



City Council Staff Report

Date: February 1, 2017

CONSENT CALENDAR

Subject: ACCEPTANCE OF PUBLIC IMPROVEMENTS AND AUTHORIZATION TO RELEASE SUBDIVISION IMPROVEMENT SECURITIES FOR THE "LINEA" DEVELOPMENT, TRACT NO. 36723

From: David H. Ready, City Manager

Initiated by: Engineering Services Department

SUMMARY

On June 17, 2015, the City Council approved Tract Map 36723 and a subdivision improvement agreement with Alta Verde Homes, LLC, (the "Developer"), securing the Developer's completion of certain required public improvements associated with Tract Map 36723. The Developer has completed the required public improvement, and the City Council may accept these improvements as completed and complying with the City's approved plans, authorize release of subdivision improvement securities, and accept a maintenance and warranty security for the required one-year warranty period.

The principles of the Developer are Andrew Adler and David Kivitz.

RECOMMENDATION:

Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AUTHORIZING ACCEPTANCE OF THE SUBDIVISION IMPROVEMENTS ASSOCIATED WITH TRACT MAP 36723 AND AUTHORIZING RELEASE OF SECURITIES REQUIRED BY THE SUBDIVISION IMPROVEMENT AGREEMENT WITH ALTA VERDE HOMES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR PROPERTY LOCATED AT 1000 BOGERT TRAIL, IN SECTION 35, TOWNSHIP 4 SOUTH, RANGE 4 EAST".

STAFF ANALYSIS:

At its meeting of November 12, 2014, the Planning Commission recommended approval of Tentative Tract Map 36723, which was subsequently approved by the City Council, subject to conditions, on December 17, 2014. Tentative Tract Map 36723 is located at 1000 Bogert Trail, as shown in the following vicinity map.

ITEM NO. 1.C.

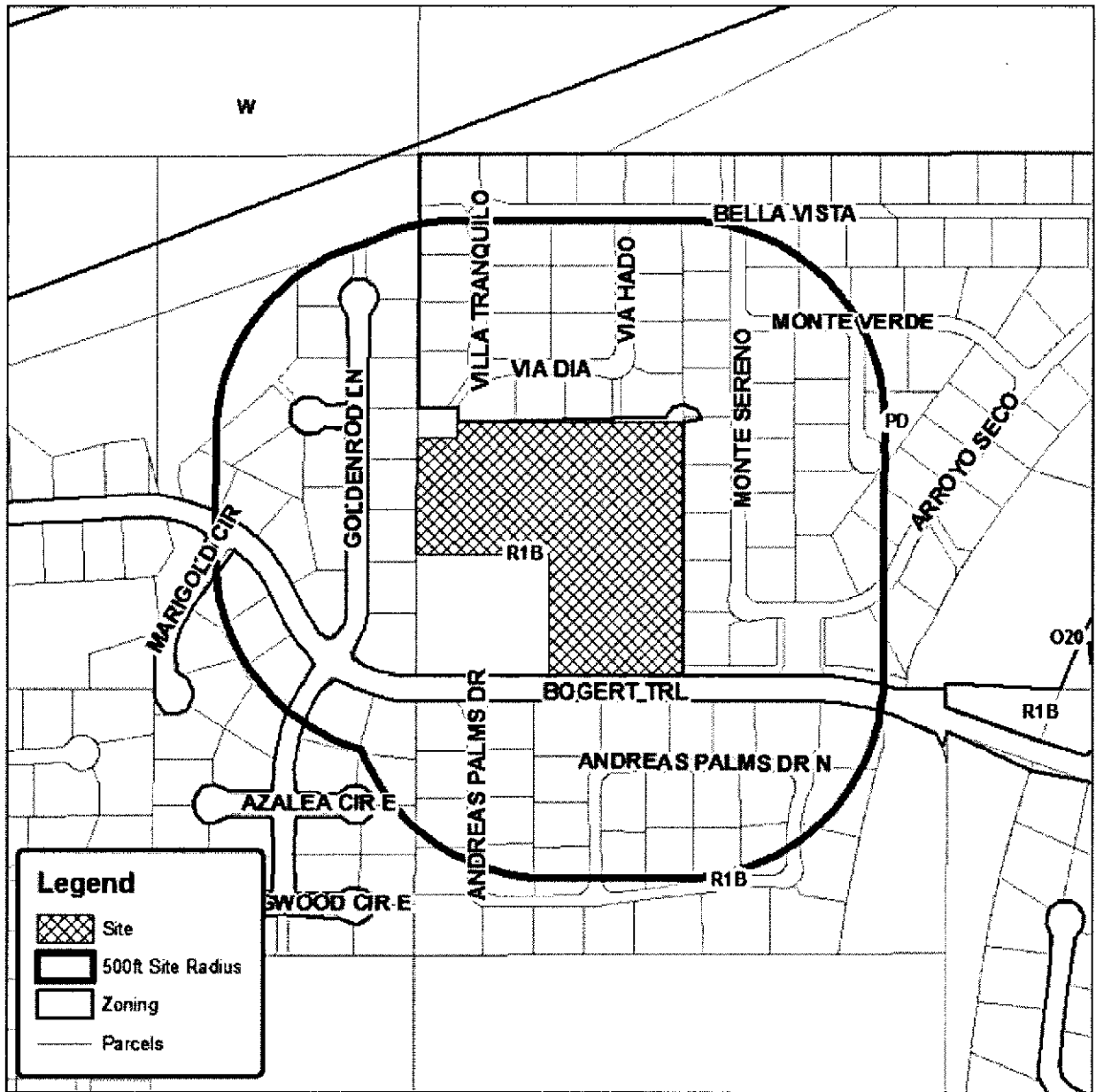


Figure 1 – Vicinity Map

On June 17, 2015, the City Council adopted Resolution No. 23845, approving Tract Map 36723 and an associated Subdivision Improvement Agreement, (the "SIA"), with the Developer. Tract Map 36723 involved a subdivision of 14 single family residential lots located along one privately maintained street (Linea Terrace), as shown in Figure 2.

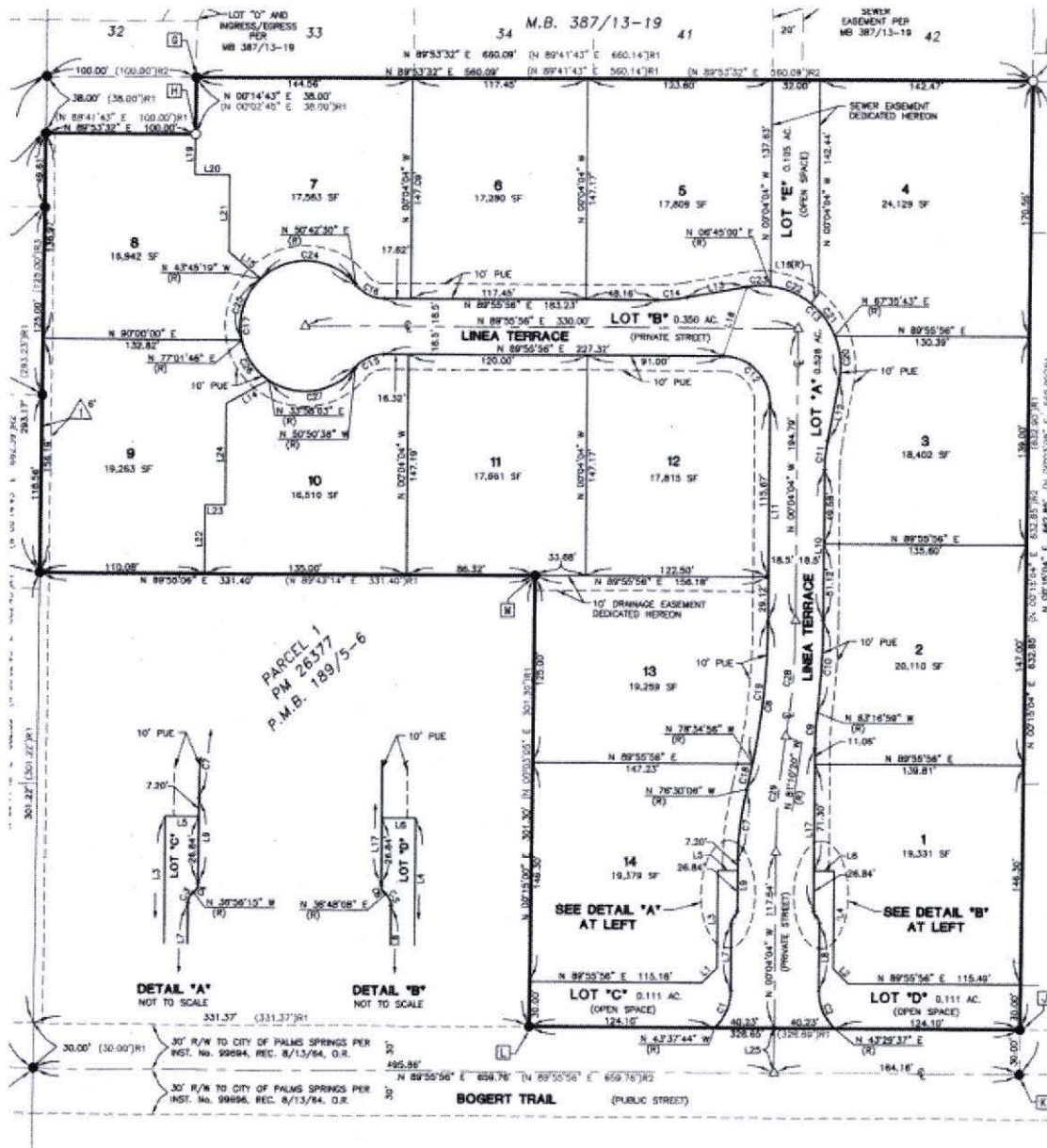


Figure 2 – Tract Map 36723

Associated with Tract Map 36723 was a requirement to construct certain public and private improvements, including:

- On-site private street and storm drainage improvements
- On-site public sewer and domestic water system improvements
- Off-site public street improvements

At the time Tract Map 36723 was approved by the City Council, construction of required public and private improvements associated with Tract Map 36723 had not been completed; an engineer's estimate of the cost of the improvements to be completed was \$1,413,000.

In accordance with Section 66462 of the California Government Code, the Developer requested that the City enter into the SIA securing the cost of these improvements not yet completed to the City's satisfaction, (defined by the SIA as the "Works of Improvement"). Accordingly, pursuant to the terms of the SIA, the Developer filed the following Security Instruments with the City Clerk to guarantee construction of the Works of Improvement:

- Faithful Performance Bond, No. 12114665; \$1,413,000
- Labor and Materials Bonds, No. 12114665; \$706,500
- Bond for Maintenance and Warranty of Improvements, No. 12114665; \$211,950
- Monumentation Bond, No. 12114667; \$7,000

The Developer has completed construction of the Works of Improvement, and has requested that the City Council accept the improvements and release the Security Instruments in accordance with the terms of the SIA. On behalf of the City Engineer, the City's Public Works Inspectors have inspected the Works of Improvement and found them to be in accordance with the City's approved plans and specifications, and recommends the City Council accept the improvements and release the Security Instruments in accordance with the SIA. The Security Instrument for the Maintenance and Warranty of Improvements will be held by the City Clerk, and released following expiration of the one-year warranty period, and confirmation by the City Engineer that no claims of defective improvements have been received.

ENVIRONMENTAL IMPACT:

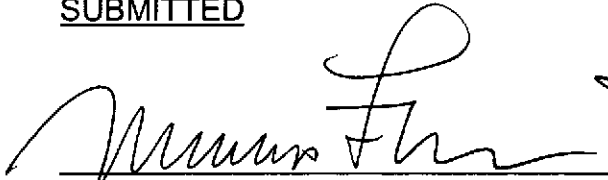
Tentative Tract Map 36723 was considered a "Project" pursuant to the California Environmental Quality Act ("CEQA") Guidelines. The City, acting as Lead Agency pursuant to CEQA, prepared a Focused Environmental Impact Report (FEIR), identified by State Clearinghouse #2014091078, for Tentative Tract Map 36723. On December 17, 2014, the City Council adopted Resolution No. 23727 certifying the FEIR. Acceptance of the public improvements associated with Tract Map 36723 implements the Project as envisioned by Tentative Tract Map 36723, and is therefore consistent with the FEIR previously certified by the City Council, and no further action with regard to CEQA is required.

FISCAL IMPACT:

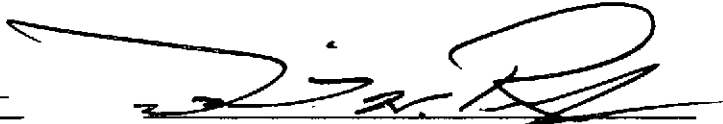
The Works of Improvement include both publicly maintained and privately maintained improvements. The public improvements to be accepted and subsequently maintained by the City include the off-site street improvements constructed along Bogert Trail, and the on-site public sewer system improvements. Sufficient funds are budgeted as part of the City's annual fiscal year budget in the Gas Tax, Measure A, and Wastewater Enterprise Funds to accommodate maintenance of public street and sewer improvements.

Private improvements will be maintained by the Homeowners Association pursuant to the Covenants, Conditions and Restrictions (CC&Rs) recorded against the properties within Tract Map 36723.

SUBMITTED



Marcus L. Fuller, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer



David H. Ready, Esq., Ph.D.
City Manager

Attachment:

1. Resolution

Attachment 1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, AUTHORIZING ACCEPTANCE OF THE SUBDIVISION IMPROVEMENTS ASSOCIATED WITH TRACT MAP 36723 AND AUTHORIZING RELEASE OF SECURITIES REQUIRED BY THE SUBDIVISION IMPROVEMENT AGREEMENT WITH ALTA VERDE HOMES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR PROPERTY LOCATED AT 1000 BOGERT TRAIL, IN SECTION 35, TOWNSHIP 4 SOUTH, RANGE 4 EAST.

WHEREAS, the Planning Commission of the City of Palm Springs, at its meeting of November 12, 2014, recommended approval of Tentative Tract Map 36723, subject to conditions; and

WHEREAS, the City Council of the City of Palm Springs, (hereinafter the "City"), at its meeting of December 17, 2014, approved Tentative Tract Map 36723 subject to conditions; and

WHEREAS, the City Council of the City of Palm Springs, (hereinafter the "City"), at its meeting of June 17, 2015, adopted Resolution No. 23845, approving Tract Map 36723 and a related Subdivision Improvement Agreement, (Agreement No. 6719), with Alta Verde Homes LLC, a California Limited Liability Company, (hereinafter the "Developer"), in accordance with Section 66462 of the California Government Code; and

WHEREAS, in accordance with Section 4.1 of the Subdivision Improvement Agreement, the Developer was required to submit subdivision improvement securities in the amount of \$1,413,000 to guarantee construction of certain public improvements required for and associated with Tract Map 36723, (the "Works of Improvement"); and

WHEREAS, the Developer has filed with the City Clerk a performance bond in the amount of \$1,413,000 and a labor and materials (payment) bond in the amount of \$706,500 in accordance with the Subdivision Improvement Agreement; and

WHEREAS, the Developer has completed construction of the Works of Improvement, and has requested that the City to accept the Works of Improvement in accordance with Section 1.14 of the Subdivision Improvement Agreement; and

WHEREAS, in accordance with Section 4.5 of the Subdivision Improvement Agreement, the Developer has requested that the City release the subdivision improvement securities filed with the City Clerk to guarantee construction of the Works of Improvement; and

WHEREAS, the City Engineer has examined the Works of Improvement, and has found them to be constructed and completed in accordance with the Subdivision Improvement Agreement, and the associated plans and specifications; and

WHEREAS, the City Engineer recommends that the City Council accept the Works of Improvement, and authorize the City Clerk to release the subdivision improvement securities filed with the City Clerk to guarantee construction of the Works of Improvement, with the exception of the warranty security required by Section 4(b) of Subdivision Improvement Agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The recitals above are found to be true and correct and constitute the findings of the City Council made in support of this resolution.

Section 2. The City Council hereby finds and determines that the Works of Improvement have been completed in accordance with the relevant provisions of the Subdivision Improvement Agreement and the approved plans and specifications, and the City Council hereby accepts the completed Works of Improvements.

Section 3. The City Council's acceptance of the Works of Improvement effectuated by this resolution shall not in any way supersede or relieve Alta Verde Homes LLC, a California Limited Liability Company, or its successors and assigns, of any other obligations required by the Subdivision Improvement Agreement or the conditions of approval associated with Tentative Tract Map 36723.

Section 4. The City Council's acceptance of the Works of Improvement effectuated by this resolution shall not in any way impose an obligation on the City of Palm Springs to maintain those improvements that are required to be privately maintained by a Homeowners Association through Covenants, Conditions and Restrictions (CC&R's), including the private streets associated with Tract Map 36723.

Section 4. In accordance with Section 4.5(a) of the Subdivision Improvement Agreement, the City Clerk is hereby authorized to release the following Security Instruments previously filed with the City Clerk to guarantee construction of the Works of Improvement:

Faithful Performance Bond No. 12114665; \$1,413,000

Labor and Materials Bond No. 12114665; \$706,500

Monument Bond No. 12114667; \$7,000

Section 5. In accordance with Section 4.5(b) of the Subdivision Improvement Agreement, the City Clerk is hereby authorized to release the Bond for Maintenance and Warranty of Improvements, Bond No. 12114665, in the amount of \$211,950 upon expiration of the warranty period following one year of the City Council's acceptance of the Works of Improvement, and upon receipt of the City Engineer's verification that no claims regarding defective work associated with the Works of Improvement have been received.

Section 6. The City Clerk, following adoption of this resolution, shall file with the Riverside County Recorder, the Acceptance of the Works of Improvement Certificate attached hereto.

ADOPTED THIS 1st day of February, 2017.

David H. Ready, City Manager

ATTEST:

Kathleen D. Hart, Interim City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on February 1, 2017, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Kathleen D. Hart, Interim City Clerk
City of Palm Springs, California

Acceptance of the Works of Improvement Certificate follows this page.

RECORDING REQUESTED BY

AND WHEN RECORDED RETURN TO:

City Clerk
City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Exempt from recording fees under Government Code §6103

**Acceptance of the Works of Improvement Certificate
Tract Map 36723
Subdivision Improvement Agreement (A6719)**

The undersigned, City of Palm Springs, a California charter city and municipal corporation, (hereafter the "City"), hereby confirms that on February 1, 2017, the City Council of the City accepted the Works of Improvement associated with Tract Map 37623 to be constructed by or on behalf of Alta Verde Homes LLC, a California limited liability company, and/or its successors and assigns, (collectively, hereafter the "Developer"), pursuant to that certain Subdivision Improvement Agreement (A6719) by and between the City and Developer recorded as Document No. 2015-0299957, July 10, 2015, records of Riverside County Recorder, (hereafter the "Agreement"). The City hereby releases the Developer from its performance obligations to construct the Works of Improvement as set forth in the Agreement, and hereby releases the Security Instruments filed with the City Clerk pursuant to and in accordance with the Agreement. This Acceptance Certificate is applicable to those Works of Improvement associated with Tract Map 36723, identified as that certain real property more particularly described in Exhibit "A" attached hereto.

[SIGNATURES ON NEXT PAGE]

City of Palm Springs, a California charter
city and municipal corporation

Dated: _____

David H. Ready, City Manager

Attest:

Approved as to form:

Kathleen D. Hart, MMC
Interim City Clerk

Douglas C. Holland, City Attorney

EXHIBIT "A"

Tract Map No. 36723 filed in the office of the County Recorder, County of Riverside, State of California, on June 24, 2015, in Book 445 of Maps at Pages 82 through 84.