

AGUA DULCE TOWN COUNCIL

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October 9, 2022

Amy Bodek, Director
Los Angeles County Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Via Email to: ABodek@planning.lacounty.gov

RE: Agua Dulce Town Council opposes the proposed Large Lot map recording under applications RPAP2022009925 and RPPL202210011 related to the Agua Dulce Residential Project (Tract 50385)

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Dear Mrs. Bodek:

The Agua Dulce Town Council recently became aware of the above captioned applications submitted on September 1st and September 6th to the Department of Regional Planning seeking approval for Minor Map Amendments, approval of a phasing exhibit and permission to record a "large lot".

The Council has made both informal and formal requests for copies of the maps and documents related to the above applications and has not received any of the requested information at the time of writing.

In the absence of a better understanding of the proposed amendments, the Council and the community are concerned that the recording of the large lots is prohibited by the conditions of the 1994 Environmental Impact Report for the Project and that allowing the proposed large lots to be recorded may result in segmentation of the Project against the provisions of the California Environmental Quality Act Section 15378.

1. The Conditional Use Permit 91-053 Condition 17 approved in 1994 prohibits recording of additional lots until a second means of street access is provided to the Project

In 2002, the then developer recorded the first 68 lots of the Project which represented the first three phases of the twelve phase Project that was approved in 1994. This is more commonly referred to as TR50385-01 or 'Phase 1'.

In April 2007, a Supplemental Environmental Impact Report was approved that revised the Project's wastewater entitlement to construct an on-site wastewater treatment plant within phases IV-XII of the Project instead of the previously proposed on-site septic systems and off-site wastewater treatment plant. The use of a wastewater treatment plant by the Project is a necessary Project facility in both the 1994 and 2007 approved documents.

Condition 17 of the approved 1994 EIR states “A maximum of 68 lots (Phases I, II and III) may record until a second means of street access is provided to the satisfaction of the Dept. of Public Works and the Department of Regional Planning.”

The second means of street access to the Project described in the approved documents is referred to as ‘H’ Street and sits within the unrecorded map that was approved in both 1994 and 2007.

Phases IV-XII of the Project (commonly known as Phase 2) are as yet unrecorded.

The developer’s legal representative testified before the Los Angeles Regional Water Quality Control Board (LARWQCB) on February 10th this year that “***The developer could if they wanted to just let the map expire on that second phase of the Project if they wanted to. So this does constitute and it has kind of encapsulated all together in kind of what I’ll call the immediately foreseeable Project is what you’re looking at before you. So, they could, if they wanted to, just abandon the second phase if they presume to.***”

As the lead agency, the Department of Regional Planning is required to observe the content of the approved planning documents for the Project pursuant to the California Environmental Quality Act.

When the Council raised the issue of a secondary access with the County representatives in its March 18th letter this year, the County’s response to Supervisor Barger and the Council in its letter of May 2nd 2022 states “*Phase I of the project has recorded, and the legal lots have been established. The original 1994 approval was based on all 68 lots of Phase I connected to public streets through a single means of access. Therefore, the second point of access contemplated for the unrecorded portion of Phase II is not required for Phase I.*”

From this response, it is clear that the County plans to allow the developer to proceed with the construction of Phase 1 with a single means of access. As such, the Council has no reason to believe that the secondary access road will be constructed by the developer (who has publicly stated under oath that they may elect to let the unrecorded Phase 2 map expire) and the County may not enforce this requirement to construct a secondary access to the Project.

The Council respectfully requests that the Department of Regional Planning observes Condition 17 of the 1994 EIR that restricts the recording of further lots until the required conditions are met, particularly in view of the developer’s recent public statements under oath that they may elect to abandon the second phase when the unrecorded map expires.

2. **The Final EIR limits the issuance of building permits without evidence of adequate sewage treatment capacity and the recording large lots may result in segmentation of the Project in contravention of CEQA Section 15378**

The 2007 SEIR Project description notes that the wastewater plant will be built at the same time as the Phase 1 units and will become operational once the first 50 units have been built.

After securing approval for a ‘conceptual’ wastewater treatment plant in April 2007, no work has been performed to produce detailed plans and specifications for the wastewater treatment plant that is a precursor to the recording of the Phase 2 map.

The 2007 SEIR reflects concerns expressed by the Department of Public Works that “***due to incomplete and inadequate Treatment Plant Feasibility Study and treatment plant plans, during the design stage review, additional requirements to the treatment plant facility, the treatment process, and/or methods of disposal may necessitate a change to the environmental documents and/or a revision to the tentative map.***” Final approved 2007 SEIR, page 67 bullet point 16.

The developer’s February 10th testimony before the LARWQCB stated that “*there are multiple phases where you don’t apply for the permits that you need too far in advance of when you’re going to*

build the homes. *Because again, for things like wastewater treatment plants and things of that nature, [where] substantial permitting effort, even with ancillary permits, but also investment funding [is required], to make sure that those are not done too far in advance of when building would start.” and “When it comes to, again, this goes out far beyond, what we’re talking about today, but the wastewater treatment plant, which is not a part of the approval today, I honestly don’t know when that permit will be submitted to this board for consideration. But that will be its own lengthy process and will involve a similar procedure than we went through today, or rather it’s going to be much, much grander procedure than we went through today. Because it does require, more analysis and things, and the siting of that plant and things is a whole another kettle of fish as it were.”*

In the 7 ½ year period since the unrecorded map was extended for the final time at the January 6th 2015 Regional Planning Commission meeting, the reality is that neither the prior nor the current developer (who has owned the Project for over 3 of those 7½ years) has undertaken any of the work necessary to produce the documents required by the Department of Public Works to approve the wastewater treatment plant.

The Final EIR, Response to Comments Addendum, Section 2 contains a Revised Project Description. Section 2.1 on page 2-1 lists the Summary of Revisions and bullet point 10 states ‘Building permits will not be issued for any lot in Phases IV through XII without evidence of adequate sewage treatment capacity.’

The above statement is repeated later on in Section 2.4 Project Characteristics on Page 2-10.

Finally, the 1994 Findings of Fact number 15 on page 14 dealing with groundwater states that “Building permits shall not be issued for any lot in Phases IV through XII without evidence of adequate sewage treatment capacity.”

In this instance, the Council and the community are concerned that the developer may subsequently apply for building permits, including grading permits, on the recorded large lots, thereby circumventing the requirement to plan and record the wastewater treatment plant and securing building permits on lots that comprise sections of the current Phases IV to XII in contravention of the approved 1994 documents.

The Council and the community are further concerned that by recording the large lots and securing building permits, that the developer would be engaged in piecemealing the Project which is explicitly forbidden pursuant to CEQA Section 15378. The Department of Regional Planning is required to observe the content of the approved planning documents for the Project pursuant to the California Environmental Quality Act.

The wastewater treatment plant is a necessary facility for the entire Project. The plans for the wastewater treatment plant have not been produced in the past 15 ½ years since the plan was approved in 2007. The 2007 SEIR acknowledges that a final set of plans for the wastewater treatment plant may require a change in the environmental documents or the tentative map. Similarly the large lots may not include the previously discussed second access to the Project, resulting in an increased danger to public safety since the Project is located in a very high fire hazard severity zone.

Should the large lots be approved and subsequent building permits be granted, and the developer subsequently abandon the remainder of the unrecorded portion of the second phase where the wastewater treatment plant is to be located (as they have contemplated under oath as previously noted), this would result in the minimization of the apparent environmental impacts of the Project by evaluating individual pieces separately, each of which may have a less-than-significant impact on the environment, but which together may result in a significant impact since there would be no wastewater treatment plant to serve the Project or the adjacent existing 61 homes of Sierra Colony (Tract 48786).

3. The absence of an approved plan for the Project's wastewater treatment plant means that the environmental impact waiver requirements of the MMA cannot be achieved

In order to validate a Minor Map Amendment, the applicant needs to certify that the revisions meet the following criteria:

- Create or intensify substantial negative impacts to the surrounding area,
- Create or intensify substantial negative environmental impacts,
- Change the approved use or significantly change the project design,
- Create a detrimental change upon which the environmental determination for the project was made, or
- Change a project feature upon which the review authority made findings for approval of the project.

The plans for the Project-wide wastewater treatment plant referenced in Section 2 above have yet to be produced. As such, a wide range of Project-wide environmental impacts have yet to be understood including, but not limited to, the availability of an adequate supply of water that the plant will require to operate, the impact on the groundwater chloride levels of the spray irrigation of recycled water, the public safety hazard risk posed by the storage of treatment chemicals in a high fire hazard severity zone and the impact of wastewater treatment odors on nearby residences.

The comments made by the Department of Public Works in the 2007 Supplemental Environmental Impact Report make it clear that the final plans for the wastewater treatment plant "may necessitate a change to the environmental documents and/or a revision to the tentative map". Consequently, it is impossible for any statements to be made that changes to the map or the recording of large lots meet any of the qualifying criteria in order for the MMA to be used for these changes since the environmental impact for a key Project-wide facility has yet to be studied and approved.

The Council therefore strongly objects to the recording of any lots on existing or proposed phases of the Project where the wastewater treatment plant is to be located using an MMA.

4. Summary

Based on the information available to the council and the approved conditions related to the Project outlined above, we respectfully oppose the Minor Map Amendment and Large Lot Map recording applications and request that they are denied until such time as the conditions outlined in the Project's approved planning documents are met.

Respectfully,

Don Henry

Don Henry, President
Agua Dulce Town Council – 2022

cc: Kathryn Barger, Supervisor, District 5
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