



COUNTY OF HUMBOLDT


AGENDA ITEM NO.

C-15

For the meeting of October 3, 2017

Date: September 1, 2017

To: Board of Supervisors

From: John H. Ford, Director, Planning and Building Department 

Subject: Release from Conveyance and Agreement to Allow Construction of Second Residential Unit on Lot 35 (APN 301-041-041) of the Kincaid Court Final Map Subdivision
Case Number PRK-17-001
Assessor Parcel Number 019-041-002
4779 Kincaid Court, Eureka, CA

RECOMMENDATIONS:

That the Board of Supervisors:

1. Consider the application.
2. Authorize the Chair of the Board to execute the Quitclaim and Reconveyance (for Development Restrictions) for Lot 35 of the Kincaid Court Final Map Subdivision (Attachment A).
3. Direct the Planning and Building Department to record the Quitclaim and Reconveyance (for Development Restrictions).
4. Direct the Clerk of the Board to give notice of the decision to the applicant and any other interested party and to return original copies to the Planning Division for recording.

Prepared by Tricia Shortridge, Planner II

CAO Approval 

REVIEW:

Auditor _____ County Counsel NAY Personnel _____ Risk Manager _____ Other _____

TYPE OF ITEM:

☒ Consent
☐ Departmental
☐ Public Hearing
☐ Other _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____

Meeting of: _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT

Upon motion of Supervisor Fennell Seconded by Supervisor Wilson

Ayes Fennell, Wilson, Bass, Bohn, Sundberg
Nays _____
Abstain _____
Absent _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: October 3, 2017

By: Kathy Hayes
Kathy Hayes, Clerk of the Board

SOURCE OF FUNDING:

The applicant is responsible for all costs associated with the processing of the project. Applicant fees are deposited into Planning and Building Department Current Planning Revenue Account 1100-277-608000.

DISCUSSION:

Applicants would like to remove the existing development restrictions from their property. Planning and Building Department staff is agreeable to this and requests a Quitclaim and Reconveyance (for Development Restrictions) to allow construction of a secondary dwelling unit on Lot 35 (APN 301-041-041) of the Kincaid Court Final Map Subdivision (APN 019-041-002; Case Number FMS-02-97). The parcel is located in the Pine Hill area on the northeast corner of Higgins Street and Kincaid Court on the property known as 4779 Kincaid Court (Attachment B).

The Subdivision was filed with the Humboldt County Recorder on December 28, 2000 as Tract Map No. 523 in Book 22 of Maps, pages 123, 124, 125, 126. The project involved subdivision of an approximately 6.68 acre parcel into 35 lots. The property is zoned for Residential Single Family development (R-1*). The zoning allows for development of a primary residence and secondary dwelling unit pursuant to Humboldt County Code 314-87.1. Pursuant to the Quimby Act, subdivisions require dedication of land, or the payment of a fee, for the development of parkland to serve recreational needs of new residents of the subdivision. The subdivider was required to satisfy one of the following requirements: (1) an offer of dedication of useable open space land to a public or private non-profit agency for public park or recreation use set forth in Section 314-110.1.5 of the Humboldt County Code; or (2) payment of a Parkland "In-Lieu Fee" consistent with the formula of Section 314-110.1.6. Pursuant to County Code, payment of the In-Lieu Fee for a secondary dwelling unit may be deferred by entering into a Conveyance and Agreement with the County. The Agreement provides that the County will quitclaim back to the owner the right to develop a secondary dwelling unit upon their payment of the pro-rated In-Lieu Fee amount.

The subdivider opted to defer Parkland In-Lieu Fees for second units by executing a Conveyance and Agreement (for Development Restrictions) (Attachment C). The Agreement was recorded with the Humboldt County Recorder on December 28, 2000 as Instrument Number 2000-27519-6.

The original subdivider, K.D. Investments, L.L.C, transferred ownership of Lot 35 (APN 301-041-041) to James Herington and Cleo Herington in 2001. On February 10, 2017, the Cleo B. Herington, as Sole Surviving Trustee of the Herington Revocable Living Trust, transferred lot 35 to the Blaine D. Bermers and Jamie L. Bermers, Trustees of the Blaine D. Bermers and Jamie L. Bermers, by executing a Grant Deed recorded with the Humboldt County Recorder on February 10, 2017 as Instrument Number 2017-002683. They presently request a release from the Agreement for the above-mentioned lot. The current owners request a Quitclaim and Reconveyance (for Development Restrictions) to allow construction of a secondary dwelling unit on Lot 35 and have submitted a check in the amount of \$278.84 which reflects the pro-rata fee for said lot.

The requirements of County Code and the Agreement having been satisfied, Planning Division Staff supports the release from the Agreement for Lot 35. Planning Division Staff recommends that the Board approve the release and direct the Chair to execute the Quitclaim and Reconveyance (for Development Restrictions).

FINANCIAL IMPACT:

There will be no impact on the General Fund. The applicant is responsible for all costs involved in processing the request. Recording fees will be paid by the applicant. This action is consistent with the Board's Strategic Framework through the Board's priorities to retain existing and facilitate new living wage private sector jobs and housing.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The terms of the Conveyance and Agreement require the Board to execute the reconveyance upon a showing that the pro-rata parkland in-lieu fee has been paid to the County. The Bermers have made this payment and have requested reconveyance. The Board could continue the matter to a future meeting if there is a question as to the calculation of the pro-rata fee or the submitted documentation.

ATTACHMENTS:

NOTE: The attachments supporting this report have been provided to the Board of Supervisors; copies are available for review in the Clerk of the Board's Office.

Attachment A: Quitclaim and Partial Reconveyance (for Development Restrictions)

Attachment B: Location Map

Attachment C: Conveyance and Agreement (for Development Restrictions), Instrument No. 2000-27519-6 (recorded December 28, 2000)

ATTACHMENT A

Quitclaim and Partial Reconveyance (for Development Restrictions)

Recording Requested By:
County of Humboldt
Planning and Building Department

Return To:
County of Humboldt
Planning and Building Department
3015 H Street
Eureka, CA 95501-4484

QUITCLAIM AND PARTIAL RECONVEYANCE
(For Development Restrictions)

Entered Into On	}	Assessor Parcel No.:
By And Between	}	301-041-041
Blaine D. Bermers and Jaime L. Bermers, as Trustees	}	
of the Blaine D. Bermers and Jamie L. Bermers 2014	}	
Trust dated December 16, 2014	}	
(hereafter referred to as OWNER)	}	
	}	Application No.: 13520
And The County Of Humboldt	}	Case No.: FMS-02-97 and PRK-17-001
(hereafter referred to as COUNTY)	}	

WHEREAS, on December 18, 2000 OWNER (or OWNER's predecessor in interest) and COUNTY executed a Conveyance and Agreement which was recorded on December 28, 2000 in the Humboldt County Recorder's Office, Official Records Document Number 2000-27519-6; and

WHEREAS, said Conveyance and Agreement restricted the development of the real property described therein as Lots 1 through 35 of Tract Map No. 523, on file in the Recorder's Office of the County of Humboldt in Book 22 of Maps, Pages 123, 124, 125, and 126 (hereafter "subject property"), until specified events occurred or conditions were satisfied; and

WHEREAS, said events have now occurred or said conditions have been satisfied in full with respect to Lot 35 (currently APN 301-041-041) of the subject property, and COUNTY desires to quitclaim and reconvey to OWNER or OWNER's successors in interest of said Lot 35 (currently APN 301-041-041) of Tract Map No. 523 all of the right, power and privilege granted to COUNTY by the above referenced Conveyance and Agreement for the subject property; and

NOW, THEREFORE, it is mutually agreed as follows:

1. COUNTY agrees to, and hereby does, quitclaim and reconvey to OWNERS or their successors in interest all of the right, power, and privilege to develop Lot 35 of the subject property, which right, power and privilege was relinquished and granted to COUNTY in the Conveyance and Agreement referenced above.
2. OWNER understands and agrees that this Quitclaim and Reconveyance by COUNTY to OWNER or OWNER's successors in interest of the right, power and privilege to develop Lot 35 of the subject property does not give OWNER or OWNER's successor(s) in interest unlimited right to develop the

Subject property, but only reverts in OWNER or OWNER's successors in interest the right, power and privilege to apply to COUNTY for the permits and other grants of approval necessary to develop Lot 35 of the subject property and to have such application processed in accordance with, and subject to, all laws and regulations applicable to such application at the time it is submitted.

IN WITNESS WHEREOF, the parties hereto have caused this Quitclaim and Partial Reconveyance on the date first written above.

ON October 3, 2017 BY Virginia Bass
Chair, Board of Supervisors Virginia Bass
County of Humboldt, State of California

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF HUMBOLDT }

On this 3rd day of October 20 17, before me, Deborah Igel Vining, Public Notary, personally appeared Virginia Bass who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

Witness my hand and official seal.

Deborah Igel Vining (seal)
Signature



OWNER(S)

[Signature], Trustee
Sign above. Print name here: Blaine D. Bermers, as Trustee *

[Signature] Trustee
Sign above. Print name here: Jaime L. Bermers, as Trustee *

Sign above. Print name here:

Sign above. Print name here:

*of the Blaine D. Bermers and Jaime L. Bermers 2014 Trust dated December 16, 2014

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF HUMBOLDT }

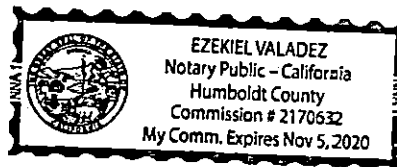
On this 11 day of May 20 17, before me, Ezekiel Valadez Public

Notary, personally appeared Blaine D. Bermers and Jaime L. Bermers who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

Witness my hand and official seal.

[Signature] (seal)
Signature



ATTACHMENT B

Location Map



LOCATION MAP

PROPOSED BERMERS


PARKLAND FEES

EUREKA AREA

PRK-17-001

APN: 301-041-041

T04N R01W S03 HB&M (Eureka)

Project Area = 

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



0 250
Feet

ATTACHMENT C

Conveyance and Agreement (for Development Restrictions)
Instrument No. 2000-27519-6
(recorded December 28, 2000)

Recording Requested By:

K.D. Investments L.L.C.

Return To:

Humboldt County Planning & Building Dept.
3015 H Street
Eureka, CA 95501-4484

2000-27519-6

Recorded — Official Records
Humboldt County, California
Carolyn Crnich, Recorder
Recorded by Humboldt Land Title Company
Exempt from payment of fees
Clerk: LH Total: 0.00
Dec 28, 2000 at 10:00

CONVEYANCE AND AGREEMENT
(for development restrictions)

ENTERED INTO ON _____,
BY AND BETWEEN _____,
K.D. Investments L.L.C. _____
APPLICATION _____

RE: Pacific Development PROJECT

Case No. FMS-02-97

File No. APN. 19-041-02

(hereinafter referred to as OWNER) and COUNTY

OF HUMBOLDT (hereinafter referred to as COUNTY))

WITNESSETH

WHEREAS, OWNER has applied to COUNTY for permits and other grants of approval necessary to carry out a project which is described within a project application filed with the Humboldt County Planning and Building Department as the Case Number and File Number referenced above (hereinafter referred to as proposed project); and

WHEREAS, the real property upon which OWNER's proposed project is situated, is or includes the real property which is described in EXHIBIT A which is attached to this agreement and incorporated by reference herein (hereinafter referred to as the subject property); and

WHEREAS, the subject property is situated in the County of Humboldt, State of California; and

WHEREAS, COUNTY, as a condition and in consideration of approval of OWNER's proposed project, requires that OWNER grant to COUNTY all of the OWNER's right, power and privilege to develop the subject property in the manner or for the purposes described in PART 1 of EXHIBIT B which is attached to this Agreement and incorporated by reference herein; and

WHEREAS, OWNER is willing and desires to grant to COUNTY the OWNER's right, power, and privilege to develop the subject property in the manner or for the purposes described in Part 1 of EXHIBIT

(1)

B attached hereto;

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. OWNER hereby relinquishes and grants to COUNTY all of the OWNER's right, power and privilege to develop the subject property in the manner or for the purposes described in Part 1 of EXHIBIT B attached hereto. Concurrently with this grant, OWNER agrees not to develop the subject property in the manner or for the purposes described in PART 1 of EXHIBIT B unless and until COUNTY quitclaims to OWNER or OWNER's successors in interest in said property, all rights, power and privilege granted to COUNTY by this conveyance.

2. Both parties acknowledge that this agreement and the grant of the right to develop by OWNER to COUNTY contained herein are made in consideration of approval by COUNTY of OWNER's proposed project.

3. COUNTY agrees to quitclaim to OWNER, or OWNER's successor(s) in interest, the right, power and privilege to develop the subject property in the manner or for the purposes described in PART 1 of EXHIBIT B attached hereto, if and when both of the following events occur:

A. OWNER or OWNER's successor(s) in interest applies to COUNTY for a reconveyance to the OWNER or OWNER's successor(s) of the right, power and privilege herein granted to COUNTY.

B. OWNER or OWNER's successor(s) in interest shows to COUNTY's satisfaction either that the conditions specified in PART 2 of EXHIBIT B attached hereto have been satisfied by the owner of the subject property, or that because of changed circumstances the conditions specified in PART 2 of EXHIBIT B are no longer applicable.

4. OWNER understands and agrees that the quitclaim by COUNTY to OWNER or OWNER's successor(s) in interest of the right, power and privilege herein granted to COUNTY, as provided above, will not give OWNER or OWNER's successor(s) in interest the unlimited right to develop the subject property, but will only revert in OWNER or OWNER's successor(s) in interest the right, power and privilege to apply to COUNTY for the permits and other grants of approval necessary to develop the subject property and to have such application processed in accordance with, and subject to, all laws and regulations applicable to such applications at the time it is submitted.

5. OWNER agrees to insert in any document which transfers title to the subject property, or any part thereof, a provision excepting from such transfer the right, power and privilege to develop the subject property in the manner or for the purposes described in PART 1 of EXHIBIT B attached hereto unless and until COUNTY has executed and delivered to OWNER or OWNER's successor(s) in interest the quitclaim deed provided for above. OWNER further agrees to include in any such transfer document a provision by the terms of which the transferee, and each subsequent transferee, agrees to each and every condition contained in this Conveyance and Agreement, including the requirement contained in this paragraph.

IN WITNESS WHEREOF, the parties hereto have caused this Conveyance and Agreement to be

executed by their duly authorized officers on DEC 18 2000

ACKNOWLEDGMENT

STATE OF CALIFORNIA
COUNTY OF HUMBOLDT }

On DEC 18 2000 before me, LORA CANZONERI, Clerk of the Board of Supervisors, personally appeared ROGER RODONI personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

Lora Canzoneri
SIGNATURE

Seal

~~1997~~

COUNTY OF HUMBOLDT

By Roger Rodoni
Chairman of the Board of Supervisors of the County of Humboldt, State of California

OWNER(s)* K.D. INVESTMENTS L.L.C.

Daniel J. Johnson, member

Kendra L. Johnson, member

ACKNOWLEDGEMENT

STATE OF CALIFORNIA }
COUNTY OF HUMBOLDT }

On November 14, 2000
DATE

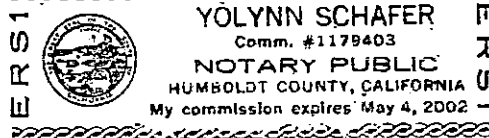
before me, Yolynn Schafer, Notary Public,
NAME, TITLE OF OFFICER

personally appeared Daniel J. Johnson + Kendra L. Johnson
NAME(S) OF SIGNER(S)

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) is/are subscribed to the within instrument and
acknowledged to me that he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
entity upon behalf of which the person(s) acted, executed the instrument

Witness my hand and official seal.

Yolynn Schafer
SIGNATURE OF NOTARY



SEAL

OPTIONAL DATA (not required by law)

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL

- ☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

RE: Pacific Development

H.C.P.D. File No. APN: 019-041-02

EXHIBIT A

PROPERTY DESCRIPTION

All that real property situated in the County of Humboldt, State of California, described as follows:

Lots 1 through 35 of Tract No. ^{M48} 523, Kincaid Court Subdivision, filed in Book 22 of Maps, Pages 123, 124, 125, 126, Humboldt County Records.

Prepared by:

Michael J. O'Hern

Michael J. O'Hern

LS 4829 Exp. 9-30-04



RE: Pacific Development

H.C.P.D. File No. APN 019-041-02

EXHIBIT B

DEVELOPMENT RESTRICTION

PART 1

The OWNER relinquishes and grants to the County of Humboldt the right, power and privilege to develop the real property described in Exhibit "A" for:

1. Development of a second residential units on parcels 1 through 35.

PART 2

The condition referred to in Paragraph B of Section 3 of the agreement to which this exhibit is attached is as follows:

1. Payment of parkland dedication fees in the amount of \$8,591.31 for lots 1-35 or on a pro-rata basis at the time individual lot owners apply for a permit to construct a secondary dwelling unit according to the following schedule:

Lot No.	FEE	Date Paid	Lot No.	FEE	Date Paid
1	\$249.77		19	\$240.12	
2	\$208.93		20	\$251.37	
3	\$208.93		21	\$269.30	
4	\$208.93		22	\$243.92	
5	\$208.93		23	\$523.67	
6	\$208.93		24	\$331.42	
7	\$208.93		25	\$319.72	
8	\$208.93		26	\$286.92	
9	\$208.93		27	\$214.08	
10	\$208.96		28	\$213.52	
11	\$208.96		29	\$213.52	
12	\$210.04		30	\$213.55	
13	\$304.51		31	\$213.55	
14	\$209.45		32	\$213.55	
15	\$212.27		33	\$213.55	
16	\$240.30		34	\$277.59	
17	\$279.19		35	\$278.84	
18	\$277.21				