

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #19-11 - Addendum

AGENDA ITEM: 4.2

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: April 3, 2019
(continued from March 20, 2019)

PREPARED BY: Julie Nelson,
Associate Planner

SUBJECT: **Extension of Vesting Tentative Subdivision Map (VTSM) #1291**, initiated by Bright Development. This application involves a request for a one-year extension of time for filing a final map for VTSM #1291. VTSM #1291 would allow the subdivision of 39.8 acres of land into 161 single-family lots generally located on the east side of G Street at Merrill Place (extended) within an R-1-5 zone with a General Plan designation of Low Density Residential (LD). This extension request was referred to the Planning Commission for final action by the City's Site Plan Review Committee on February 14, 2019. *PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify

- 1) Extension of Vesting Tentative Subdivision Map (VTSM) #1291

SUMMARY

Vesting Tentative Subdivision Map #1291 was approved on January 16, 2007, to subdivide 39.8 acres of land generally located on the east side of G Street at Merrill Place (extended) (Attachments A and B). This map would have expired after two years per the Subdivision Map Act. However, as a result of the automatic extensions granted by the State of California and the extension granted by the Planning Commission on June 6, 2018, the map's expiration date was extended to January 16, 2019.

On October 3, 2018, the Planning Commission considered the proposed modifications to VTSM #1291 as required by the approval of the extension and voted to approve the modifications which placed all the lots on property owned by CEB Holdings, LLC and reduced the total number of lots from 168 to 161 (the approved modified map is provided at Attachment B and the modified Planning Commission Resolution is provided at Attachment P). The life of the map was unchanged by this action. Therefore, the expiration date remained January 16, 2019.

Prior to the expiration of the map, the property owner, CEB Holdings, LLC (an entity of Bright Development) requested the map be granted a one year extension, thus extending the map to January 16, 2020 (see extension request at Attachment C). Upon request for an extension of a tentative map, the life of the map is automatically extended by 60 days per the Subdivision Map Act, which extended the expiration date to March 16, 2019. The Site Plan Review Committee heard the request for an extension on February 14, 2019. At that time, the Site Plan Review Committee voted to refer the request to the Planning Commission for action. The map is automatically extended while the Planning Commission review process takes place.

Prior to the Planning Commission meeting on March 20, 2019, staff received additional information from Rick Telegan, adjacent property owner, regarding the requested extension and the CEQA review process. In order to allow time for staff and the applicant to review the information submitted, the applicant requested the extension request be continued to the April 3, 2019, Planning Commission meeting.

Planning Staff is recommending approval of the one-year extension.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve the Extension of Vesting Tentative Subdivision Map #1291 to January 16, 2020.

PROJECT DESCRIPTION

This project is a request to extend Vesting Tentative Subdivision Map #1291 for a period of one year from the date of expiration (January 16, 2019). This map, as modified by the Planning Commission on October 3, 2018, would allow the subdivision of 39.8 acres of land into 161 single-family lots (Attachment B). The subdivision is generally located on the east side of G Street at Merrill Place (extended). The lots range in size from approximately 5,000 square feet to approximately 10,000 square feet.

BACKGROUND

This property was annexed as part of the Absolute-Bright annexation approved in 2006. As part of the annexation, each party signed a Pre-Annexation Development Agreement that stipulated certain requirements for development within the annexation area. This agreement is provided at Attachment D.

Vesting Tentative Subdivision Map #1291 was originally approved on January 16, 2007 (see the originally approved map at Attachment E). This map as well as the Tentative Map for the Palisades subdivision to the north of this site (Attachment F) were submitted at the same time. Both the developers of the Palisades subdivision (Rick Telegan and Lee Jay Kolligian for Leeco LLC) and Bright Development were using the same engineering firm (Golden Valley Engineering). In order to maximize the number of lots within each subdivision, the engineer designed the subdivisions with lots on each other's property (Attachment G). At the time the maps were approved, the property owners planned to do a Lot Line Adjustment to rectify this situation. However, this never occurred, and 16 lots from the Bright Development Subdivision Map were on property owned by Leeco LLC. The Palisades Tentative Map expired as of January 2, 2018. Therefore, none of the lots originally approved with the Palisades subdivision are on the Bright property any longer.

On March 15, 2018, the Site Plan Review Committee heard the request to extend Vesting Tentative Subdivision Map #1291. After hearing testimony regarding the extension request, the Site Plan Committee voted to refer the matter to the Planning Commission. An excerpt from the minutes for this meeting are provided at Attachment H.

The Planning Commission considered the extension request at their meeting of June 6, 2018. After considering all the testimony, the Planning Commission unanimously voted to extend the map, subject to the condition that the map be modified to have all the lots on property owned by Bright Development (or CEB Holdings, LLC). This action extended the map through January 16, 2019. An excerpt from the minutes for this meeting are provided at Attachment I.

On October 3, 2018, the Planning Commission approved the modification of Vesting Tentative Map #1291 which moved all the lots onto property owned by CEB Holdings, LLC and allowed a Temporary Emergency Vehicle Access (EVA) onto G Street. The approved modified map is provided at Attachment B). A Minute Excerpt is provided at Attachment J.

On January 31, 2019, the Site Plan Review Committee was scheduled to hear a new request from Bright Development to extend the map to January 16, 2020. However, the day of the meeting, staff received a letter of opposition from Rick Telegan (Attachment K). Because staff needed time to review Mr. Telegan's letter and basis for opposition, the Site Plan Committee voted to continue the extension request to the meeting of February 14, 2019 (an excerpt of the Minutes are provided at Attachment L).

The Site Plan Committee considered the new extension request at their meeting of February 14, 2019. At the Site Plan Committee meeting, Rick Telegan spoke in opposition to the extension citing the reasons in his letter of opposition previously submitted, the CEQA review done for the modification, and that the proposed storm drainage facilities underneath the PG&E power lines would not be feasible given PG&E regulations. Mr. Telegan provided an email he received from PG&E regarding the storm drainage facilities (Attachment M). Dave Butz with Bright Development spoke in favor of the extension. After hearing the testimony, the Site Plan Committee unanimously voted to refer the matter to the Planning Commission for consideration and action. An excerpt of the Minutes for this meeting are provided at Attachment N.

At their meeting on March 20, 2019, at the applicant's request, the Planning Commission voted to continue this item to the April 3, 2019, Planning Commission meeting to allow the applicant and staff sufficient time to review the new information submitted by Mr. Telegan.

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) Vesting Tentative Subdivision #1291 complies with the General Plan designation of Low Density Residential (LD) and the Zoning designation of R-1-5.

Subdivision Map Act and Municipal Code

- B) The Subdivision Map Act Section 66452.6 (e) allows a city to approve discretionary extensions for a period or periods not exceeding a total of 6 years. These extensions are in addition to the automatic extensions granted by the State beginning in 2013.

Section 66498.1 of the Subdivision Map Act provides that additional conditions may only be added to a Vesting Tentative Subdivision Map (VTSM) or an extension request for a VTSM may only be denied if the Legislative Body determines any of the following:

1. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.
2. The condition or denial is required in order to comply with state or federal law.

Merced Municipal Code (MCC) Section 18.04.020 states that this section is to supplement and implement the Subdivision Map Act. It further states that all provisions of the Subdivision Map Act which are mandatory in nature are incorporated by reference in this

title. MCC Section 18.04.060 states that the provisions of Chapter 18 of the Municipal Code shall be in addition to and shall be considered as supplementing the provisions of the Subdivision Map Act of the state.

Concerns Raised by Mr. Telegan

- C) As described in the background section of this report, a letter of opposition was submitted by Mr. Rick Telegan on January 31, 2019. This letter asserts that the approval of the modified map on October 3, 2018, violated the General Plan and the Pre-Annexation Development Agreement for the Absolute/Bright Annexation. The City Attorney reviewed Mr. Telegan's letter and concluded that the issues raised are issues that should have been raised during the appeal period after the approval of the modified map. Since that time has expired, the issues raised have no standing in reference to the requested extension.

In regards to the e-mail from PG&E Mr. Telegan submitted to the Site Plan Review Committee concerning the location of the storm drainage facilities, staff has determined that the approval of the exact location of the drainage basin could be done by the City Engineer at a later date and does not impact the requested extension. However, it should be noted that Bright Development has worked with their engineer and would locate a drainage basin on the remaining portion of their property (Lot A, as shown on VTSM #1291 - Attachment B) if they are unable to obtain permission from PG&E to have it underneath the power lines. This issue will be resolved at the Final Map stage under the direction of the City Engineer, therefore, it is not relevant to the extension of the Tentative Map.

On March 14, 2019, Mr. Telegan submitted additional information supporting his objection to the extension of the map. This information is provided at Attachment O.

On March 19, 2019, additional information was submitted by Mr. Telegan (Attachment P). Planning Staff, along with the City Attorney, has reviewed the information submitted by Mr. Telegan and determined that the issues raised are not relevant to the requested extension of the subdivision map.

Environmental Clearance

- D) The act of extending a tentative map does not require an additional environmental review. This previous environmental review (Environmental Review #06-26 - CEQA Section 15162 Findings) remains sufficient for this project. Although Planning Staff usually provides these Findings to the Planning Commission and asks the Commission to adopt them, the Planning Commission's adoption of the 15162 Findings is not required by CEQA. Mr. Telegan submitted an appeal request regarding the City's CEQA determination on February 28, 2019. That appeal request was subsequently rejected as it had not been submitted within the appeal period on the tentative map in October 2018.

Attachments:

- A) Location Map
- B) VTSM #1291 (modified)
- C) Letter Requesting Extension

Refer to Attachments 1
and 2 of Administrative
Report for Attachments A
and B.

- D) Pre-Annexation Development Agreement
- E) Original VTSM #1291
- F) Palisades Subdivision
- G) Map of Palisades and Bright Development Subdivisions showing lots on each other's property
- H) Site Plan Committee Minutes Excerpt 3-15-18
- I) Planning Commission Minutes Excerpt 6-6-2018
- J) Planning Commission Minutes Excerpt 10-3-2018
- K) Objection Letter
- L) Site Plan Committee Minutes Excerpt 1-31-19
- M) Email from Mr. Telegan
- N) Site Plan Committee Minutes Excerpt 2-14-19
- O) Information provided by Mr. Telegan 3-14-19
- P) Information provided by Mr. Telegan 3-19-19
- Q) Planning Commission Resolution #2904

Refer to Attachments 4, 6, and 7-17 Administrative Report for Attachments D and F through Q.

Ref: N:\SHARED\PLANNING\STAFFREP\SR2019\SR 19-11 - Addendum Extension of VTSM .docx



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MODESTO, CALIFORNIA 95351

PHONE: 209.526.8242
BRIGHT-HOMES.COM
BRE#0978136

January 4, 2019

City of Merced Planning Department
Attn: Julie Nelson
678 West 18th Street
Merced, CA 95340



Subject: Vesting Tentative Subdivision Map #1291 (Merzoian)

Dear Ms. Nelson,

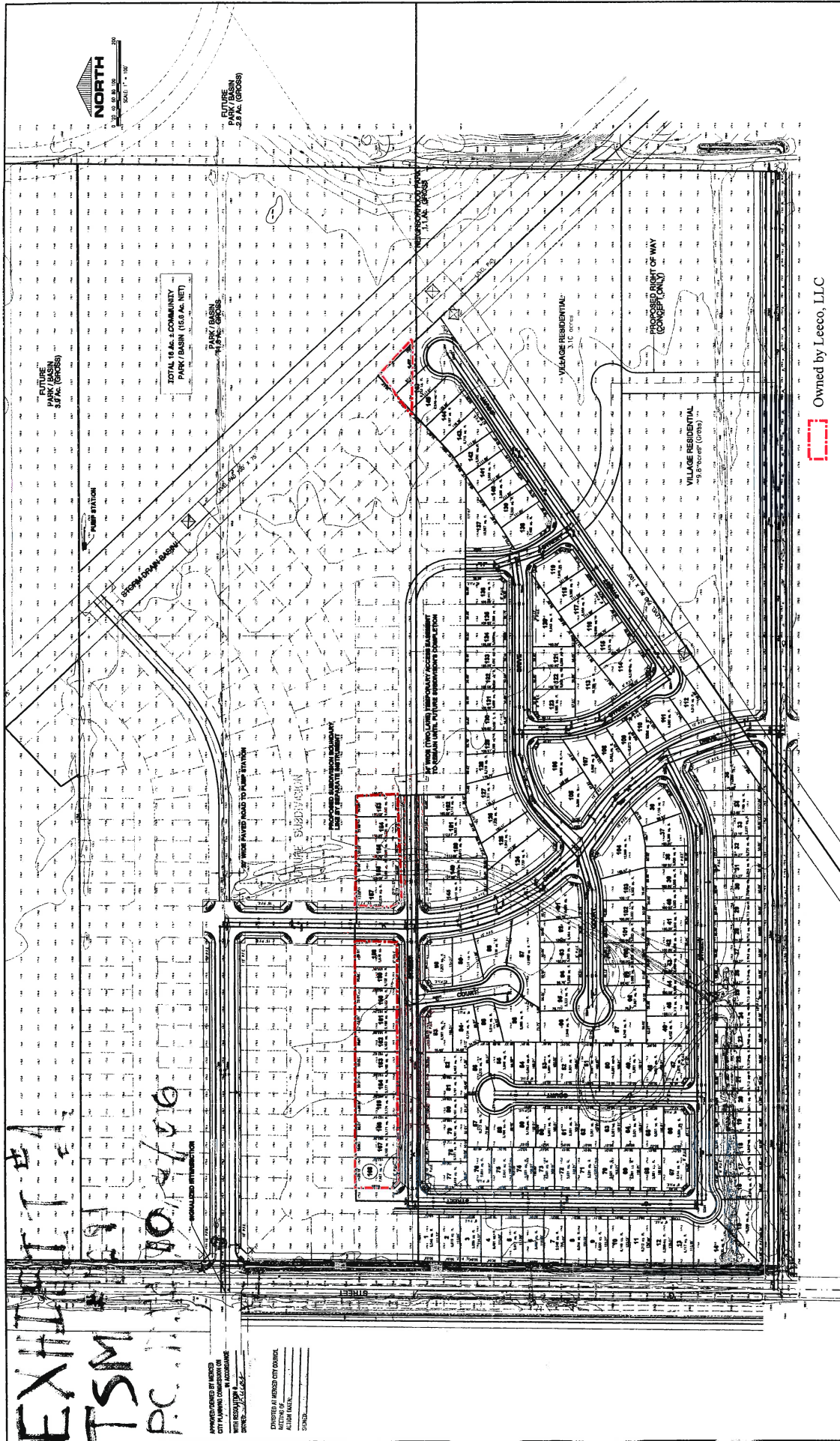
We are writing to request a minimum one-year time extension for the above referenced Vesting Tentative Subdivision Map. Attached please find Check No. 269503 for the \$256 application fee. Our records indicate that the map has an expiration date of January 16, 2019. With the approval of this one-year extension the new expiration date would be January 16, 2020.

If you have any questions or need additional information please contact me.

Sincerely,

A handwritten signature in blue ink that reads "D. W. Butz". The signature is stylized, with a large, sweeping "A" at the end.

David W. Butz
Bright Development



DESIGNED: GOLDEN VALLEY ENGINEERING
DRAWN: B. J. C. C. L.
CHECKED: J. M.
DATE: JUNE 2008
JOB NO.: 04101, 04111, 04112
PAGE: 2

VESTING TENTATIVE SUBDIVISION MAP
FOR
BRIGHT DEVELOPMENT
PORTION SECTION 5 & 8, T.7 S., R.14 E., M.D.B. & M.
CITY OF MERCED, CALIFORNIA

TENTATIVE MAP
BRIGHT PIONEER
1000 W. 10th Street, Suite 8
Merced, CA 95351-1155
PHONE: (209) 371-9425
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APPROVED BY THE CITY OF MERCED
CITY ENGINEER
ALAN HALL
DATE: 10/10/00

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CITY ENGINEER
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