

RESOLUTION NO. 06-1405

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, OVERTURNING THE PLANNING COMMISSION'S DENIAL AND APPROVING CONDITIONAL USE PERMIT CASE NO. 98-CUP-007 AND ADOPTING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section 1. An application was duly filed by Riopharm USA, Inc. with respect to the real property located within Tract 48312 (known as "Agoura II), on the south side of Agoura Road, east of Calle Montecillo (Assessor's Parcel Nos. 2061-014-(027-042) and 2061-015-008), requesting approval of a Conditional Use Permit to allow the development of thirteen (13) detached single-family residential units. Public hearings were duly held by the Planning Commission on August 4, 2005, September 15, 2005, November 17, 2005, and December 1, 2005 at 6:30 p.m. in the City Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearing was duly given. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid public hearings. On December 1, 2005, the Planning Commission denied Conditional Use Permit Case No. 98-CUP-007 on a 5-0 vote, per Resolution No. 837

Section 2. An appeal of the Planning Commission's denial of Conditional Use Permit Case No. 98-CUP-007 was filed by Riopharm USA, Inc., on December 15, 2005 with respect to property described in Section 1 hereof. Public hearings on the appeal were duly held and public testimony was given on February 22, 2006, September 13, 2006 and October 11, 2006, at 7:00 p.m., in the City Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid public hearings was duly given.

Section 3. Evidence, both written and oral, was duly presented to and considered by the City Council at the aforesaid public hearings.

Section 4. Pursuant to Section 9673.2.E of the Agoura Hills Zoning Ordinance, the City Council finds that:

A. The proposed use, as conditioned, is consistent with the objectives and provisions of the Zoning Ordinance and the purposes of the land use district in which the use is located. The property zoning designation and General Plan Land Use designation allows for development of single-family residential units on the property. The purpose of the Single-Family Residential (RS) zone, as stated in the Zoning Ordinance, is for residential development consisting of small lot subdivisions. The proposal meets the development

standards for the RS-CD-FC (Single-Family Residential – Cluster Development Overlay – Freeway Corridor Overlay) relative to building height, lot coverage and landscape coverage. Consideration was appropriately given to the placement of the proposed single-family homes and their proximity to adjacent existing residential communities.

B. The proposed use, as conditioned, is compatible with the surrounding properties. The proposed residential use is allowed within the RS-CD-FC zones. The single-story and two-story designs of the proposed homes are compatible with existing neighboring homes to the west. The proposed detached houses are situated on the property as to preserve views, light, air and open space to neighboring properties. The proposed houses meet all yard area, lot coverage and building height requirements, of the RS zone. The building elevations are articulated on all sides through the use of varied rooflines and varied building façades that reduce the scale of the buildings.

C. The proposed use, as conditioned, and the condition in which it will be operated or maintained, will not be detrimental to the public health, safety, or general welfare. Access to the property will be via a single private street on Agoura Road and sufficient on-site and street parking will be provided within the subdivision. The varied roof lines of the buildings and its proximity to neighboring residences will preserve the light, air, privacy and open space to the surrounding neighboring parcels. The project, as conditioned, meets the maximum building coverage standards for the RS zone.

D. The proposed use, as conditioned, will comply with each of the applicable provisions of the Zoning Ordinance. The proposed single-story and two-story homes meet the 35-foot building height limitation for structures within the zone. Building lot coverage is below the maximum allowed for the zone and the applicant will provide for landscaping within the tract.

E. The distance from other similar and like uses is sufficient to maintain the diversity of the community. Although a portion of the subdivision abuts developed single-family residential homes to the west, the property is located approximately 1,300 feet from the nearest developed single-family residential tract to the east. The proposed project will be consistent and compatible with the neighboring residential community.

F. The proposed use, as conditioned, is consistent with the goals, objectives and policies of the General Plan. The project will provide for new housing opportunities and will meet the requirements of the City's Inclusionary Housing Ordinance to provide for affordable housing opportunities within the City, as called for in the General Plan Housing Element.

G. The applicant has revised the plans from what was denied by the Planning Commission by reducing incorporating single-story units within the tract; reducing the sizes of the units; and increasing the yard areas for the residential lots.

Section 5. In accordance with the California Environmental Quality Act, the City has provided public notice of the intent to adopt a Mitigated Negative Declaration for this project. Based upon the initial study, public comments and the record before the City Council, the City Council finds that the Mitigated Negative Declaration identifies potentially significant environmental effects for which feasible mitigation measures have been identified which will avoid or substantially lessen such effects. The City Council has reviewed the information contained in the Mitigated Negative Declaration in considering the application and finds that the Mitigated Negative Declaration was prepared pursuant to the California Environmental Quality Act. The City Council hereby adopts the attached Mitigated Negative Declaration and Mitigation Monitoring Plan.

Section 6. Based on the aforementioned findings, the City Council hereby overturns the Planning Commission's denial and approves Conditional Use Permit Case No. 98-CUP-007 as shown in the revised plans submitted to the City Council on October 11, 2006, subject to the attached conditions, with respect to the property described in Section 1 hereof.

PASSED, APPROVED, and ADOPTED this ____ day of _____, 2006, by the following vote to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Denis Weber, Mayor

ATTEST:

Kimberly Rodrigues, City Clerk

CONDITIONS OF APPROVAL
(Case No. 98-CUP-007)

STANDARD CONDITIONS

1. This action shall not be effective for any purpose until the applicant has agreed in writing that the applicant is aware of, and accepts all Conditions of Approval of this Permit with the Department of Planning and Community Development. Any conditions on such acceptance or challenges, including the filing of legal action, relating to the permit or the conditions, shall be treated as a failure to meet this Condition and shall nullify and void this permit.
2. Except as modified herein, the approval of this action is limited to and requires complete conformation to the labeled exhibits approved by the Planning Commission: Site Plan, Building Elevation Plans, Floor Plans, Roof Plans, Grading Plans, Landscape Plans, and exterior building material samples.
3. It is hereby declared to be the intent that if any provision of this Permit is held or declared to be invalid, the Permit shall be void and the privileges granted hereunder shall lapse.
4. It is further declared and made a Condition of this action that if any Condition herein is violated, the Permit shall be suspended and the privileges granted hereunder shall lapse; provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
5. All requirements of the Zoning Ordinance and of the specific Zoning of the property must be complied with unless set forth in the Conditional Use Permit.
6. No occupancy shall be granted for any new building until all Conditions of Approval have been complied with as determined by the Director of Planning and Community Development.
7. If required, the applicant shall provide road markers opposite the existing or proposed fire hydrants serving the property to the satisfaction of the City Engineer.
8. All homes within the tract shall include garages that include a minimum 20-foot by 20-foot interior clear space.
9. The applicant shall comply with all applicable Public Health Statutes, Ordinances and Regulations related to the disposal of sewage.
10. All structures shall conform with the requirements of the Division of Building and Safety of the City of Agoura Hills.

11. The applicant shall comply with the requirements of the Los Angeles County Fire Department prior to the issuance of Building or Grading Permits. The Forester and Fire Warden shall be consulted to ascertain the required fire flows and fire hydrants to accommodate the proposed development.
12. Unless Conditional Use Permit Case No. 98-CUP-007 is used within two (2) years from the date of City approval, the permit will expire. A written request for a one-year extension may be considered prior to the expiration date.
13. The applicant shall provide a paved all-weather access from the parking area to the street, as required by the City Engineer.
14. Prior to the issuance of Grading Permit or Building Permits, the applicant shall comply with the school impact fee requirements of the Las Virgenes Unified School District. The current fee is \$2.63/gross square foot for residential construction. Actual fees will be determined at the time of building permit issuance.
15. The applicant shall pay to the City the applicable Fire District Developer Fee prior to the issuance of Building Permits. The current fee is \$0.3877/gross square foot for residential construction. Actual fees will be determined at the time of building permit issuance.
16. Prior to the issuance of a Building Permit, the applicant shall submit a letter to the Director of Planning and Community Development agreeing to suspend construction in the vicinity of a cultural resource encountered during development of the site, and leave the resource in place until a qualified archaeologist can examine them and determine appropriate mitigation measures. All fees and expenses for the retaining of a qualified archaeologist shall be paid by the applicant and shall not be at City expense. The applicant shall agree to comply with mitigation measures recommended by the archaeologist and approved by the Director of Planning and Community Development.

LANDSCAPING CONDITIONS

17. The final landscape design shall comply with the corridor standards of the Freeway Corridor (FC) zoning overlay. The planting scheme shall be designed to preserve and enhance the scenic quality of the freeway corridor. Naturalistic and native landscaping, particularly native oaks, shall be emphasized throughout the development. Any unsightly uses shall be completely screened.

18. Plant material shall be considered compatible with Sunset Zone 18. No plant material considered invasive in the Santa Monica Mountains may be utilized in the plant palette.
19. Prior to the approval of building permits, the applicant shall submit three (3) sets of landscape plans for review by the City Landscape Consultant and approval by the Director of Planning and Community Development that the meet the following requirements:
 - a. A California-licensed landscape architect shall prepare, stamp and sign the plans.
 - b. All plans shall be legible and clearly drawn.
 - c. Plans shall not exceed thirty inches (30") by forty-two inches (42") in size. Plans shall be a minimum of twenty-two inches (22") by thirty-six inches (36") in size.
 - d. A true north arrow and plan scale shall be noted. The scale shall be no smaller than one inch equals twenty feet (1"=20'), unless approved by the City Landscape Consultant.
 - e. A title block shall be provided, indicating the names, addresses and telephone numbers of the applicant and landscape architect.
 - f. The project identification number shall be shown on each sheet.
 - g. The plans shall accurately and clearly depict the following existing and proposed features:
 - * Landscape trees, shrubs, ground cover and any other landscaping materials
 - * Property lines
 - * Streets, street names, right-of-ways, easements, driveways, walkways, bicycle paths, and any other paved areas
 - * Buildings and structures
 - * Parking areas, including lighting, striping and wheel stops
 - * General contour lines
 - * Grading areas, including tops and toes of slopes
 - * Utilities, including street lighting and fire hydrants
 - * Natural features, including watercourses, rock outcroppings
 - h. The Planting Plan shall indicate the botanical name and size of each plant.
20. Plant symbols shall depict the size of the plants at maturity.

21. Plant container sizes and/or spacing shall be provided. Minimum sizes shall be acceptable to the City Landscape Consultant and the Director.
22. Plantings in all common areas and rights-of-way shall be of adequate size at planting to achieve screening of the project upon installation.
23. The landscape plans shall prominently display the following notes:
 - a. All plant material shall conform to the most recent edition of ANSI Z60.1 - American Standard for Nursery Stock.
 - b. All trees shall also conform to the California Department of Forestry and Fire Protection "Standards for Purchasing Container – Grown Landscape Trees."
 - c. Prior to scheduling an inspection of the landscape installation with the City, the applicant's landscape architect shall certify in writing that the installation is in conformance with the approved landscape plans.
24. Proposed light standard locations shall be depicted on the planting plan. Any conflicts between light standard and tree locations shall be resolved to the satisfaction of the City Landscape Consultant.
25. The Irrigation Plan shall be provided separate from but utilizing the same format as the Planting Plan.
26. The irrigation design shall provide adequate coverage and sufficient water for the continued healthy growth of all proposed plantings with a minimum of waste and over spray on adjoining areas.
27. The Irrigation Plan shall be concise and accurate and shall include the manufacturer, model, size, demand, radius, and location of the following, as appropriate:
 - a. Design and static pressures
 - b. Point of connection
 - c. Backflow protection
 - d. Valves, piping, controllers, heads, quick couplers
 - e. Gallon requirements for each valve
28. Three (3) copies of details and specifications shall be provided, addressing but not limited to, planting, soil preparation, tree staking, guying, installation details, and post installation maintenance.

29. One copy of each of the following approved plans shall be submitted with the initial landscape plan check:
 - a. Site Plan
 - b. Elevations
 - c. Grading Plan
 - d. Conditions of Approval
30. A complete Landscape Documentation package is required at the time of initial plan check submittal, prepared in accordance with Article IX, Section 9658.6 – Water Efficient Landscaping, contained in the Zoning Code.
31. All landscaping shall be irrigated and maintained in perpetuity in accordance with the approved Landscape Plan.
32. Poor landscape practices such as topping, hedging and “lollipoping” shall not be permitted and may require that plant materials be replaced with like size materials at the discretion of the City Landscape consultant.
33. To the extent feasible, decorative landscape mounding shall be provided in the planters along Agoura Road in accordance with Article IX, Section 9373.7 – Required Landscaping, to the satisfaction of the City Landscape.
34. Any new perimeter walls shall be decorative with a height of six feet (6’), subject to review and approval by the City Landscape Consultant and the Director.

PUBLIC WORKS/ENGINEERING DEPARTMENT CONDITIONS

General

35. All improvement plans, including, but not limited to, street, grading, sewer, storm drain, and striping/signage plans, for the entire project must be submitted as one package. This package must also include all supporting studies. All improvement plan sheets shall be 24" x 36" and must have the City's standard signature blocks and be legibly drawn to ensure proper reproduction and adequate record keeping. All lettering on plans shall be a minimum of 80 CL (.08 inch) in size to ensure proper reproduction and microfilming. All original plans shall be drawn in ink. All plans shall be prepared and signed by a California State Registered Civil Engineer.

36. For construction within public right-of-way, an encroachment permit is required in accordance with Agoura Hills Municipal Code. All required applicable fees, securities, and insurance must be posted prior to issuance of the encroachment permit.
37. The applicant shall acquire and obtain and pay all costs of acquiring any off-site real property and/or easements required in connection with this project prior to issuance of a grading permit.
38. All Record Drawings ("As-Built" drawings) and supporting documentation shall be submitted to the Engineering Division prior to issuance of the final Certificate of Occupancy.
39. All block walls and retaining walls shall be limited to six feet in height.
40. A title report is required to be submitted with the project plans. The plans shall show all proposed and existing easements.
41. All necessary lot line adjustments (LLA's) shall be prepared for submitted to the city Engineer prior to issuance of a grading permit. All LLA's shall be recorded with the LA County Recorder prior to issuance of any Certificate of Occupancy.

Grading

42. All grading shall conform to City's Grading Ordinance, Chapter 33 of the Uniform Building Code, as modified.
43. A site paving/drainage/grading plan shall be submitted for review and acceptance by the City Engineer. The plans, among other details, shall show proposed utilities, existing and proposed easements, stormwater facilities and facilities for the handi-capped. The grading plan shall be accompanied by a Soils Report prepared in accordance with the Agoura Hills Guidelines for geotechnical/geological reports.
44. Prior to the issuance of a grading permit the following must be satisfied; the grading plan has been reviewed and accepted by the City Engineer, the applicable plan check, inspection and permit fees have been paid and the grading security has been posted.
45. For any grading operations conducted between October 1 and April 15 of each year, the applicant shall submit a wet weather erosion control plan for review and acceptance by the City Engineer.

Drainage

46. A drainage study shall be prepared by a California State Registered Civil Engineer for the review and acceptance by the City Engineer. Hydraulic design shall conform to the current Hydraulic Design Manual of the Los Angeles County Department of Public Works (LACDPW).
47. Prior to the issuance of a grading permit, the applicant shall file a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) with the State Water Resources Control Board, and provide written documentation thereof to the City Engineer.
48. The SWPPP shall be prepared in compliance with the Development Construction Model Program for Stormwater Management within the County of Los Angeles, and shall be subject to approval by the City Engineer. The SWPPP shall identify pollutant sources, and shall include design and recommend construction and implementation of stormwater pollution prevention measures in order to reduce pollutants in stormwater discharges from the construction site during the construction period, and after construction as required.
49. Prior to issuance of a grading permit, the applicant shall prepare a Standard Urban Stormwater Mitigation Plan (SUSMP), as outlined in the Development Planning Model Program for Stormwater Management within the County of Los Angeles, subject to approval by the City Engineer. The plan will demonstrate treatment of the first ¾" of rainfall, as required by the Model Program.
50. A City-provided Best Management Practice (BMP) Covenant and Deed Restriction shall be prepared and recorded with the Los Angeles County Recorder's Office by the applicant upon completion of the drainage and grading improvements.
51. Prior to issuance of a grading permit, MTD 1406 hydrology, plans and necessary easements shall be submitted to and approved by the City Engineer and LACDPW.
52. Prior to issuance of a grading permit, MTD 1596 hydrology, plans and necessary easements shall be submitted to and approved by the City Engineer and LACDPW.
53. Prior to issuance of a grading permit, SUSMP hydrology and plans shall be submitted to and approved by the City Engineer.

54. Prior to issuance of a grading permit, all necessary storm drain easements shall be recorded with the LA County Recorder.
55. Prior to issuance of any Certificate of Occupancy, the applicant shall provide written documentation from LACDPW that the storm drain facilities are acceptable for transfer to the County for maintenance purposes.
56. Drainage improvements on private property not transferred to the LACDPW for maintenance shall be continually maintained, repaired and replaced by the property owner(s).

Streets/Traffic

57. Agoura Road is a secondary arterial roadway with 100 feet of right-of-way (ROW). The half-roadway improvements shall be designed and constructed to transition the existing improvements to the west and accommodate a 12-foot traffic lane, 8-foot bike lane, and curb and gutter. The remaining portion of the public ROW shall consist of landscaping, irrigation and a 5-foot-wide meandering sidewalk, subject to review and approval of the City Engineer.
58. New landscaping and irrigation within Agoura Road ROW shall be maintained in perpetuity by the Homeowner's Association.
59. Based upon the Preliminary Plot Plan for this Tract and the City of Agoura Hills Municipal Code, the project's Transportation Improvement Fee will be \$31,720 (\$2,440/home x 13 homes).
60. On-site access shall be approved by the LA County Fire Department prior to issuance of a grading permit.
61. On-site circulation shall be approved by the LA County Fire Department prior to issuance of a building permit.

Utilities

62. Water facilities shall be designed and constructed by the applicant in accordance with the standards of Las Virgenes Municipal Water District (LVMWD). Prior to issuance of a building permit, the applicant shall provide documentation from LVMWD that all improvement requirements have been met, including fee payment.

63. Sanitary sewer plans shall be reviewed and approved by the City Engineer, Las Virgenes Municipal Water District, and the Los Angeles County Public Works Department. The applicant shall provide evidence that all connection fees have been paid prior to issuance of a building permit.
64. The applicant shall submit evidence from the Los Angeles County Fire Department for approval of location and spacing of fire hydrants prior to issuance of a grading permit.
65. The existing aboveground utilities within the southerly half of Agoura Road's public ROW shall be undergrounded within the project limits.

FIRE DEPARTMENT CONDITIONS

66. The applicant shall comply with all conditions of the Los Angeles County Fire Department prior to the issuance of a building permit.

PLANNING DEPARTMENT/SPECIAL CONDITIONS

67. A pre-construction conference shall be held prior to the issuance of a grading permit with all construction personnel involved with the grading operations. A procedure shall be established to handle any complaints received from the surrounding property owners or residents of the City during the grading and construction operations. Applicant shall deposit funds with the City necessary to cover costs of the City hiring an environmental mitigation monitor.
68. Signage for the tract shall comply with the City Sign Ordinance and shall be subject to review and approval by the Director of Planning and Community Development.
69. Security gates are prohibited within the tract.
70. On-site decorative paving shall be provided at the street entrance serving the site, adjacent to Agoura Road. The color, materials, length and location of the decorative paving shall be subject to review and approval by the Director of Planning and Community Development and the City Engineer.
71. Prior to the submittal of plans into plan check for a Grading Permit or Building Permit, the applicant shall comply with the project recommendations of the City Geotechnical Consultant and the City Geological Consultant.

72. All outstanding fees owed to the City, if any, shall be paid by the applicant within thirty (30) days from the date of this approval.
73. The applicant shall comply with all building material samples approved by the Planning Commission. Prior to final painting and final application of stone veneer on the buildings, the applicant shall provide color samples on the building wall for review and approval by the Director of Planning and Community Development.
74. Location and design details for all proposed walls and fences shall be provided for review and approval by the Director of Planning and Community Development, prior to the issuance of a grading permit. Garden walls and retaining walls shall be of split-face block.
75. The Grading Plan shall specify proposed paving materials and include a note that refers to the Landscape Plan for specific landscape materials shown on the Grading Plan.
76. Prior to the issuance of a building permit, the applicant shall submit the location and screening details of all ground-mounted mechanical equipment for review and approval by the Director of Planning and Community Development.
77. The applicant shall comply with all mitigation measures within the Mitigation Monitoring Program prepared for the adopted Mitigated Negative Declaration adopted for the project. The applicant shall pay for all mitigation review and monitoring completed by outside consultants such as the City Arborist, City-approved biologist or other consultants needed to ensure compliance with the Mitigation Monitoring Plan as determined by the Director of Planning and Community Development.
78. Prior to the starting construction, the site shall be temporarily fenced and screened on all sides for the duration of the construction project. The height of the fence shall be six (6) feet and fence material shall be overlaid on the exterior with a dark, opaque vinyl screen, or other equivalent fencing and screening material as approved by the Director of Planning and Community Development. Temporary construction fencing and gates shall be maintained in good order at all times.

79. Prior to the issuance of a building permit, the applicant shall prepare and submit CC&R's for the tract for review and approval by the Director of Planning and Community Development and the City Attorney. The CC&R's shall establish the obligations of each property owner to maintain the private streets and common space and shall require the homeowners to pay for all required brush clearance/fire zone fuel modification related to the public and private open space areas.
80. The applicant shall sign a written agreement approved by the City Attorney which dedicates the south portion of the tract within the Open Space zone to the City or other public agency as determined by the City for open space. Said areas shall be preserved in its natural state. No development or agricultural uses shall be allowed within the open space areas.
81. All room or patio additions shall be restricted to the rear yard area. A maximum 10% additional lot coverage will be allowed.
82. Street lights proposed for the private streets within the tracts shall be subject to review and approval by the City Engineer and the Director of Planning and Community Development.
83. The applicant shall comply with the City Inclusionary Housing Ordinance (Municipal Code Section 9133) by providing at least fifteen percent (15%) of all homes within the tract to be made available to low and moderate-income households.

SOLID WASTE MANAGEMENT CONDITIONS

84. To ensure that solid waste generated by the project is diverted from the landfill and reduced, reused, or recycled, the applicant shall submit a "Waste Reduction & Recycling Plan" to the City for review and approval. The plan shall provide for at least 50% of the waste generated on the project to be diverted from the landfill. Plans shall include the entire project area, even if tenants are pursuing or will pursue independent programs. The plan shall be submitted to and approved by the Department of Planning and Community Development prior to issuance of a building permit. The plan shall include the following information: material type to be recycled, reused, salvaged, or disposed; estimated quantities to be processed, management method used, and destination of material including the hauler name and facility location. The City's Waste Reduction & Recycling Plan form or a similar format shall be used.

85. The project shall comply with the plan and provide for the collection, recycling, and/or reuse of materials (i.e. concrete, wood, metal, cardboard, green waste, etc.) and document results during demolition and/or construction of the proposed project. After completion of demolition and/or construction, the applicant shall complete a Waste Reduction & Recycling Summary Report and provide legible copies of weight tickets, receipts, invoices or letters of verification for materials sent to disposal or reuse/recycling facilities. For other discarded or salvaged materials, the applicant shall provide documentation, on the disposal facility's letterhead, identifying where the materials were taken, type of materials, and tons or cubic yards disposed, recycled or reused and the project generating the discarded materials. The Waste Reduction & Recycling Summary Report shall be submitted and approved prior to issuance of a certificate of occupancy.
86. The applicant shall arrange for materials collection during construction, demolition, and occupancy with a City permitted hauling company, or shall arrange for self-hauling to an authorized facility.

END