

CITY OF OAKLAND
AGENDA REPORT

OFFICE OF THE CITY CLERK
ID

2006 NOV 16 PM 5:32

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: November 28, 2006

RE: Resolution of the Oakland City Council Amending the Subdivision Agreement for the Skyline Circle (AKA Bayview) Subdivision for Tract Map 6429 to Eliminate the Prohibition to Install a Gate at the Entrance to the Private Road and Authorizing the Skyline Circle Homeowners' Association to Apply for Construction of the Gate Meeting Life Safety Requirements

SUMMARY

Skyline Circle Subdivision (Tract Map 6249 – Bay View Subdivision) is an existing 45 unit, single family project. It was approved in 1991 and has been constructed in phases during the past ten years. The Subdivision Agreement (SA) for the project contains a prohibition against an entry gate. The Homeowners' Association (HOA) has requested that the City Council remove this restriction so that a gate can be installed at the entrance to the project. There have been numerous nuisances and security problems during the past four to five years and the entry gate is intended to deter this activity by restricting access to residents and visitors. Skyline Circle is a private roadway.

The original reason for the restriction is unknown. Private roadways are controlled by the respective HOAs, and as long as life safety features are incorporated into the design of the gate, there should not be a problem from the City's standpoint. Specifically, a Knox Box needs to be installed so that police, fire and emergency personnel can quickly respond to any of the occupants in the project. Staff therefore recommends that the City Council adopt the attached resolution, amending the SA to remove this restriction.

FISCAL IMPACT

Adoption of this resolution will not have any direct impacts on City revenue. The proposed gate will be installed at the sole expense of the HOA, and the required life safety features will be part of the plans approved for construction.

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BACKGROUND

The Bayview Subdivision Project was approved in 1991 and the final tract map for the project was approved by the City Council in 1996. Subsequently, during construction, tree removal and grading conditions were not being met and downhill neighbors complained. To resolve these problems, the City Council entered into a Subdivision Agreement (“Agreement”) with the builder, K&B Homes. This Agreement memorialized original requirements and conditions as well as added new ones. Among them was a provision prohibiting a front entry gate. The roadways in the project are privately held and maintained by the HOA. The Agreement is recorded against all properties as a binding set of conditions and restrictions.

The Skyline Circle HOA has requested that the entry gate restriction be lifted due to numerous incidents in their project about nuisance loitering, car break-ins, littering, and other activities by people who do not live there. The project residents believe that a more restricted entry will deter these activities and provide an increased measure of security.

KEY ISSUES AND IMPACTS

Given that the roadway serving the project is private, staff does not see any major issues in removing this restriction except assuring that life safety measures will be incorporated into the entry gate design. Specifically, a Knox Box at the entrance to provide police, fire and emergency personnel access to the project. The attached resolution contains language to this effect.

SUSTAINABLE OPPORTUNITIES

Economic: This proposal, in and of itself, does not have economic opportunities given that the housing exists.

Environmental: The proposal, in and of itself, represents an extremely minor change to the environment because the roadway and affected homes already exist.

Social Equity: Residents of this project have the obligation to maintain the private access roadway and therefore should have direct involvement about how to manage access and security in their development.

DISABILITY AND SENIOR CITIZEN ACCESS

Any entry gate must comply with the Americans with Disabilities Act.


RECOMMENDATION(S) AND RATIONALE

This request is a fairly minor change in the SA and affects only the private road serving the project. Staff recommends that the City Council adopt the attached resolution eliminating the prohibition on an entry gate.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve the attached resolution.

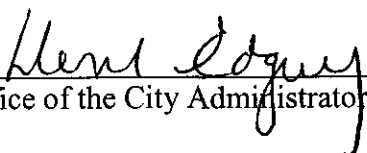
Respectfully submitted,



Claudia Cappio
Development Director, CEDA

Prepared by:
Claudia Cappio
Development Director, CEDA

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT
COMMITTEE:



Office of the City Administrator

Attachment:

Excerpt from Existing Subdivision Agreement

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?? comply with the obligations set forth in this condition prior to selling, transferring or encumbering any of the subject nine lots.

31. That prior to the issuance of a permit, or revised permits, for the private construction of Subdivision improvements (P-job), the project engineer shall submit to the CEDA an analysis of the existing storm drain system adjacent to and down stream from the project site. The analysis shall include a demand/capacity evaluation of the existing piping system along Surrey Lane. Any capacity correction required for the existing piping system due to the increased peak flows resulting from the development of this project shall be included in the P-job and shall be paid for by the Developer. Any revisions or modifications to the storm drain system shall be evaluated by the project engineer and required alteration to the analysis shall be incorporated into the project plans, and permits. At the latest, the Developer shall comply with the above aspects of this condition prior to the issuance of any revised grading permits. A report shall be submitted for review by the peer review engineer and approval by the City.

Peer
32. That the following conditions imposed by the City's Office of Public Works also shall apply:

- a. Sidewalks shall be provided on both sides of the proposed street (Skyline Circle).
- b. No gate or restriction at the entrance.
- c. Final design of street (Skyline Circle) storm and sanitary sewer system, and grading work shall be approved by the Director of Public Works.
- d. The locations and number of fire hydrants provided shall be subject to approval of the Fire Marshal.
- e. A blue reflective hydrant marker shall be required along street center line.
- f. Street lighting requirements along the proposed street shall be provided per City criteria.
- g. All Subdivision improvements, except for homes and front and rear yard landscaping, exclusive of the conservation easement, shall be maintained by a homeowners' association.
- h. All sidewalks shall provide an unobstructed clear dimension of 5 feet.
- ? i. Assure that the line of sight to drivers exiting the proposed street remain unobstructed.

33. That K&B, prior to the issuance of revised grading permits, shall pay to the City \$31,500 as a fine for the illegal removal of trees, provided that if K&B elects to appeal the Parks Department illegal tree determination, this fine shall be payable, after the fine, on appeal, has been confirmed by the City Council. In the latter event, K&B's appeal must be timely filed and pursued and final plans and permits for the project may be approved prior to K&B exhausting its appeal rights; however, if the fine is confirmed on appeal, K&B shall pay the

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APPROVED AS TO FORM AND LEGALITY

F. Faiz

City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER _____

RESOLUTION AMENDING THE SUBDIVISION AGREEMENT FOR THE SKYLINE CIRCLE (AKA BAYVIEW) SUBDIVISION FOR TRACT MAP 6429 TO ELIMINATE THE PROHIBITION TO INSTALL A GATE AT THE ENTRANCE TO THE PRIVATE ROAD AND AUTHORIZING THE SKYLINE CIRCLE HOMEOWNERS TO APPLY FOR CONSTRUCTION OF THE GATE MEETING LIFE SAFETY REQUIREMENTS

WHEREAS, the Skyline Circle Subdivision (aka the Bayview Subdivision and the Oak Knoll Vista Subdivision), Tract 6429 (the "Subdivision" or "Tract 6429") is a 45 unit residential development project within the City of Oakland; and

WHEREAS, an Environmental Impact Report (EIR) and a tentative tract map for the Subdivision was approved by the City Council on December 17, 1991; and

WHEREAS, the City Council previously approved this project through a Final Tract Map for the Subdivision on January 9, 1996; and

WHEREAS, due to failure to comply with conditions and requirements of the Subdivision, including tree permit conditions and grading conditions the City Council adopted an agreement with K & B Homes, the project developer, to cause construction of the Subdivision to comply with further requirements and conditions which are outlined in a recorded document entitled "Agreement Regarding the Bayview (Oak Knoll Vista) Subdivision Tract 6249 ("Agreement") approved by the City Council on July 9, 1997; and

WHEREAS, one of the physical restrictions imposed by the City Council in the Agreement is that there be no gate restrictions at the entrance to the Subdivision (Condition # 32); and

WHEREAS, construction of the Subdivision has ensued during the past ten years, houses have been sold and occupied and a Homeowners Association (HOA) is operating as required by the Subdivision Agreement; and

WHEREAS, the HOA has requested that the restriction on installation of an entry gate be eliminated so that access to the Subdivision can be restricted due to numerous instances of nuisance behaviors, car break-ins, littering, and other undesirable activities; and

WHEREAS, the access to the Subdivision is via a private street that is maintained and owned by the HOA; now, therefore, be it

RESOLVED: That the City Council, as the final decision-making body of the lead agency, finds and determines, prior to taking action on the proposal to eliminate Condition 32 b. finds the previously certified EIR for the project under the California Environmental Quality Act (“CEQA”) provides adequate and complete environmental review for the proposed action in that the physical change to the project is minor, will not result in any new significant environmental impact or result in an increase in severity of a significant impact that was previously identified, and that no significant information of substantial importance has become known that would result in the identification of new significant effects or the severity of effects already identified; and be it

FURTHER RESOLVED: That the City Council, having heard and considered the proposed request hereby amends the Agreement by making the following change:

“32. b. ~~No gate or restriction at the entrance.~~ A front entry gate may be permitted subject to meeting all Building Code and life safety requirements including the installation of a Knox Box, as approved by the Fire Department” and be it

FURTHER RESOLVED: That all other existing conditions, covenants and requirements as set forth in the Agreement shall apply to the Subdivision; and be it

FURTHER RESOLVED: That the City Council finds and determines that this Resolution complies with CEQA and directs the Environmental Review Officer to cause to be filed a Notice of Determination with the appropriate agencies; and be it

FURTHER RESOLVED: That the City Council directs staff to cause this Amendment to the Agreement to be recorded against all the lots in the Subdivision; and be it

FURTHER RESOLVED: That the recitals contained in this resolution are true and correct and are an integral part of the City Council's decision.

In Council, Oakland, California, _____, 2006

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
 PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California