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Ref: 80031-0001

July 20, 2020

BY EMAIL AND U.S. MAIL

Chairman Hagman and Honorable Members
of the Board of Supervisors
County of San Bernardino
385 N. Arrowhead Avenue, 5th Floor
San Bernardino, CA 92415
E-Mail: cob@sbcountry.gov

Re: Extension of Time request for Tract Map 15791 (Consolidated maps
15791-2 through 15791-9, referred as "Master Tract Map No. 15791")
PEXT-2020-00004

Dear County Board of Supervisors:

Our firm represents Lucerne Valley, LLC *et al.*,¹ the owner and developer of approximately 1,367 acres in the Lucerne Valley, and the applicant requesting an extension to the expiration of Tract Maps 15791-2 through 15791-9 (the "Rancho Lucerne Project"). As you may recall, the Rancho Lucerne Project is an exciting residential and commercial subdivision project approved by the County of San Bernardino ("County") on July 24, 1997. The project includes a nine-phase Master Tentative Tract map for the development of a 27-hole golf course, 30 acres of retail and commercial office, two school sites, a fire station, 11 parks, community amenities, and 4,257 residential units - thirty percent of which will be dedicated for senior housing.

To date, our client has invested more than \$25,000,000 into preparing the necessary infrastructure for this project, most of which has gone towards roadway construction, water lines and fire hydrants, sewer lines, grading, irrigation, flood control, and the construction of 20 holes of the proposed golf course. Over the past several months our client has spent more than \$40,000 in County processing fees alone, requested in connection with the County's review of the project's final maps, all of which were timely submitted to the County surveyor. While our client was hopeful the County could expeditiously finalize and record all of the final maps, due to a variety of delays - and in part due to the COVID-19 pandemic - the County has advised that an extension to the maps' expiration date is required to provide the County with additional time to complete its review. Although the maps are completed and filed with the County, this extension is needed to permit County staff additional time to finalize its review and to confirm compliance with the

¹ Club View, LLC; Monaco Investment Co., Inc.; Wilshire Road LLC; and, Makasa Equity, LLC.

project's conditions of approval. Ultimately, we are hopeful that all maps will be finalized within this requested extension period, and therefore denying the extension would derail this project at the 11th hour. Considering this, we urge the Board to grant our client a limited 12 month extension to the tract maps as permitted by Government Code § 66452.6.

1. **The Board has discretion to grant the project a 12 month extension under Government Code § 66452.6.**

Government Code Section 66452.6 provides the County with the express authority to provide a tentative tract map with discretionary extensions of up to **six** (6) years. As acknowledged in the Planning Commission's July 9, 2020 Staff Report, the Rancho Lucerne Project has only been granted extensions for a total of **five** (5) years. (See Pg. 7, "the County approved two extensions totaling five years...") Ultimately, this created a lot of confusion for the Commission, which denied the request based on the Staff Report's conclusion that County "exhaust[ed] all applicable discretionary extensions," even though it has not. Accordingly, Board has the clear legal authority to grant an additional 12 month extension, and we believe this reasonable extension should be granted here in consideration of all of the circumstances.

2. **The Board should also clarify the conditions of approval to permit the final maps to be filed in phases as originally approved.**

In addition to various other delays, this extension is also justified as a result of the Land Use Division's demand that our client file and process all eight (8) remaining phases of the project at one time.² This has required our client and the County to process the entire 1,375 acre development all at once, and to bond for all of the associated improvements all at one time. This is obviously a monumental task, which has caused substantial delay. It has also caused the County to delay its review of phased maps simply because it has yet to finish its review of *other* phases.³ In response to this, our client ultimately timely filed all final maps for all phases with the County Surveyor, but recordation was put on hold simply because the County could not complete its review of the maps and the associated conditions of approval quickly enough. Considering the size of this development, the County's insistence on processing all of the maps at one time would appear to be an unnecessary and unproductive burden on all parties, particularly given that the

² In reliance on a March 1, 2007 Settlement Agreement between the County and our client - which purports to modify the project's conditions of approval - the County is requiring all phases to be submitted and finalized at the same time. As noted in our July 8, 2020 letter to the Planning Commission, the County never took an action to modify the map or adopted these modified conditions pursuant to the state law or the County Code. Accordingly, we maintain the County's reliance on this un-adopted Settlement Agreement, and its associated refusal to permit our client to process the project in phases as originally approved, constitutes a de facto development moratorium under Government Code § 66452.6.

³ Phase 2 of the final map, for instance, which is the final map for 12 Planning Areas (745 homes), was determined by the County to be technically correct and final on May 11, 2020.

Chairman Hagman and Honorable Supervisors
July 20, 2020
Page 3

original approval permitted the final map to be submitted in phases. Accordingly, in addition to providing the 12 month extension under Government Code § 66452.6, we respectfully request the Board clarify the Project's conditions of approval to permit the maps be filed in nine (9) phases as originally approved by the County. We think this will help both the County and our client process these maps, and to permit the required improvements be constructed in an orderly and manner.

Based on the foregoing, we respectfully request the Board approve the additional one-year discretionary extension available under Government Code § 66452.6(e).⁴ Without this reasonable extension, the entire Rancho Lucerne Project would be threatened, and potentially resulting in millions of dollars in damages to our client and the project's investors. Thank you for your consideration.

Sincerely,



BENJAMIN M. REZNIK and
DANIEL F. FREEDMAN of
Jeffer Mangels Butler & Mitchell LLP

CC: Scott Runyan, Deputy County Counsel, County of San Bernardino County Counsel
Jason Searles, Deputy County Counsel, County of San Bernardino County Counsel
Heidi Duron, Supervising Planner, County of San Bernardino Land Use Services
Terri Rahhal, Director, County of San Bernardino Land Use Services

⁴ Pursuant to Government Code § 6589.5, we also believe that denial of this reasonable extension request would constitute a violation of the Housing Accountability Act.



Application Summary Report

System Date: 22/07/2020

Type: Planning/Post-Decision/Appeal/NA

Record: PAPL-2020-00004

APN:

Record Status: Filed

Application Name: APPEAL

Description:

Address	Primary
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Parcel Number	Primary
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Owner Name	Owner Address	Primary
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Applicant Name	Organization Name	Email	Primary
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MICHAEL DUFFY		pls5113@gmail.com	Y
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Contact Type	Contact Name	Organization Name	Email	Primary
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Document Name	File Name	Category	Upload Date
Benjamin M. Reznik's July 20, 2020 letter regarding Tract Map 15791.pdf	Benjamin M. Reznik's July 20, 2020 letter regarding Tract Map 15791.pdf	Letter of Intent	07/20/2020

Custom Field Subgroup Name	Custom Field Name	Custom Field Value
PLANNING APPEAL INFORMATION	Project Number for Decision	PEXT-202-00004
PLANNING APPEAL INFORMATION	Project Parcel Number	0450-391-06
PLANNING APPEAL INFORMATION	Project Action Date	07/09/2020
PLANNING APPEAL INFORMATION	Appeal to	Board of Supervisors
PLANNING APPEAL INFORMATION	Appeal Type	Appeal of Project Denial
PLANNING APPEAL INFORMATION	Trust Account Appeal	No
PLANNING APPEAL INFORMATION	Description of Appeal	DENIAL OF ONE YEAR TIME EXTENSION FOR TRACT 15791.
APPLICANT ONLY	Read Instructions	CHECKED

Custom List Subgroup Name	Row Number	Column Name	Column Value
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Condition Name	Status Date	Status	Type	Priority	Comments
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**Conditions of
Approval Name**

Status Date

Status

Type

Priority

Comments