

Central Services
Joan Araujo, Director

Engineering Services
James O'Tousa, Director

Roads & Transportation
Anitha Balan, Director

Water & Sanitation
Joseph Pope, Director

Watershed Protection
Vacant, Director

February 6, 2024

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

Subject: Approval of a Variance to the County of Ventura Floodplain Management Ordinance No. 4521 to Allow the Issuance of Building Permits prior to the Federal Emergency Management Agency Providing the Final Letter of Map Revision for Tract 5683, Piru. Supervisorial District No. 3.

Recommendations:

1. Find that the conditions and criteria set forth in Sections 6.2.B and 6.2.E of the County of Ventura Floodplain Management Ordinance (Ordinance) are met to support approval of the requested variance to Section 4.2.A (5) of the Ordinance to authorize the County's issuance of building permits for development of Tract 5683 in the Piru community prior to the Federal Emergency Management Agency providing a Final Letter of Map Revision.
2. Approve the above-described variance from the Ordinance.

Fiscal/Mandates Impact:

Mandatory:	No
Source of Funding:	None
Funding Match Required:	None
Impact on Other Department(s):	None



Background:

On December 16, 2008, Tentative Tract Map 5683 was approved by the Ventura County Board of Supervisors (Board) and on December 11, 2018, Final Tract Map 5683 was recorded. The subdivision, known as Tract 5683, is located in the Piru community west of Main Street just north of the intersection to East Telegraph Road (Highway 126) as shown on the attached Location Map. The subdivision includes 175 residential units and 8,500 square feet of commercial land uses.

Upon recordation of the Final Tract Map, no part of the subdivision site was shown by the Federal Emergency Management Agency (FEMA) to be within a floodplain zone. However, FEMA produced a preliminary floodplain map in July of 2020 that modified the previous floodplain limits and now depicted portions of the subdivision within a floodplain. Prior to issuance of the County grading permit to begin developing the subdivision, the developer's consultants reanalyzed the floodplain conditions and submitted a Conditional Letter of Map Revision (CLOMR) to FEMA. The County Watershed Protection District (WP) as well as FEMA approved the CLOMR. The CLOMR allowed for certain site preparations and flood control facilities to be constructed in order to support revision of FEMA's preliminary floodplain map. The flood control facilities, which were included on the Final Tract Map and constructed by the developer, include four detention basins.

Upon completion of the rough grading and installation of the flood control facilities, the developer's consultants prepared the LOMR documents for submittal to WP and FEMA. WP approved the LOMR and FEMA is finalizing the final LOMR letter. The developer's consultants have certified that all residential pad elevations are compliant with the approved CLOMR and the submitted LOMR.

Discussion:

As stated above, the LOMR documents have been approved by County WP and are in final review by FEMA. The County does not know exactly when FEMA will provide the final LOMR but anticipates that will occur within a month. The County's approval of this requested variance will provide for building permits to be issued for development of the subdivision prior to receiving FEMA's final LOMR approval letter. The constructed site improvements have been completed in accordance with the approved CLOMR as certified by the developer's consultants.

Section 6.2 of the County of Ventura Floodplain Management Ordinance (Ordinance) authorizes your Board to approve variances from the Ordinance's requirements. As relevant here, Section 6.2.B authorizes your Board to approve a variance from the requirement in Section 4.2.A (5) that the LOMR be provided by FEMA prior to County issuance of building permits if the criteria in section 6.2.E are met, the development is protected by methods that minimize flood damages during a base flood and does not result in additional threats to public safety and does not create a public nuisance.



The Ordinance's Section 6.2.E criteria for approving variances are as follows:

- a. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- b. Variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance, cause fraud and victimization of the public, or conflict with existing local laws or ordinances.
- c. Variances shall only be issued upon a determination that the variance is the minimum necessary considering the flood hazard, to afford relief. 'Minimum necessary' means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the County Board of Supervisors need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the County Board of Supervisors believes will both provide relief and preserve the integrity of the local ordinance."

The conditions and criteria in Sections 6.2.b and 6.2.E are met with respect to the requested variance. Site improvements for Tract 5683 have been constructed and certified to comply with the CLOMR's requirements, and approval of this variance will advance the construction of the subdivision while FEMA produces the final LOMR acceptance letter. This variance is justified considering the development path the project has with FEMA revising the floodplain limits between the Final Tract Map recordation and the start of the subdivision's actual development.

The following additional facts support approval of the requested variance:

- WP has approved the CLOMR and the LOMR, and the developer's consultants have certified that the site improvements have been built to the conditions of the CLOMR. The LOMR is simply the final acceptance of the work completed under the CLOMR conditions based on the consultant's certification.
- Should the variance be granted, and FEMA does not subsequently provide the LOMR, then a potential exists that some parcels within the subdivision would be placed in a floodplain and require a floodplain development permit for construction. Depending on the circumstances, owners of certain parcels could be required by mortgage lenders to purchase flood insurance.



- Should the variance not be granted, then the developer would be further delayed in obtaining building permits until the FEMA LOMR letter is provided. The initial delay resulted from the revised floodplain map issued by FEMA requiring analysis and submittals to obtain the CLOMR. The revisions in the preliminary floodplain map during the initial design review and the necessary analysis to obtain the CLOMR created an undue hardship to the developer in providing additional housing to the Piru area.

Strategic Plan:

This item contributes to your Board's 2024-2027 strategic priority to invest in Healthy, Safe, and Resilient Communities. The Project will increase housing in the Piru area.

This item has been reviewed by the County Executive Office and County Counsel.

If you have any questions concerning this item, please contact:

<u>Person</u>	<u>Telephone No.</u>	<u>Subject Matter</u>
James O'Tousa	805-654-2096	Floodplain Permitting

Sincerely,



James O'Tousa

Director
Engineering Services

Exhibits

1. Location Map
2. CLOMR
3. Ordinance 4521

