

**COUNTY OF SAN DIEGO
BOARD OF SUPERVISORS - LAND USE
WEDNESDAY, DECEMBER 11, 2024**

MINUTE ORDER NO. 7

**SUBJECT: COUNTY OF SAN DIEGO TRACT NO. 4823-1 (FINAL MAP NO. 14462):
APPROVAL OF FOURTH AMENDMENT TO AGREEMENT TO IMPROVE
MAJOR SUBDIVISION AND LIEN CONTRACT (INCREASE AMOUNT OF
SECURITY AND EXTENSION OF TIME) FOR LIVE OAK RANCH LOCATED
IN THE FALLBROOK COMMUNITY PLANNING GROUP AREA AND
RELATED CEQA FINDING (DISTRICT: 5)**

OVERVIEW

The San Diego County Code of Regulatory Ordinances establishes the requirements for time extensions for completion of required improvements on private development projects. As conditions of their permits, applicants are often required to construct specific improvements that benefit the public, such as roads and stormwater drainage systems. In many cases, these improvements are accepted by the County of San Diego (County) into the County-maintained system to be owned, operated, and maintained by the Department of Public Works (DPW). Subdivision Improvement Agreements and their financial security requirements protect the County by ensuring any required improvements are constructed. In the event of a default by the applicant, the financial security can be used by the County to complete the required improvements. However, under certain circumstances, the County can grant time extensions to allow an applicant additional time to complete the improvements, while simultaneously preserving the County's rights to have the public improvements constructed by the applicant.

The Live Oak Ranch project is a subdivision consisting of nineteen (19) single family residential lots on a 58.03-acre lot. The project site is located south of Live Oak Park Road just northeasterly of Ridge Creel Drive in the Fallbrook Community Plan Area. On September 18, 2002 (20), the Board of Supervisors (Board) approved the Subdivision Map, Improvement Agreement, Lien Contract, and Holding Agreement No. 8131526, which includes public and private improvements such as street and drainage improvements and water facilities. On June 21, 2017 (9), the Board approved a "First Amendment to Agreement to Improve Major Subdivision, County of San Diego Tract No. 4823-1 and Lien Contract" ("First Amendment") to extend the performance completion date to June 21, 2021. The County and the Owner entered into a "Second Amendment to Agreement to Improve Major Subdivision, County of San Diego Tract No. 4823-1 and Lien Contract" ("Second Amendment") on June 29, 2022 (1). The County and Owner entered into a "Third Amendment to Agreement to Improve Major Subdivision, County of San Diego Tract No. 4823-1 and Lien Contract" ("Third Amendment") on September 1, 2023. The subdivision owner has requested an additional two-year extension to complete the public improvements. According to the terms of the Lien Contract and Holding Agreement, construction of any improvements or selling any individual lots are prohibited until substitute security is provided. Although the entire project was sold to a new owner, to date, the project has not been built and no improvements or construction has begun. The new owner intends to proceed with construction and all necessary improvements once the extension is approved. No additional Board action is needed for the project to move forward.

This is a request for the Board of Supervisors (Board) to approve the Fourth Amendment to Agreement to Improve Major Subdivision and Lien Contract (Fourth Amendment to Agreement) which includes an increase in the amount of security from \$2,110,050 to \$2,384,700 for the Faithful Performance security and an increase from \$1,055,025 to \$1,192,350 for the Labor & Material security, due to inflation. The request also includes a two-year extension of performance completion date for County Tract No. 4823-1 (Final Map No. 14462), also known as the Live Oak Ranch Subdivision. The County Code allows the Director of Planning & Development Services (PDS) to grant the first extension for up to two additional years. All subsequent extensions require Board approval. Staff recommends approval of the extension to allow the owner time to secure the funding necessary to construct the project, which includes nineteen (19) additional housing units. Extensions are common on subdivisions, which require substantial financial investments in infrastructure improvements, grading, and construction. All subsequent extensions require Board approval. There is no limit in State law or the County's Subdivision Ordinance on the number of extensions. Staff also recommends granting the extension to allow the applicant to start construction the improvements as required by the conditions of the map, therefore, relieving the County of this responsibility. Once the extension is granted and improvements completed, it will enable the applicant to begin building homes without further delays.

If the Board chooses not to grant the extension as recommended, it may have other options available, including (but not limited to): Approving the recommended extension upon substitution of security; denying the recommended extension and using the existing security to fund the completion of the improvements; denying the recommended extension and seeking a remedy against the developer or surety.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the approval of the Fourth Amendment to Agreement (Attachment A on file with the Clerk of the Board) and associated actions for County Tract No. 4823-1 is not a project subject to review under the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) of the CEQA Guidelines because the activity is covered by the commonsense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.
2. Approve and authorize the Clerk of the Board of Supervisors (Clerk) to execute the Fourth Amendment to Agreement, including Increase of Security and Extension of Time. This agreement extends the time to construct improvements to two (2) years after the execution of this Fourth Amendment to Agreement.
3. Direct the Clerk, upon execution of the Joint Agreement to Improve Subdivision (Attachment B on file with the Clerk of the Board), to forward the document to the County Recorder for recordation.

EQUITY IMPACT STATEMENT

Planning & Development Services (PDS) ensures that public improvements are constructed as part of new housing developments, such as roads and stormwater drainage systems. PDS ensures the completion of the public improvements through agreements and financial security, which ensures communities are safe. This extension to the improvement agreement will allow the applicant additional

time to complete the required public improvements, which will help provide housing for unincorporated communities.

SUSTAINABILITY IMPACT STATEMENT

Planning & Development Services (PDS) is committed to promoting sustainable community growth by ensuring that essential public infrastructure, such as roads and stormwater drainage systems, is appropriately constructed in new housing developments. These improvements are essential for creating safe, resilient, and environmentally responsible communities. The extensions for improvement agreement provide additional time for the applicant to complete essential required improvements for applicable projects. This ensures that housing developments in the unincorporated communities meet current and future sustainability standards.

FISCAL IMPACT

There is no fiscal impact associated with the approval of the requested time extension as presented today. Any costs incurred to continue this project, at such time the owner wishes to move forward, will be paid for by JDLC # 1 LLC, C/O Robert J. Kolodny, Owner. There will be no change in net General Fund costs and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ACTION:

ON MOTION of Supervisor Desmond seconded by Supervisor Vargas, the Board of Supervisors took action as recommended, on Consent.

AYES: Vargas, Lawson-Remer, Montgomery Steppe, Desmond

ABSENT: Anderson

State of California)
County of San Diego)

I hereby certify that the foregoing is a full, true and correct copy of the Original entered in the Minutes of the Board of Supervisors.

ANDREW POTTER
Clerk of the Board of Supervisors



Signed
by Andrew Potter

