

# ATTACHMENT 1

## FINDINGS OF APPROVAL

Case Nos. 11TPM-00000-00007 (TPM 14,784) and 12CDH-00000-00009

### **1.0 CEQA FINDINGS**

#### **1.1 CEQA Exemption**

The Board of Supervisors finds that the proposed project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15315 (Tentative Parcel Map) and 15301(l)(1) (Employee Dwelling Demolition). Please see Attachment 4 of the Board Agenda Letter for August 21, 2012, Notice of Exemption, incorporated herein by reference.

#### **2.0 SUBDIVISION MAP ACT FINDINGS**

**2.A. Findings for all Tentative Maps.** *In compliance with the Subdivision Map Act, the review authority shall make the following findings for The Trust for Public Land/Devereux Creek Properties Lot Split, Case No. 11TPM-00000-00007 (TPM 14,784):*

**2.A.1. State Government Code §66473.1.** *The design of the subdivision for which a tentative map is required pursuant to §66426 shall provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.*

The proposed lot split is a simple three lot subdivision that does not include any new residential development. As a part of the subdivision, 30 of the allowed base density units are assigned to Lot 1 and 28 are assigned to Lots 2 and 3. Upon recordation of the Parcel Map, Lot 1 will be sold to The Trust for Public Land. Immediately following the land acquisition by The Trust for Public Land, Lot 1 would be deed restricted such that no residential development could occur on that property in the future, consistent with the requirements of funding grantors. Lots 2 and 3, which will accommodate some residential development in the future, are located on relatively level to gently sloping terrain which would allow for future passive or natural heating or cooling opportunities. Any future activity to develop 28 units on these two lots would require a subsequent subdivision and a Development Plan at which time detailed opportunities for passive or natural heating or cooling could be designed. Therefore, this finding can be made.

**2.A.2. State Government Code §66473.5.** *No local agency shall approve a tentative map, or a parcel map for which a tentative map was not required, unless the legislative body finds that the proposed subdivision, together with the provisions for its design and improvement is consistent with the general plan required by Article 5 (commencing with §65300) of Chapter 3 of Division 1 or any specific plan adopted pursuant to Article 8 (commencing with §65450) of Chapter 3 of Division 1.*

As discussed in section 5.4 of the staff report to the Zoning Administrator dated April 19, 2012, and section 5.1 of the staff report to the Planning Commission dated June 1, 2012, both incorporated herein by reference, the design of the subdivision is consistent with the County's General Plan, including the Coastal Land Use Plan and the Goleta Community Plan. Therefore, this finding can be made.

**2.A.3. State Government Code §66474.** *The Board of Supervisors shall deny approval of a Tentative Parcel Map/Tract Map if it makes any of the following findings:*

*a. The proposed map is not consistent with applicable general and specific plans as specified in §65451.*

As discussed in section 5.4 of the staff report to the Zoning Administrator dated April 19, 2012, and section 5.1 of the staff report to the Planning Commission dated June 1, 2012, both incorporated herein by reference, the proposed map is consistent with the County's General Plan, including the Coastal Land Use Plan and the Goleta Community Plan.

*b. The design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.*

As discussed in section 5.4 of the staff report to the Zoning Administrator dated April 19, 2012, and section 5.1 of the staff report to the Planning Commission dated June 1, 2012, both incorporated herein by reference, the design of the subdivision is consistent with the County's General Plan, including the Coastal Land Use Plan and the Goleta Community Plan.

*c. The site is not physically suitable for the type of development proposed.*

No new development is proposed with this Tentative Parcel Map. However, the site is physically suited for the design and layout of the three resulting lots. Residential development on Lots 2 and 3 would require subsequent discretionary review via a Development Plan.

*d. The site is not physically suited for the proposed density of development.*

No new development is proposed with this Tentative Parcel Map. However, the site is physically suited for the density allowed by existing land use and zoning designations as discussed in section 5.4 of the staff report to the Zoning Administrator dated April 19, 2012, and section 5.1 of the staff report to the Planning Commission dated June 1, 2012, both incorporated herein by reference.

*e. The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.*

As discussed in section 5.1 of the staff report to the Planning Commission dated June 1, 2012, and Attachment 4 of the Board Agenda Letter for August 21, 2012, both incorporated herein by reference, there is no new development proposed with the project. The design of the subdivision will not cause environmental damage and will not injure fish or wildlife or their habitat. Upon recordation of the Parcel Map, Lot 1 will be sold to The Trust for Public Land. Immediately following the land acquisition by The Trust for Public Land, Lot 1 would be deed restricted such that no residential development could occur on that property in the future, consistent with the requirements of funding grantors.

*f. The design of the subdivision or type of improvements is likely to cause serious public health problems.*

There is no new development proposed with this project. The design of this three lot subdivision will not cause serious public health problems.

*g. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.*

There are no public easements for access through, or use of, the property, so no conflicts will occur.

**2.A.4. State Government Code §66474.4.** *The legislative body of a county shall deny approval of a tentative map or parcel map if it finds that the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 and that either the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use or the subdivision will result in residential development not incidental to the commercial agricultural use of the*

*land, is subject to an open space easement entered into pursuant to the Open Space Easement Act of 1974, is subject to an agricultural conservation easement entered into pursuant to Chapter 4 of Division 10.2 of the Public Resources Code, or is subject to a conservation easement entered into pursuant to Chapter 4 of part 2 of division 2 of the Civil Code.*

The land is not zoned or used for agriculture and is not subject to a contract pursuant to the California Land Conservation Act of 1965 or an agricultural conservation easement. The property is also not subject to an open space easement or a conservation easement. Therefore, this finding can be made.

**2.A.5. State Government Code §66474.6.** *The governing body of any local agency shall determine whether discharge of waste from the proposed subdivision into an existing community sewer system would result in violation of existing requirements prescribed by a California Regional Water Quality Control Board pursuant to Division 7 (commencing with §13000) of the Water Code.*

No new development is proposed with this project. As discussed in Section 5.1 of the staff report to the Planning Commission dated June 1, 2012, incorporated herein by reference, the Goleta West Sanitary District confirmed that it will continue to serve proposed Lot 1 through the existing infrastructure and connections, and that it has sufficient capacity to serve proposed Lots 2 and 3 (letter from Mark Nation, Goleta West Sanitary District dated February 1, 2012). Thus, discharge into an existing community sewer system from this lot split would not result in a violation of requirements of the Regional Water Quality Control Board, and this finding can be made.

**In addition to the findings above, the following findings apply to subdivisions in the Coastal Zone per Article II, Section 35-130:**

**2.B** *In order to obtain approval for a division of land, the subdivider shall demonstrate that adequate water is available to serve the newly created lots except for lots to be designated as “Not a Building Site” on the recorded subdivision or parcel map.*

As discussed in Section 5.1 of the staff report to the Planning Commission dated June 1, 2012, incorporated herein by reference, the Goleta Water District has indicated its intent to serve the three lots through a reallocation of the existing water meters that serve the existing property. Lots 1 and 2 are currently served and will continue to be served. In addition, a Can and Will Serve letter for Lot 3 is required by County Environmental Health Services prior to recordation of the final Parcel Map, pursuant to its condition letter dated April 16, 2012. Therefore, adequate water is available to serve the new lots and this finding can be made.

**2.C** *As a requirement for approval of any proposed land division of agricultural land designated as AG-I or AG-II, the County shall make a finding that the long-term agricultural productivity of the land will not be diminished by the proposed division.*

The project site is not designated or used for agriculture. Therefore, this finding does not apply.

**3.0 CHAPTER 21 TENTATIVE PARCEL MAP FINDINGS**

**3.A** *The following, among others, shall be cause for disapproval of a tentative map including tentative parcel maps, but the tentative map may nevertheless be approved in spite of the existence of such conditions where circumstances warrant:*

*3.A.1. Easements or rights-of-way along or across proposed county streets which are not expressly subordinated to street widening, realignment, or change of grade by an instrument in writing recorded, or capable of being recorded, in the Office of the County Recorder, provided, however, that the Director of Public Works may approve such easements or rights-of-way without such subordinations. Easements or rights-of-way shall not be granted along or across proposed county streets before filing for record of the final subdivision map by the County Recorder, unless the Director of Public Works shall approve such grants. If the Director of Public Works does not grant such approvals within fourteen days from the date they were requested, they shall be deemed to have been refused. Appeal from refusal of the Director of Public Works to grant such approvals may be made in writing to the Board of Supervisors, which may overrule the Director of Public Works and grant such requested approvals in whole or in part.*

This Tentative Parcel Map includes no easements or rights-of-way along or across existing or proposed county streets. Thus, there is no cause for disapproval of this map.

*3.A.2. Lack of adequate width or improvement of access roads to the property; creation of a landlocked lot or parcel without frontage on a street or other approved ingress and egress from the street;*

Section 5.1 of the staff report to the Planning Commission dated June 1, 2012, incorporated herein by reference, demonstrates that the lots created by this Tentative Parcel Map have existing access roads and access easements of adequate width to access each proposed lot. Therefore, there is no cause for disapproval of this map.

*3.A.3. Cuts or fills having such steep slopes or great heights as to be unsafe under the circumstances or unattractive to view;*

There is no grading associated with this project. The lots created by the map do not have steep slopes or slopes of great heights. Any future development would not result in grading that would be unsafe or unattractive; all future grading greater than 50 cubic yards would require permits and additional review. Therefore, there is no cause for disapproval of this map.

*3.A.4. Grading or construction work on any proposed street or lot. Grading or construction work shall not be commenced prior to recordation of the final or parcel map without specific authority granted by and subject to conditions approved by the Board of Supervisors;*

There is no grading associated with this project. Therefore, there is no cause for disapproval of this map.

*3.A.5. Potential creation of hazard to life or property from floods, fire, or other catastrophe;*

There is no new development associated with this map. As discussed in section 5.4 of the staff report to the Zoning Administrator dated April 19, 2012, and Section 5.1 of the staff report to the Planning Commission dated June 1, 2012, both incorporated herein by reference, the design of the subdivision will not result in any future development being located in areas that would create hazard to life or property. Therefore, there is no cause for disapproval of this map.

*3.A.6. Nonconformance with the County's Comprehensive Plan or with any alignment of a state highway officially approved or adopted by the state department of transportation;*

As discussed in section 5.4 of the staff report to the Zoning Administrator dated April 19, 2012, and Section 5.1 of the staff report to the Planning Commission dated June 1, 2012, both incorporated herein by reference, the Tentative Parcel map conforms to the County's Comprehensive Plan, including the Coastal Land Use Plan and the Goleta Community Plan. The project site is not located near any existing or proposed state highway alignment. Therefore, there is no cause for disapproval of this map.

*3.A.7. Creation of a lot or lots which have a ratio of depth to width in excess of 3 to 1;*

The Tentative Parcel Map would create three lots from a 70.32-acre parcel. Lots 2 and 3 would be relatively small consisting of only 9% (combined) of the total area of the original parcel. Lot 1 would be 63.93 acres. The existing 70.32-acre parcel is of an irregular shape with a depth to width ratio much greater than 3 to 1. Lots 1 and 2 will continue to have irregular shapes with depth to width ratios greater than 3 to 1. Upon completion of the project (recordation of the parcel map and transfer of title to The Trust for Public Land), consistent with the limitations placed on the grant funds used by the Trust to purchase the property, Lot 1 uses will be restricted to various open space, habitat, restoration, recreation and educational uses; it will not be used for residential development. Therefore, lot geometry and creation of a lot with a depth to width ratio of 3 to 1 is not necessary for this parcel. No development is currently proposed for Lot 2 and any future development would require the processing of a Development Plan. The purpose of the PRD zone is to provide flexibility in planning and site design and also to allow for the development of other types of residential structures such as townhomes, condominiums and apartments, which allows development to be appropriately designed to fit lot irregularities. Lot 3 will have a depth to width ratio less than 3 to 1. Therefore, given the unique characteristics of the site, the project, and the PRD zone, the fact that two of the lots would not meet the 3 to 1 depth to width ratio is not a cause for disapproval of this map.

*3.A.8. Subdivision designs with lots backing up to watercourses.*

The design of the subdivision does not back up onto a water course. The water courses that cross the property (Devereux Creek and one tributary) would be located central to Lot 1 and none of the new lots would back up to these creeks. Therefore, this finding can be made.

*3.B. A tentative map including tentative parcel map shall not be approved if the decision-maker finds that the map design or improvement of the proposed subdivision is not consistent with this Chapter, the requirements of the State Subdivision Map Act, California Government Code Section 66410 et seq., the County's Comprehensive Plan, the applicable zoning ordinance, or other applicable County regulations.*

As discussed in section 5.4 of the staff report to the Zoning Administrator dated April 19, 2012, and section 5.1 of the staff report to the Planning Commission dated June 1, 2012, both incorporated herein by reference, the design of the subdivision is consistent with "this chapter" (i.e., Chapter 21), the County's Comprehensive Plan, including the Coastal Land Use Plan and the Goleta Community Plan, and the applicable Coastal Zoning Ordinance. As discussed in Section 2 of the Findings above (herein incorporated by reference), the tentative parcel map design is consistent with the findings of the State Subdivision Map Act. Therefore, this finding can be made.

## **4.0 COASTAL DEVELOPMENT PERMIT FINDINGS**

**4.A. *Finding required for all Coastal Development Permits.*** *In compliance with Section 35-60.5 of the Article II Zoning Ordinance, prior to the issuance of a Coastal Development Permit the review authority shall first find, based on information provided by environmental documents, staff analysis, and/or the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development.*

The Coastal Development Permit would allow the demolition of an existing employee dwelling trailer, for which its permit expired in 1990. No services are required to demolish a structure; therefore, this finding can be made.

**4.B. *Findings required for Coastal Development Permit applications subject to Section 35-169.4.2.*** *In compliance with Section 35-169.5.2 of the Article II Zoning Ordinance, prior to the approval or conditional approval of an application for a Coastal Development Permit subject to Section 35-169.4.2 the review authority shall first make all of the following findings:*

**4.B.1. *The proposed development conforms:***

*a. To the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan;*

As discussed in section 5.1 of the staff report to the Planning Commission dated June 1, 2012, incorporated herein by reference, the demolition conforms to the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan and the employee dwelling is not located in an environmentally sensitive area. Only Coastal Plan Policy 3-19, which requires protection of water quality of nearby streams and wetlands, is applicable to the demolition of the dwelling. The dwelling is located 300+ feet from Devereux Creek and its associated wetland, and the Coastal Development Permit is conditioned to require use of water quality protection measures during demolition. Therefore, this finding can be made.

*b. With the applicable provisions of this Article or the project falls within the limited exceptions allowed in compliance with [Section 35-161 \(Nonconforming Use of Land, Buildings and Structures\)](#).*

As discussed in section 5.4 of the staff report to the Zoning Administrator dated April 19, 2012, incorporated herein by reference, demolition of the employee dwelling will bring the property into full compliance with this Article (i.e., the Coastal Zoning Ordinance). Therefore, this finding can be made.

**4.B.2. *The proposed development is located on a legally created lot.***

The lot was created on August 9, 1994 as Lot 1 of a Lot Line Adjustment as filed in Book 146 of Record of Surveys, Pages 41 and 42. Therefore, this finding can be made.

**4.B.3. *The subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article, and any applicable zoning violation enforcement fees and processing fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with [Division 10 \(Nonconforming Structures and Uses\)](#).***

As discussed in section 5.4 of the staff report to the Zoning Administrator dated April 19, 2012, incorporated herein by reference, demolition of the employee dwelling will bring the property into full compliance with this Article (i.e., the Coastal Zoning Ordinance). Therefore, this finding can be made. Demolition of the dwelling is conditioned to occur prior to map recordation.

*4.B.4. The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.*

The development would demolish an existing employee dwelling. Removal of the structure would not obstruct any public views from any public road or public recreation area. Therefore, this finding can be made.

*4.B.5. The development is compatible with the established physical scale of the area.*

The development would demolish an existing employee dwelling. Thus, removal of the structure would not conflict with the established physical scale of the area. Therefore, this finding can be made.

*4.B.6. The development will comply with the public access and recreation policies of this Article and the Comprehensive Plan including the Coastal Land Use Plan.*

The development would demolish an existing employee dwelling. Thus, removal of the structure would not affect any public access and recreation policies of this Article (i.e., Coastal Zoning Ordinance) or the Comprehensive Plan, including the Coastal Land Use Plan and the Goleta Community Plan. Therefore, this finding can be made.

*4.C. In addition to the findings that are required for approval of a development project (as development is defined in this Article), as identified in each section of Division 11 (Permit Procedures) of Article II, a finding shall also be made that the project meets all the applicable development standards included in the Goleta Community Plan of the Land Use Element of the Comprehensive Plan.*

As discussed in section 5.1 of the staff report to the Planning Commission dated June 1, 2012, incorporated herein by reference, the project meets all the applicable development standards included in the Goleta Community Plan of the Land Use Element of the Comprehensive Plan. Therefore, this finding can be made.