

RESOLUTION NO. 2014-

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
CHULA VISTA APPROVING TENTATIVE SUBDIVISION MAP  
PCS-13-01 TO SUBDIVIDE A .98 ACRE SITE INTO FIVE (5)  
SINGLE-FAMILY LOTS FOR INDIVIDUAL OWNERSHIP  
LOCATED AT 386 DATE STREET

I. RECITALS

1. Project Site

WHEREAS, the parcel, that is the subject matter of this resolution, is represented in Exhibit 1, attached hereto and incorporated herein by this reference, and for the purpose of general description is located at 386 Date Street, Chula Vista; and

2. Project; Applications for Discretionary Approval

WHEREAS, on March 7, 2013, a duly verified application for a Tentative Subdivision Map was filed with the City of Chula Vista Development Services Department by Iberia Project Management, LLC (Applicant) for the subdivision of a .98 acre site into five (5) single-family lots for individual ownership and associated site improvements at 386 Date Street (Project); and

3. Environmental Determination

WHEREAS, the Development Services Director reviewed the proposed project for compliance with the California Environmental Quality Act and has determined that the project qualifies for a Categorical Exemption pursuant to Section 15332 (In-fill Development Projects) of the State CEQA Guidelines. Therefore, no further environmental review is required; and

4. Planning Commission Record on Application

WHEREAS, on November 12, 2014, a hearing time and place was set by the Development Services Director for said Tentative Subdivision Map and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, and its mailing to property owners and residents within 500 feet of the exterior boundaries of the property, at least ten (10) days prior to the hearing; and

WHEREAS, a hearing at the time and place as advertised, namely November 12, 2014, at 6:00 p.m. in the Council Chambers, 276 Fourth Avenue, was held before the Planning Commission and said hearing was thereafter closed; and

WHEREAS, the Planning Commission reviewed and considered the Tentative Subdivision Map PCS-13-01; and

WHEREAS, the Planning Commission after considering all evidence and testimony presented recommended by a vote of 5-0-2-0 that the City of Chula Vista City Council approve the Tentative Subdivision Map (PCS-13-01) for the subdivision of a .98 acre site into five (5) single-family lots for individual ownership at 386 Date Street; and

5. City Council Record on Application

WHEREAS, a hearing time and place was set by the Development Services Director for consideration of the Project and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, and its mailing to property owners and residents within 500 feet of the exterior boundaries of the property, at least ten (10) days prior to the hearing; and

WHEREAS, the City Council of the City of Chula Vista held a duly noticed public hearing to consider said Project at the time and place as advertised, namely December 16, 2014 at 2:00 p.m. in the Council Chambers, 276 Fourth Avenue, said hearing was thereafter closed.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby find, determine, and resolve as follows:

II. TENTATIVE SUBDIVISION MAP FINDINGS

A. Pursuant to Government Code Section 66473.5 of the Subdivision Map Act, the City Council finds that the Tentative Subdivision Map, as conditioned herein, is in conformance with the elements of the City's General Plan, based on the following:

1. Land Use

The General Plan land use designation is Residential Low Medium (3-6 dwelling units per gross acre). The implementing zone is R1-5P Single-Family Residential which allows up to 5 dwelling units per net acre. The proposed 5-lot subdivision will be developed at a density of 5 dwelling units per gross acre, which is within the allowable density and permitted number of dwelling units.

2. Circulation

All off-site public streets required to serve the subdivision already exist or will be constructed or paid for by the Applicant in accordance with the Conditions of Approval. The on-site public street is designed in accordance with the City design standards and/or requirements and provides for vehicular and pedestrian connections.

3. Public Facilities

The Project has been conditioned to ensure that all necessary public facilities and services will be available to serve the Project concurrent with the demand for those services. There are no public service, facility, or phasing needs created by the Project that warrants the preparation of a Public Facilities Financing Plan.

4. Housing

The Project is consistent with the density prescribed within the Residential Low Medium General Plan designation, and provides additional opportunities for single-family residential home ownership in the southwestern portion of the City.

5. Growth Management

The surrounding street segments and intersections including Date Street and Date Court and Date Street and Main Street will continue to operate at the same Level of Service in compliance with the City's traffic threshold standard with the proposed project traffic. No adverse impact to the City's traffic threshold standards would occur as a result of the proposed project.

The Project site is located in the attendance area of Otay Elementary School, within the boundaries of the Chula Vista Elementary School District. The Project is also within the attendance area of Castle Park High School and Palomar High School, within the Sweetwater Union High School District. The Applicant will be required to pay applicable developer fees based upon assessable area.

The proposed drainage improvements for the lot will consist of sheet flow along valley gutters that discharge the runoff into a bio-retention area. The proposed project will collect the existing runoff and treat it in accordance with current BMP methods and discharge to the Bio-retention basin located on the southwest side of the lot.

The project site is within the boundaries of the City of Chula Vista wastewater services area. The existing area sewer facility system has sewer lines along Date Street including an existing off-site 8" sewer main, along the frontage of the proposed project site. The Applicant will be required to submit a final sewer study prior to connecting to the City's sewer system.

6. Open Space and Conservation

The project proposes single-family homes that meet the minimum open space requirement per the Chula Vista Municipal Code. The project would also be required to pay in-lieu park fees towards the acquisition and development of future parks. The development of the site is consistent with the goals and policies of the Conservation Element.

7. Parks and Recreation

The proposed project would not induce significant population growth, as it is a small residential infill project and would not impact existing or proposed recreational facilities. The Project has been conditioned to pay park acquisition and development fees prior to recordation of the Final Map.

8. Safety

The City Engineer, Fire and Police Departments have reviewed the proposed subdivision for conformance with City safety policies and have determined that the proposal meets those standards.

9. Noise

The Project has been reviewed for compliance with the Noise Element and will comply with applicable noise measures at the time of issuance of the building permit.

10. Scenic Highway

This Project Site is not located adjacent to or visible from a designated scenic highway.

- B. Pursuant to Government Code Section 66473.1 of the Subdivision Map Act, the configuration, orientation, and topography of the site allows for the optimum siting of lots for natural and passive heating and cooling opportunities and development of the site will be subject to site plan and architectural review to insure the maximum utilization of natural and passive heating and cooling opportunities.
- C. Pursuant to Government Code Section 66412.3 of the Subdivision Map Act, the Council has considered the effect of this approval on the housing needs of the region and has balanced those needs against the public service needs of the residents of the City and the available fiscal and environmental resources.
- D. The site is physically suited for residential development because it is generally level and is located adjacent to existing residential developments. The Project conforms to all standards established by the City for a residential development.
- E. The conditions herein imposed on the grant of permit or other entitlement herein contained is approximately proportional both in nature and extent to the impact created by the proposed development.

III. GOVERNMENT CODE SECTION 66020 NOTICE

Pursuant to Government Code Section 66020(d)(1), NOTICE IS HEREBY GIVEN that the 90 day period to protest the imposition of any impact fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution and any such protest must be in a manner that complies with Section 66020(a) and failure to follow timely this procedure will bar any subsequent legal action to attack, set aside, void or annual imposition. The right to protest the fees, dedications, reservations, or other exactions does not apply to planning, zoning, grading, or other similar application processing fees or service fees in connection with the project; and it does not apply to any fees, dedication, reservations, or other exactions which have been given notice similar to this, nor does it revive challenges to any fees for which the Statute of Limitations has previously expired.

BE IT FURTHER RESOLVED that the City Council does hereby approve the Project subject to the general and special conditions set forth below.

#### IV. TENTATIVE MAP GENERAL CONDITIONS OF APPROVAL

Unless otherwise specified or required by law: (a) the conditions and Code requirements set forth below shall be completed prior to the related Final Map as determined by the Development Services Director and the City Engineer, unless otherwise specified, "dedicate" means grant the appropriate easement, rather than fee title. Where an easement is required the Applicant shall be required to provide subordination of any prior lien and easement holders in order to ensure that the City has a first priority interest and rights in such land unless otherwise excused by the City. Where fee title is granted or dedicated to the City, said fee title shall be free and clear of all encumbrances, unless otherwise excused by the City.

Should conflicting wording or standards occur between these Conditions of Approval, any conflict shall be resolved by the City Manager or designee.

#### **GENERAL/DEVELOPMENT SERVICES**

1. Applicant shall develop and maintain the Project Site in accordance with the approved plans, which include site plans, floor plan, and elevation plan on file in the Planning Division, the conditions contained herein, and Title 19.
2. Prior to, or in conjunction with the issuance of the first building permit, the Applicant shall pay all applicable fees, including any unpaid balances of permit processing fees for deposit account DQ-1720.
3. If applicable, to avoid any direct impacts to nesting raptors and/or any migratory birds, removal of habitat that supports active nests on the proposed area of disturbance should occur outside of the breeding season for these species (January 15 to August 31). If removal of habitat on the proposed area of disturbance must occur during the breeding season, the applicant shall retain a City-approved biologist to conduct a pre-construction survey to determine the presence or absence of nesting birds on the proposed area of disturbance. The pre-construction survey must be conducted within 10 calendar days prior to the start of construction activities (including removal of vegetation). The applicant shall submit the results of the pre-construction survey to the City for review and approval prior to initiating any construction activities. If nesting birds are detected, a letter report or mitigation plan as deemed appropriate by the City shall be prepared and include proposed measures to be implemented to ensure that disturbance of breeding activities is avoided. The report or mitigation plan shall be submitted to the City for review and approval and implemented to the satisfaction of the City. The City's Mitigation Monitor shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction.

**Land Development Division/Landscape Architecture Division:**

4. Developer shall comply with all standard tentative map conditions pursuant to Resolution 2010-278 and all the development conditions listed below:
5. Before issuance of the 1<sup>st</sup> building permit for the project, the Applicant is required to dedicate a 7.50' easement for public highway purposes, in addition to any right-of-way necessary to construct the other half of the existing cul-de-sac, or the proposed knuckle, at the terminus of Date Street.
6. Before issuance of the 1<sup>st</sup> building permit for the project, the Applicant is required to construct street improvements along the frontage of his/her property matching existing street improvements. Date Street is required to be constructed to ultimate City of Chula Vista design conditions to the satisfaction of the City Engineer.
7. Prior to building permit approval for each lot, the Applicant shall pay the appropriate park obligations fee for new single family homes per Chula Vista Municipal Code (CVMC) Chapter 17.10.

**Fire Department:**

8. Fire Hydrants shall be located no greater than 500 feet apart (for single family residences)
9. The Applicant shall maintain a minimum 20 feet access driveway.
10. Grades for any access roadway shall be restricted to the following
  - Asphalt < 11%
  - Concrete => 11%

**The following on-going conditions shall apply to the Project Site as long as it relies on this approval:**

11. Approval of this request shall not waive compliance with any sections of the CVMC, and any other applicable City Ordinances in effect at the time of building permit issuance.
12. The Property Owner and Applicant shall and do agree to indemnify, protect, defend and hold harmless City, its City Council members, officers, employees and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City arising, directly or indirectly, from (a) City's approval of this tentative map and (b) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated on the Project Site. The Property Owner and Applicant shall acknowledge their agreement to this provision by executing a copy of this Resolution where indicated below. The Property Owner's and Applicant's compliance with this provision shall be binding on any and all of the Property Owner's and Applicant's successors and assigns.

13. All of the terms, covenants and conditions contained herein shall be binding upon and inure to the benefit of the heirs, successors, assigns and representatives of the Developer as to any or all of the Property.
14. The Applicant shall comply with all requirements and guidelines of the City of Chula Vista General Plan; the City's Growth Management Ordinance; Chula Vista Landscape Manual, Chula Design Plan and the Non-Renewable Energy Conservation Plan as amended from time to time, unless specifically modified by the appropriate department head, with the approval of the City Manager. These plans may be subject to minor modifications by the appropriate department head, with the approval of the City Manager, however, any material modifications shall be subject to approval by the City Council.
15. If any of the terms, covenants or conditions contained herein shall fail to occur or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted including issuance of building permits, deny, or further condition the subsequent approvals that are derived from the approvals herein granted; institute and prosecute litigation to compel their compliance with said conditions; and/or seek damages for their violation. The applicant shall be notified 10 days in advance prior to any of the above actions being taken by the City and shall be given the opportunity to remedy any deficiencies identified by the City.

V. EXECUTION AND RECORDATION OF RESOLUTION OF APPROVAL

The Property Owner and Applicant shall execute this document signing on the lines provided below, indicating that the Property Owner and Applicant have each read, understood and agreed to the conditions contained herein, and will implement same. Upon execution, this document shall be recorded with the County Recorder of the County of San Diego, at the sole expense of the Property Owner and/or Applicant, and a signed, stamped copy returned to the City's Development Services Department. Failure to return the signed and stamped copy of this recorded document within 10 days of recordation shall indicate the Property Owner/Applicant's desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval.

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

VI. CONFORMANCE WITH CITY SUBDIVISION MANUAL

The City Council does hereby find that the Project is in conformance with the City of Chula Vista Subdivision Manual, Section 18.12 and the requirements of the Zoning Ordinance.

VII. INVALIDITY; AUTOMATIC REVOCATION

It is the intention of the City Council that its adoption of this Resolution is dependent upon the enforceability of each and every term, provision, and condition herein stated; and that in the event that any one or more terms, provisions, or conditions are determined by a Court of competent jurisdiction to be invalid, illegal, or unenforceable, this resolution and the permit shall be deemed to be automatically revoked and of no further force and effect ab initio.

BE IT FURTHER RESOLVED that the Chula Vista City Council does hereby approve Tentative Subdivision Map (PCS-13-01), subject to conditions listed above for the subdivision of a .98 acre site into five (5) single-family lots for individual ownership at 386 Date Street.

Presented by:

Approved as to form by:

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Kelly Broughton  
Development Services Director

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Glen R. Googins  
City Attorney