

RESOLUTION NUMBER R- 304661

DATE OF FINAL PASSAGE FEB 17 2009

RESOLUTION GRANTING TENTATIVE MAP NO. 366169
FOR THE TORREY BROOKE II PROJECT.

WHEREAS, Torrey Brooke Development Inc., Applicant/Subdivider, and Civcom and Associates, Engineers, submitted an application to the City of San Diego for Tentative Map No. 366169 for the Torrey Brooke II Project [Project], to subdivide a 2.132-acre site into three parcels for development of two single-family homes and to vacate portions of two streets: (1) that portion of Black Mountain Road dedicated per O.S. 57, and (2) that portion of Orange Grove Avenue dedicated in Olive Grove Tract, according to the Map filed July 18, 1904, in Book 24 page 297. The Project site is located on the west side of the southerly extension of La Harina Court, is bordered roughly to the south by Adobe Bluffs Road, and is bordered to the west, east, and north by single-family residences in the AR-1-1 zone (proposed RS-1-13), within the Torrey Highland Subarea Plan IV, and legally described as Remainder Parcel of Torrey Brook, Track No. 98-1189, Map No. 14383, recorded May 1, 2002; and

WHEREAS, the map proposes the subdivision of a 2.132-acre site into three lots for a residential development (two residential lots and one open space lot); and

WHEREAS, on October 9, 2008, the Planning Commission of the City of San Diego considered Tentative Map No. 366169, and pursuant to Resolution No. 4464-PC voted to recommend approval of the map; and

WHEREAS, the property contains right-of-ways which must be vacated to implement the final map in accordance with San Diego Municipal Code section 125.0430;

WHEREAS, the Project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to the state Subdivision Map Act 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 required the City 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 make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on FEB 17 2009, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 366169:

1. **The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan. Land Development Code [LDC] section 125.0440(a) and Subdivision Map Act sections 66473.5, 66474(a), and 66474(b).** The subject property is located within the Torrey Highlands Subarea Plan IV and is designated for low density residential development of two to five dwelling units per acre. The Project proposes to subdivide 2.132-acres of vacant land into two lots and construct two, two-story, single-family residential dwelling units.

The Torrey Highlands Subarea Plan and Phase Shift were approved by the voters of the City of San Diego on November 5, 1996. That vote allowed for property owners to request development at densities higher than one dwelling unit per four acres of clustered residential development pursuant to the land uses of the Torrey Highlands Subarea Plan. The vote also mandated that no more than 2,600 residential units be constructed in the phase shifted portion of Torrey Highlands. The proposed project site was originally part of one parcel (Parcel "H") under application as the Torrey Brooke project (98-1189). The Torrey Highlands Subarea Plan identified approximately 43 units for that entire parcel subject to site specific analysis at the time of the project application. The Torrey Brooke project did not develop the 43 dwelling units and instead developed 10 residential units, open space, and a remainder lot. The units not utilized by

the Torrey Brooke project were included in the total pool of available units for other projects proposed in the Subarea.

At this point the number of approved residential units is nearing the voter mandated cap of 2,600. There are only a few sites that have not yet been approved for residential development in Torrey Highlands. More than two dwelling units at this location would exceed the voter mandated cap. The proposed use of this site for residential uses would be consistent with the Torrey Highlands Subarea Plan IV. The proposed project, being determined consistent with the community plan land use, would not adversely affect the relevant land use plan.

2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code. LDC section 125.0440(b). The Project proposes to create three parcels from a 2.132-acre site and allow the development of two single-family structures. The proposed development requires a Site Development Permit to assure compliance with the Environmentally Sensitive Lands regulations of the Land Development Code. The Torrey Highland Subarea Plan IV designates the subject property for very low density residential development at three to five dwelling units per acre. The density of the proposed project is 0.94, which is within the allowable density range.

The Project proposes to rezone the 2.132-acre site from the AR-1-1 (Agricultural) Zone to the RS-1-13 (Residential) Zone. The RS-1-13 Zone would allow for the single-family development. The proposed Project design is consistent with the regulations of this zone, as allowed through a Planned Development Permit. At the time of the Torrey Highlands Subarea Plan preparation and approval, the property within the Subarea Plan was zoned A-1-10, an agricultural zone permitting one dwelling unit per ten acres. According to the Subarea Plan, uses at densities higher than A-1-10 require a rezone, and property owners are required to submit a discretionary application for rezoning consistent with the Plan's land use designations. Approval of rezoning applications may be granted only if such application is consistent with the policies and requirements of the Torrey Highlands Subarea Plan and applicable environmental documents. Staff has determined that the proposed rezoning of the property would be consistent with the all applicable Land Development Code regulations.

3. The site is physically suitable for the type and density of development. LDC section 125.0440(c) and Subdivision Map Act sections 66474(c) and 66474(d). The Project proposes to create three parcels from a 2.132-acre site and allow the development of two single-family structures. The Project has been designed to reduce impacts to sensitive steep slopes and biological resources and to create a grading concept compatible with the existing neighborhood. The applicants are requesting a deviation to allow access to Lot Two (2) via a private driveway extending southerly from La Harina Court through an access easement. The private driveway and easement will be located on Lot One (1) at the southern terminus of La Harina Court. Access to Lot One (1) would be via a cul de-sac at La Harina Court. Staff supports the deviation to allow greater flexibility in the design of the project. Staff has determined the deviation results in a superior design and reduction of impacts to environmentally sensitive lands. The project would not adversely affect the Land Use Element and the proposed density is consistent with the goals and policies of the Torrey Highland Subarea Plan IV. The proposed subdivision is physically suitable for the type and density of development proposed because it is compatible

with the surrounding land uses and will serve as an extension of the adjacent existing residential 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. LDC Section 125.0440(d) and Subdivision Map Act section 66474(e). The environmental review process for the proposed project included an evaluation of: Paleontological Resources, Biological Resources, and Hydrology/Water Quality. Mitigated Negative Declaration [MND] No. 2118/SCH. No. 200821118 was prepared in accordance with CEQA and it was determined that the project will not have any significant environmental impacts and the Mitigation, Monitoring, and Reporting Program [MMRP] includes the appropriate mitigation to reduce potential impacts to a level below significance.

A qualified Paleontologist or Paleontological Monitor must be present during all excavations exceeding ten feet in depth or grading previously undisturbed formations.

A qualified biologist is required to assure protection of the Least Bell's Vireo and Southwestern Willow Flycatcher habitat and to guarantee construction activities do not encroach beyond the limits of disturbance as shown on the approved Exhibit "A."

A Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan is required to ensure runoff from the development will not contribute to erosion. The proposed permanent Best Management Practices would be grass lined swales, landscaping, desiltation catch basins, and rip-rap energy dissipaters. Therefore, implementation of the MMRP would reduce, to a level below significance, any potential impacts identified in the environmental review process and the design of the subdivision or proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife or their habitat.

5. The design of the subdivision or the type of improvements will not be detrimental to the public health, safety, and welfare. LDC Section 125.0440(e) and Subdivision Map Act section 66474(f). The Project proposes to create three parcels from a 2.132-acre site and allow the development of two single-family structures. The permit controlling the development proposed for this site contains conditions requiring Project compliance with City, state, and federal regulations to prevent detrimental impacts to the health, safety, and general welfare of persons residing and/or working in the area. Conditions of approval require compliance with several operational constraints and development controls intended to assure the continued health, safety and general welfare of persons residing or working in the area. All Building, Fire, Plumbing, Electrical, and Mechanical Code requirements and the City regulations governing the construction and continued operation of the development apply to this site to prevent adverse affects to those persons or other properties in the vicinity.

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. LDC section 125.0440(f) and Subdivision Map Act section 66474(g). The Project proposes to create three parcels from a 2.132-acre site and allow

the development of two single-family structures. The proposed Project also requires the vacation of two public right-of ways: (1) that portion of Black Mountain Road dedicated per O.S. 57, and (2) that portion of Orange Grove Avenue dedicated in Olive Grove Tract, according to the Map filed July 18, 1904 in Book 24 page 297. The decision maker has reviewed the current vacations and determined the following findings can be made: (a) there is no present or prospective public use for the right-of way, 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; (b) the public will benefit from the action through improved utilization of the land made available by the abandonment; (c) the abandonment is consistent with the Torrey Highlands Subarea Plan IV; and (d) the public facility or purpose for which the right-of way was originally acquired will not be detrimentally affected by the abandonment or the purpose for which the right-of way was acquired no longer exists. Black Mountain Road has already been constructed and these easements are no longer required.

7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities. LDC section 125.0440(g) and Subdivision Map Act section 66473.1. The design of the proposed subdivision through building orientation, architectural treatments (such as overhangs), as well as the placement and selection of plant materials provide, 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. LDC section 125.0440(h) and Subdivision Map Act section 66412.3. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and has found it to be consistent with the Torrey Highlands Subarea Plan and Phase Shift were approved by the voters of the City of San Diego on November 5, 1996. That vote allowed for property owners to request development at densities higher than one dwelling unit per four acres of clustered residential development pursuant to the land uses of the Torrey Highlands Subarea Plan. More than two dwelling units at this location would exceed the voter mandated cap. The fiscal effects of the proposed subdivision on the need for public services have been considered and have determined through conditions of approval the subdivision will pay development impact fees for it fair share for parks, library facilities, police and fire services. The decision maker has also considered the subdivision's effect on environmental resources. The environmental review process for the proposed Project included an evaluation of: Paleontological Resources, Biological Resources, and Hydrology/Water Quality. MND No. 2118/SCH. No. 200821118 was prepared in accordance with CEQA and it was determined that the project will not have any environmental impacts and the MMRP includes the appropriate mitigation to reduce potential impacts to a level below significance.

9. Implementation of the MMRP would reduce, to a level below significance, any potential impacts identified in the environmental review process; therefore, the subdivision will not adversely affect environmental resources. That said Findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

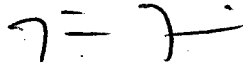
10. The property contains a public right-of-way which must be vacated to implement the final map in accordance with San Diego Municipal Code section 125.0430.

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

BE IT FURTHER RESOLVED, that Tentative Map No. 366169 is granted to Torrey Brooke Developments Inc., Applicant/Subdivider, and Civcom and Associates, Engineers, subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Nina M. Fain
Deputy City Attorney

NMF:as:mm:pev
02/06/09
Or.Dept:DSD
R-2009-623
MMS#5954

02 FEB 10 11:10 AM

CONDITIONS FOR TENTATIVE MAP NO. 366169

TORREY BROOKE II- PROJECT NO. 2118

ADOPTED BY RESOLUTION NO. R-~~304661~~ ON FEB 17 2009

GENERAL

1. The tentative map shall expire three years after the effective date of the rezone of the site from AR-1-1 to the RS-1-13 zone. If the rezone is denied, this tentative map shall be deemed denied.
2. Compliance with all of the following conditions shall be assured, to the satisfaction of the City Engineer, prior to the recordation of the Parcel Map, unless otherwise noted.
3. A Parcel Map shall be recorded in the Office of the County Recorder, prior to the Tentative Map expiration date.
4. The Parcel Map shall conform to the provisions of Planned Development Permit No. 366166 and Site Development Permit No. 366167.
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 any Indemnified Party to attack, set aside, void, or annul City's approval of this project and any environmental document or decision, 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 harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, and defends the action in good faith. Subdivider shall not be required to pay or perform any settlement unless the settlement is approved by the subdivider.

ENGINEERING

6. The Subdivider shall extend the brow ditch discharge point to a well defined channel.
7. The Subdivider shall enter into a Maintenance Agreement for the ongoing permanent Best Management Practices [BMP] maintenance.

8. Prior to the issuance of any construction permit, the Subdivider shall incorporate any construction BMPs necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.
9. Prior to the issuance of any construction permit the Subdivider shall submit a Water Pollution Control Plan [WPCP]. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
10. Prior to the issuance of any construction permit the Subdivider shall incorporate and show the type and location of all post-construction BMPs on the final construction drawings, in accordance with the approved Water Quality Technical Report.
11. The Subdivider shall obtain a grading permit for the grading proposed for this project. All grading shall conform to requirements of the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
12. The drainage system proposed for this subdivision, as shown on the approved tentative map, is private and subject to approval by the City Engineer.
13. The Subdivider shall, prior to issuance of any construction permit, enter into an agreement to indemnify, protect, and hold harmless City its officials and employees from any and all claims, demands, causes of action, liability, or loss because of, or arising out of runoff from La Harina Court.

MAPPING

14. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source will 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 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 Third Order accuracy or better. 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.
17. The design of the subdivision shall include private easements, if any, serving parcels of land outside the subdivision boundary or such easements must be removed from the title of the subdivided lands prior to filing any parcel or final map encumbered by these easements.

SEWER AND WATER

18. The Subdivider shall prior to issuance of any building permit pay their fare share for the construction of the Carmel Valley Trunk Sewer.
19. The Subdivider shall install all sewer facilities required by the accepted sewer study, necessary to serve this development. Sewer facilities as shown on the approved tentative map will require modification based on the accepted sewer study.
20. All proposed sewer facilities constructed for this Project shall be private.
21. The Subdivider shall design and construct all private sewer facilities serving more than one lot to the most current edition of the City of San Diego's Sewer Design Guide.
22. The Subdivider shall provide evidence, satisfactory to the Metropolitan Wastewater Department Director, indicating that each lot will have its own sewer lateral or record CC&R's requiring the operation and maintenance of on-site private sewer mains that serve more than one lot.
23. No private sewer facilities or laterals shall be installed in or over any public right-of-way prior to the Subdivider entering into an Encroachment Maintenance and Removal Agreement with the City.
24. Prior to the issuance of any building permits, the Subdivider shall process and record a NOTICE & AGREEMENT for each ownership being served by a private pump station or sewer facilities serving more than one ownership. The NOTICE & AGREEMENT shall require the applicant and successors in interest to indemnify and hold harmless the City and to operate and maintain all private sewer systems.
25. The Subdivider shall obtain a building permit for any private pump station serving more than one lot.

26. The Subdivider shall construct a private sewer pressure lateral along La Harina Court and connect it to the existing eight-inch public sewer main to the north in Donaker Street.
27. The Subdivider shall design and construct any proposed public sewer facilities to the most current edition of the City of San Diego's Sewer Design Guide.
28. The Subdivider shall design and construct new water services, within La Harina Court, to serve each Lot in a manner satisfactory to the Water Department Director and the City Engineer.
29. The Subdivider shall provide a letter and documentation, to the Development Project Manager, establishing the recordation of CC&Rs for the operation and maintenance of all private water facilities which serve or traverse more than a single lot or unit.
30. The Subdivider shall install fire hydrants at locations satisfactory to the Fire Department and the City Engineer.
31. The Subdivider shall design and construct all proposed public water facilities in accordance with criteria in the current edition of the City of San Diego Water Facility Design Guidelines and all City regulations, standards, and practices pertaining thereto. Public water facilities, as shown on the approved tentative map, shall be modified at final engineering to comply with standards.

TRANSPORTATION

32. The Subdivider shall provide a standard 20-foot wide driveway with 3-foot flairs on each side aligned with the center line of La Harina Court, satisfactory to the City Engineer.
33. The Subdivider shall provide a turn around ability at the end of the proposed Private Drive "A," satisfactory to the City Engineer.
34. The Subdivider shall record a "Mutual Access Agreement" against both parcels (lot one and lot two) to allow ingress and egress to each newly created parcel, to the satisfaction of the City Engineer.

LANDSCAPING

35. Prior to the recordation of the parcel map, the Subdivider shall submit complete landscape construction documents consistent with Exhibit 'A,' including plans, details, and specifications (including a permanent automatic irrigation system unless otherwise approved), for the required slope revegetation and hydroseeding of all disturbed land in accordance with the Landscape Standards and to the satisfaction of the City Manager. The Subdivider shall assure by permit and bond the installation of landscaping per landscape construction documents.

36. Prior to issuance of any engineering permits for grading, the Subdivider shall enter into a Landscape Establishment and Maintenance Agreement [LEMA] to assure long-term establishment and maintenance of all common area slope revegetation. The LEMA shall be approved by the Landscape Section of Development Services and the City Manager. The performance bond required under condition number 35 shall not be released until the LEMA is executed and assured by a new bond.
37. Prior to recordation of the Parcel Map, the Subdivider shall identify on a separate sheet titled "Non-title Sheet" the brush management areas in substantial conformance with Exhibit "A." These brush management areas shall be identified with a hatch symbol with no specific dimensions or zones called out. The following note shall be provided on the "Non-title sheet" to identify the hatched areas: "Indicates fire hazard zone(s) per Section 142.0412 of the Land Development Code."

INFORMATION

- The approval of this Tentative Map by the 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 U.S.C. Section 1531 et seq.).
- This development may be subject to impact fees, as established by the City Council, at the time of issuance of building permits.
- 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.
- This development may be subject to payment of School Impact Fees at the time of issuance of building permits, as provided by Education Code Section 17620, in accordance with procedures established by the Director of Building Inspection.
- 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 City Clerk pursuant to California Government Code Section 66020.