the land made available by the vacation.

3. The vacation is consistent with any applicable land use plan. (San Diego Municipal Code § 125.1040(c)).

The Ocean Beach Community Plan and Local Coastal Program designates the site for residential development and does not identify any proposed utility of public right-of-way uses for the requested easement. The proposed project is consistent with the goals and policies of the General Plan and the Community Plan because vacating the easement would allow efficient development of the site under the residential land use designation.

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. (San Diego Municipal Code § 125.1040(d)).

There are no existing or proposed public utility within the unused four-foot-wide easement for sewer, water, drainage and public utilities at 1750 Froude Street. The utilities required for the site and surrounding properties are developed on other portions of the project site and within the existing right-of-way.

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the City Council, Vesting Tentative Map No. 2167006 and Easement Vacation No. 2363368, including the waiver of the requirement to underground existing offsite overhead utilities, is hereby granted to Richard Harmon subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Noah J. Brazier
Noah J. Brazier
Deputy City Attorney

NJB:als
07/13/2020
Or.Dept:DSD
Doc. No.: 2425622

Attachment: Vesting Tentative Map Conditions

CITY COUNCIL
ADOPTED BY RESOLUTION NO. R-**313182** ON JUL 28 2020
CONDITIONS FOR VESTING TENTATIVE MAP NO. 2167006
FROUDE RESIDENCES - PROJECT NO. 604010

GENERAL

1. This Vesting Tentative Map will expire July 28, 2023.
2. Compliance with all 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 Parcel Map shall conform to the provisions of Vesting Tentative Map No. 2167006, Site Development Permit No. 2258152, Coastal Development Permit No. 2155137
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.

AFFORDABLE HOUSING

6. Prior to recordation of the Parcel Map, the Subdivider shall enter into a written agreement with the San Diego Housing Commission to pay the inclusionary affordable housing fee pursuant to the City's Inclusionary Affordable Housing Regulations (San Diego Municipal Code §§ 142.1301 et seq.).

ENGINEERING

7. The Vesting Tentative Map shall comply with the conditions of Coastal Development Permit No. 2155137 and Site Development Permit No. 2258152.

8. The following will be conditions of the Vesting Tentative Map Resolution that the Subdivider will need to satisfy/assure before the Parcel Map is recorded.
9. Prior to the issuance of any building permits, the Subdivider shall record a Declaration of Covenants and Reservation of Easements for the Cross-Lot Drainage Easement for the two project sites currently held by the same owner.
10. 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.
11. Conformance with the "General Conditions for Tentative Subdivision Maps," filed in the Office of the City Clerk under Document No. 767688 on May 7, 1980, is required. Only those exceptions to the General Conditions which are shown on the Vesting Tentative Map and covered in these special conditions will be authorized. All public improvements and incidental facilities shall be designed in accordance with criteria established in the Street Design Manual, filed with the City Clerk as Document No. RR-297376.

MAPPING

12. "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).
13. Prior to the expiration of the Vesting Tentative Map, if approved, a Parcel Map to consolidate and subdivide the properties into two single dwelling units shall be recorded to the County Recorder's office.
14. Prior to the recordation of the Parcel 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.

If a tax bond is required as indicated in the tax certificate, ensure that it is paid or posted at the County Clerk of the Board of Supervisors Office and supply proof prior to the recordation of the Parcel Map.

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. All subdivision maps in the City of San Diego are required to be tied to the California Coordinate System of 1983 (CCS83), Zone 6 pursuant to section 8801 through 8819 of the California Public Resources Code.

17. The Parcel Map shall:
- a. Use the California Coordinate System for its “Basis of Bearing” and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.
 - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of First Order accuracy. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

PUBLIC UTILITES

18. Prior to the recordation of Parcel Map, the Subdivider shall provide CC&Rs for the operation and maintenance of all private water and sewer facilities, in a manner satisfactory to the Public Utilities Director and the City Engineer.
19. The Subdivider shall grant private water easements for all cross-lot private water service from one lot to another as shown on the approved Exhibit "A".
20. Prior to the recordation of the Parcel Map, the Subdivider shall vacate the existing water, sewer, and drainage easement, in a manner satisfactory to the Public Utilities Director and the City Engineer.

GEOLOGY

21. Prior to the issuance of a grading permit, the Subdivider shall submit a geotechnical report prepared in accordance with the City of San Diego’s “Guidelines for Geotechnical Reports,” satisfactory to the City Engineer.

INFORMATION:

- The approval of this Vesting Tentative Map by the City Council of the City of San Diego does not authorize the Subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC § 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required

to provide adequate and acceptable levels of service and will be determined at final engineering.

- Subsequent applications related to this Vesting Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Vesting Tentative Map, may protest the imposition within ninety days of the approval of this Vesting Tentative Map by filing a written protest with the San Diego City Clerk pursuant to Government Code sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider shall at no cost to the City, obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer (San Diego Municipal Code § 142.0607).

Passed by the Council of The City of San Diego on JUL 28 2020, 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"/>
Jennifer Campbell	<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"/>
Monica Montgomery	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 28 2020.

(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.

(Seal)

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 313182