



City Council Agenda Report

From: Darren Nash, City Planner

Subject: Amendment to Road Maintenance Agreement Condition of Approval for PD 20-17 and CUP 21-21 (P20-0085)
ABI Construction maintenance shop and office - 70 Nutwood Circle / APN: 009-851-016
Applicant/Owner – Andy Brown, ABI

CEQA Determination: The City Council determined the project was Categorically Exempt from environmental review per Section 15332 (Infill) of the State's Guidelines to Implement the California Environmental Quality Act (CEQA) as part of City Council Resolution 21-145.

Date: March 7, 2023

Facts

1. The ABI Maintenance shop and office project is located on a two-acre parcel on the north side of Nutwood Circle, west of Theatre Drive, at 70 Nutwood Circle, and consists of developing a new 6,200 square foot industrial building, including a maintenance shop and office. Accessory to the ABI building would be an outdoor area for parking of construction equipment and materials.
2. On October 5, 2021, the City Council approved [Resolution 21-145](#), approving the planned development and conditional use permit for this project.
3. Nutwood Circle is a private street, that was created in the County with a 2002 Tract Map, and serves three commercial properties in the City and 21 residential lots in the County.
4. The previous owner of Nutwood Circle, Eugene Durand, had voluntarily maintained road in good condition since 2002.
5. Nutwood Circle is now owned by Craig Archer who also owns the commercial property on the Theatre Drive frontage.
6. There is not a road maintenance agreement or other mechanism to require the Nutwood property owners to share the cost of maintaining the road.
7. To ensure emergency access to the commercial properties, Nutwood Circle will require on-going maintenance.
8. Condition No. 16 of the Site Specific Conditions of Approval, requires the applicant work with the owner of the other two properties located on Nutwood Circle within City limits, to develop a road maintenance agreement for the portion of Nutwood Circle within City limits.
9. On behalf of Mr. Brown, Attorney Thomas J. Madden has provided a letter (Attachment 1) requesting the road maintenance agreement condition No. 16 be removed from the project, because the property owners have been unable to agree on the terms of the maintenance agreement.
10. The Planning Commission held a public hearing for the project on February 14, 2023, and on a vote of 4-3, to recommended the City Council approve the applicants request to omit Condition #16 of Resolution 21-0145, requiring a shared maintenance agreement, based on the inability of the property owners to agree on the terms of the maintenance agreement.

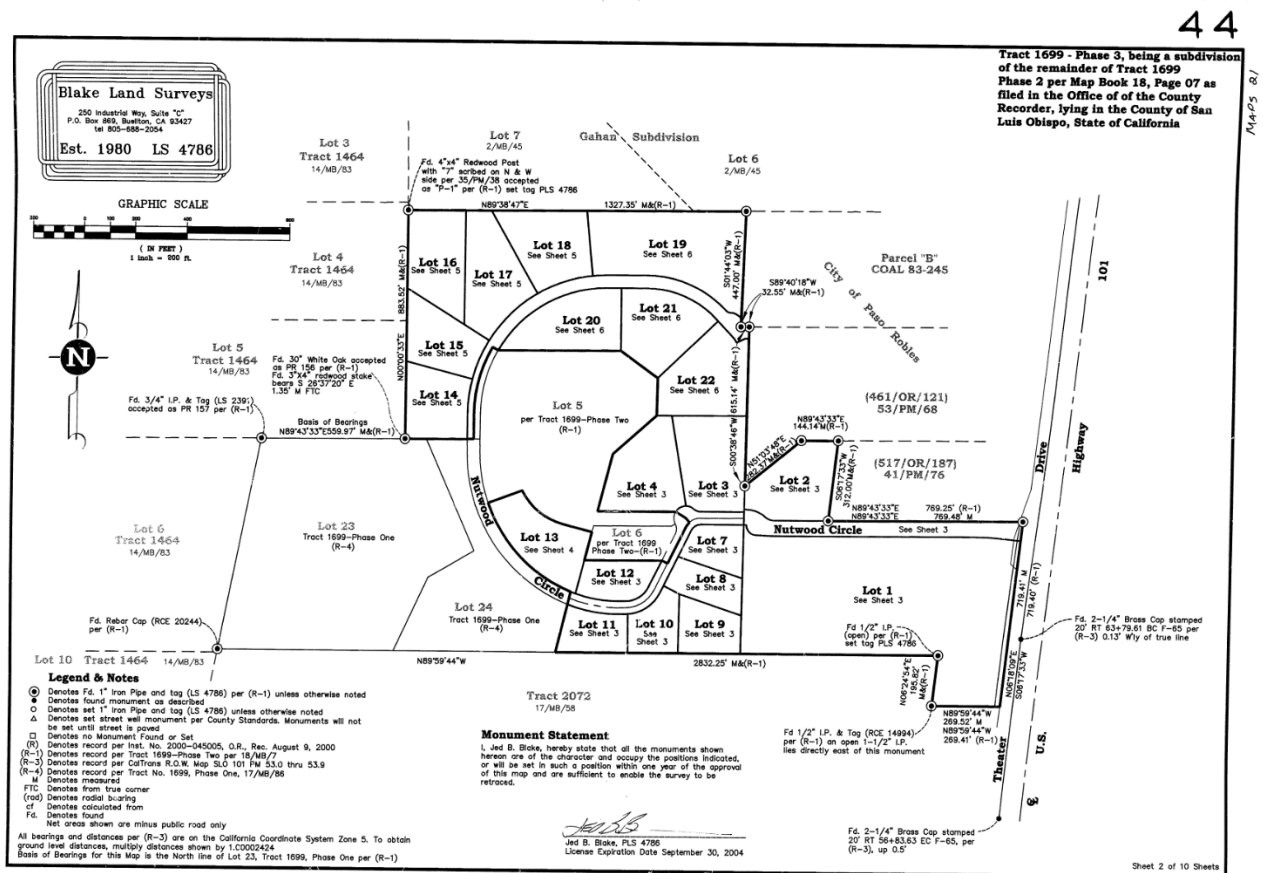
Options

1. Approve the request to omit Condition No. 16 of the Site-Specific Conditions of Approval;
2. Amend or modify Option 1;
3. Establish an alternative deadline for the applicant to complete the Road Maintenance Agreement;

4. Deny the request and leave Condition 16 unchanged; or
5. Refer the item back to staff for additional analysis.

Analysis and Conclusions

Condition No. 16, or an alternative developed by the City Council, is necessary to ensure that the portion of Nutwood Circle gets maintained in relation to the development of the three commercial properties. Without proper maintenance, the street will deteriorate and may eventually hinder emergency access. The purpose of the road maintenance condition is to protect public safety and ensure orderly development of the Nutwood commercial lots. There are two additional Nutwood development plan applications in process that will include the same road maintenance condition. If the property owners don't maintain the road, there is a future risk that the City would have to use public funds to address public safety issue on Nutwood.



San Luis Obispo County final tract map

The Condition of Approval requires the three property owners within City limits to be a party to the agreement, there is no requirement for the County residential properties to participate. The applicant's attorney, Thomas J. Madden, has submitted a letter explaining that despite Mr. Brown's best efforts, it is not possible to reach an agreement on the provisions of the Road Maintenance Agreement. Furthermore, Mr. Madden states that construction of Mr. Brown's project has stopped and cannot move forward with foundation work without relief from Condition No. 16.



Nutwood Circle looking west from Theatre Drive.

The Planning Commission on a 4-3 vote recommended that the City Council omit the condition so that Mr. Brown could get a building permit for his building.

The City Council may take in consideration Mr. Brown's request to remove Condition No. 16, establish an alternative deadline or to keep the existing condition of approval to require executing the maintenance agreement prior to the issuance of a building permit.

Recommendation

The Planning Commission is recommending Option 1 - to remove Condition No. 16. From the project.

Attachments

1. Tom Madden Letter
2. Resolution 23-XXX(A)
3. Mail Affidavit
4. Legal Affidavit