Filed 9/23/19 The Inland Oversight Committee v. City of Diamond Bar CA2/5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE INLAND OVERSIGHT COMMITTEE, Plaintiff and Appellant, v. CITY OF DIAMOND BAR et al., Defendants and Respondents, MILLENNIUM-DIAMOND ROAD PARTNERS LLC et al., Real Parties in Interest and Respondents.	B291318 (Los Angeles County Super. Ct. No. BS162663)

APPEAL from a judgment of the Superior Court of Los Angeles County, Yvette M. Palazuelos, Judge. Affirmed.

Briggs Law Corporation, Cory Brigs and Anthony N. Kim for Plaintiff and Appellant.

Woodruff, Spradlin & Smart, Damon P. Mamalakis, Armbruster Goldsmith & Delvac LLP, David A. DeBerry and Ricia R. Hager for Defendants and Respondents.

INTRODUCTION

Appellant The Inland Oversight Committee filed a petition for writ of mandate and complaint for declaratory and injunctive relief against defendant City of Diamond Bar and real parties in interest Millennium-Diamond Road Partners, LLC (the developer) and Hua Quing Enterprise LLC (collectively, respondents), challenging the city's 2016 approval of a final subdivision tract map. Inland Oversight alleged that the developer failed to comply with the city's mitigation monitoring program and the conditions placed on the tentative tract map, and that the city approved the final subdivision tract map in violation of both the Subdivision Map Act (the Map Act) and the California Environmental Quality Act (CEQA). The trial court denied Inland Oversight's petition in its entirety, concluding that the developer complied with the mitigation measures and conditions.

On appeal, Inland Oversight argues that we should reverse the trial court's denial of the writ of mandate because the city approved the final map despite the developer's failure to: (1) submit a trail plan, (2) negotiate annexation by the adjacent subdivision's homeowners association, (3) submit documentation from the adjacent homeowners association showing the developer had right of entry on the property, and (4) submit and obtain approval of mitigation measures related to removal of trees and vegetation. We conclude that the developer complied with the conditions and mitigation measures set forth in the tentative subdivision map. Accordingly, we affirm.

FACTS AND PROCEDURAL BACKGROUND

1. *The Project*

Sometime prior to May 2003, the developer filed an application with the city to construct a residential community (the project). The project consisted of 48 single-family homes spanning 80 acres within a gated Diamond Bar community called the "Country Estates." The project involved grading and developing a hillside that had native vegetation consisting of coastal sage scrub, walnut trees, and oak trees. The project site is adjacent to another residential community known as the Diamond Bar Country Estates.

2. *City Review and Approval*

The city performed a detailed environmental review and analysis of the project's potential environmental impacts. After the city received the developer's proposed project application, the city prepared an initial environmental study. The initial study concluded that the project may have a significant effect on the environment and an Environmental Impact Report (EIR) was required pursuant to CEQA.

The city prepared a comprehensive draft and final EIR. The tract map design was revised after the draft EIR was circulated for public comment. The city then prepared an updated, comparative environmental analysis to evaluate the proposed project changes.

The EIR concluded that some of the project's potentially significant effects could be mitigated or avoided with the implementation of 35 mitigation measures. To ensure implementations, the city prepared an EIR mitigation monitoring plan that stated each mitigation measure, the timing for compliance, the party responsible for compliance, and the method

for verifying compliance. The plan included two biological mitigation measures associated with clearing coastal sage brush and walnut and oak woodlands from the project site.

On February 21, 2006, the city council made findings of facts, adopted the mitigation monitoring plan and a statement of overriding considerations for significant impacts that could not be mitigated or avoided, and certified the EIR for the project. A notice of determination was filed and posted the next day. No actions were filed challenging the certification of the EIR or the project approvals within the applicable statutes of limitations.

At its February 21, 2006 meeting, the city council also approved the project's tentative tract map. A number of conditions of approval were imposed by departments within the city and the County of Los Angeles, with varying timelines for completion. The conditions included:

- "The Mitigation Monitoring Program outlined in Environmental Impact Report . . . approved by the city shall be implemented and complied with rigorously."[1]
- "A detail[e]d plan indicating trail widths, maximum slopes, physical conditions, fencing, and weed control, in accordance with City Master Trail drawings, shall be submitted for review and approval prior to approval and recordation of the final tract map and prior to approval of street improvement and grading plans."
- "Prior to final map recordation or prior to grading permit issuance (whichever occurs first), the applicant shall

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[1] The mitigation monitoring program included mitigation measures for the sage brush and oak and walnut woodlands.

negotiate to annex into 'The Country Estates' Homeowners Association."

- "Applicant shall submit document(s) from Diamond Bar Country Estates Association indicating the project will have proper/adequate right-of-entry to the subject site."
- "Prior to the issuance of a grading permit or the initiation of any activity that involves the removal/disturbance of oak and walnut woodland habitat, the applicant shall develop a detailed oak and walnut woodland mitigation plan in accordance with the EIR's Mitigation Program and submit the plan to the Planning Division for review and approval."

3. *Statutory Extensions to Complete the Project*

After the tentative tract map was issued, the Legislature enacted statutory extensions to tentative maps on five occasions through 2015. (See, e.g., Gov. Code, §§ 66452.21-66452.25.)[2] The extensions were automatic "upon an application by the subdivider to extend that map," required no action by the city, and did not permit the city to add any conditions to the final map's approval. (§ 66452.25 (b).) The developer here filed applications to extend the tentative tract map, which gave it until April 21, 2016 to file its final map.

4. *The Final Tract Map*

The final map was filed with the city on April 19, 2016. The city engineer examined the final map and concluded that it substantially conformed to the tentative tract map and that all provisions of state and local law applicable at the time the tentative tract map was approved were satisfied. The city council

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[2] All subsequent statutory references are to the Government Code unless indicated otherwise.

made similar findings, relying in large part upon the city engineer's determinations, and approved the final map on May 3, 2016. The final map was recorded on May 25, 2016.

5. *Petition for Writ of Mandate and Complaint*

On June 2, 2016, Inland Oversight filed a petition for writ of mandate and complaint for declaratory and injunctive relief challenging the city's approval of the final map. Inland Oversight alleged that before the final map was approved, the developer failed to: submit a trail plan, show that it had adequate right of entry to the Project Site, and comply with the EIR's tree removal mitigation measures that required submission of mitigation plans before grading. Although missing from the petition, in its trial court brief, Inland Oversight additionally argued that the developer did not negotiate annexation into the Diamond Bar Country Estates Homeowners Association prior to final map approval. The trial court considered this argument in its statement of decision.

On December 29, 2017, Inland Oversight sought a temporary restraining order to prevent the developer from proceeding with the project. On January 4, 2018, the trial court denied the restraining order, finding that Inland Oversight failed to show imminent or irreparable harm. On May 7, following a hearing on the merits, the trial court denied Inland Oversight's petition and complaint.

The trial court found that: (1) the trail plan was approved before the city council had considered the final map; (2) the developer was only required to negotiate for annexation into the Diamond Bar Country Estates Homeowners Association, not conclude an agreement, and substantial evidence showed the developer had engaged in those negotiations; (3) a right of entry

was not required for approval of the final map, nonetheless, both the city attorney and the Los Angeles Superior Court found that the developer had access to the property; and (4) the tree removal mitigation measures were not tied to the final map approval, and, in any event, the city had approved mitigation plans before the city council considered the final map.

Judgment was entered in favor of the city and real parties on June 7, 2018. Inland Oversight filed its notice of appeal on July 12, 2018.

DISCUSSION

1. *Standard of Review*

As in other mandamus actions of this nature, we independently review the city's action, not the trial court's decision. Our standard of review is the same as the trial court's: we review the administrative record for legal error and substantial evidence. (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 427 [standard of review for CEQA actions]; *Abernathy Valley, Inc. v. County of Solano* (2009) 173 Cal.App.4th 42, 46 [standard of review for mandamus action under the Map Act].) "The burden is on appellant to show there is no substantial evidence to support the decision." (*Fishback v. County of Ventura* (2005) 133 Cal.App.4th 896, 902.) " 'Substantial evidence is defined as "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." ' " (*Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1198.)

2. *The Subdivision Map Act*

The Map Act regulates the design and improvement of subdivisions. (§§ 66410 et seq.) "Among the Act's purposes are to encourage and facilitate orderly community development, coordinate planning with the community pattern established by local authorities, and assure proper improvements are made, so that the area does not become an undue burden on the taxpayer." (*Gomes v. County of Mendocino* (1995) 37 Cal.App.4th 977, 985.) "To accomplish its goals, the Subdivision Map Act sets suitability, design, improvement, and procedural requirements (e.g., Gov. Code, §§ 66473 et seq., 66478.1 et seq.). It also allows local governments to impose supplemental requirements of the same kind (e.g., *id.*, §§ 66475 et seq., 66479 et. seq.). [Citation] Further, '[t]he Act vests the "[r]egulation and control of the design and improvement of subdivisions" in the legislative bodies of local agencies, which must promulgate ordinances on the subject.' [Citation.] The local entity's enforcement power is directly tied to its power to grant or withhold approval of a subdivision map." (*Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles* (2012) 55 Cal.4th 783, 799.)

Local governments implement the Map Act through the tentative and final map process, codified in the Map Act and local laws, like the Diamond Bar Municipal Code, which we discuss next. (§§ 66411, 66420, 66426; Diamond Bar Mun. Code, Tit. 21, § 21.01.020.)[3] A tentative map is required for a subdivision, such as the present one, that will create five or more parcels. (§ 66426; Mun. Code, § 21.03.020 (2)(b).)

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[3] All subsequent municipal code references are to Title 21 of the Diamond Bar Municipal Code.

For a development in the City of Diamond Bar, the developer first submits to the city an application to develop land into a subdivision. The city reviews the application for completeness and technical feasibility. (*Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles, supra,* 55 Cal.4th at p. 799.) Once the appropriate agencies are consulted about the project, the city holds a public hearing on a proposed tentative map. (*Ibid*.) After the public hearing, the city may approve the tentative map and impose conditions on development at the time the tentative map is approved. (Mun. Code, § 21.20.090.) "The purpose of a conditional tentative map is to identify the requirements to which the developer must conform; the developer must demonstrate that he or she has fulfilled the conditions of the tentative map before approval of the final map will be given. [Citations.] The developer cannot record a final map if the conditions of a tentative map are not satisfied." (*Lincoln Place Tenants Assn. v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 446–447.)

Following approval of the tentative map, the developer must submit a final map to the city council. The Diamond Bar city engineer reviews the final map and accompanying materials and determines whether the final map complies with Title 21 of the Diamond Bar Municipal Code and the Map Act, and that it substantially complies with the tentative map. (Mun. Code, § 21.20.090.) Upon making the determinations, the city engineer forwards the final map to the city council for consideration. (Mun. Code, § 21.22.100.)

"The council shall approve the final map if it conforms to all the requirements of the map act, all provisions of this title that were applicable at the time that the tentative map was approved,

and is in substantial compliance with the approved tentative map." (Mun. Code, § 21.22.100(1)(a); § 66474.1.) Conversely, the city council shall "shall disapprove a map for failure to meet or perform any of the requirements or conditions imposed by [the Map Act] or local ordinance enacted pursuant thereto; provided that a final map shall be disapproved only for failure to meet or perform requirements or conditions which were applicable to the subdivision at the time of approval of the tentative map; and provided further that such disapproval shall be accompanied by a finding identifying the requirements or conditions which have not been met or performed." (§ 66473.) Where the city council fails to timely approve or disapprove the map, without an agreed-upon extension, and where the map substantially conforms to all applicable requirements, the final map is deemed approved. (Mun. Code, § 21.22.100(1)(c).)

3. *The Final Subdivision Map Was Properly Approved*

On appeal, Inland Oversight argues that the city violated the Map Act by approving the final tract map despite the developer's failure to (1) submit a trail plan, (2) negotiate with the adjacent subdivision annexation into the homeowners association, (3) obtain a right of entry, and (4) comply with the mitigation monitoring of the tree and vegetation removal. Inland Oversight also argues the city violated CEQA by approving the final map despite the developer's failure to comply with the mitigation monitoring plan regarding tree and vegetation removal.

a. The Developer Complied with the Trail Plan Condition

Inland Oversight argues that the city violated the Map Act when it approved the final map because the developer failed to

comply with the tentative map's condition that: "A detailed plan indicating trail widths, maximum slopes, physical conditions, fencing, and weed control, in accordance with City Master Trail drawings, shall be submitted for review and approval prior to approval and recordation of the final tract map and prior to approval of street improvement and grading plans." Inland Oversight asserts that "the administrative record is devoid of any evidence demonstrating the required trail plan was submitted and approved prior to approval of the final tract map on April 19, 2016."

We disagree. As respondents pointed out in the trial court, the developer satisfied this condition by the Rough Grading Plans. Those plans were signed off by the city engineer and approved by the city prior to final map approval.

Specifically, Detail Sheet 3 of the Rough Grading Plans captioned "Trail Design Guidelines" established the Project's trail design guidelines and included the information required by this condition. Detail Sheet 3 stated the trail corridor width will range from 12 feet to 15 feet, with a trail bed width of 10 feet. It showed that the trail corridor will fall within the 15-foot trail easement to be provided to the County of Los Angeles Department of Parks and Recreation.

Detail Sheet 3 identified the maximum sustained running slope for trails used for mountain biking, hiking, and horseback riding as "15% with a maximum slope of 20% for stretches of trail less [than] 300 feet long." In addition, the sheet explains, "[t]he cross slope for equestrian trails should be 2%-5%."

For the physical conditions, Detail Sheet 3 provided diagrams of a typical paved trail section and a typical dirt trail section, which included details about the materials to be used—

decomposed granite pavement, split rail fence, and redwood header. A diagram also showed a typical drainage pipe under a multi-purpose trail. This drawing indicated where the trail, decomposed granite pavement, engineering fill, headers, concrete headwalls, and other items were to be situated when the trail was constructed. It additionally depicted a typical trail sign.

The trail fence material is specified as "PVC verity of white, split rail country fencing per Diamond Bar Country Estates Association's standard." The Notes for Detail Sheet 3 specify that, "[t]rail fence material shall be per Diamond Bar Country Estates Association's standards and requirements."

General maintenance of the project site was described in the Project's approved Irrigation Plan. The Maintenance Schedule called for weekly weeding of shrub and ground cover areas.

The Rough Grading Plans approved on April 28, 2016 and the Irrigation and Planting Plans approved on March 14, 2016 fulfilled all trail plan requirements. The rough grading plans were approved 5 days before the city council considered the Final Map on May 3, 2016. Substantial evidence shows the developer timely fulfilled this tentative tract map condition.

Inland Oversight argues that Detail Sheet 3 does not satisfy the trail plan condition because no one mentioned Detail Sheet 3 at a city council meeting where the trail plan issue was raised. At that meeting, the city manager did not identify Detail Sheet 3 by name but rather referenced a 2015 trail plan that was used to obtain an easement. However, the city manager's confusion over the two trail plans at a single city council meeting does not delegitimize the trail plan contained in Detail Sheet 3. Inland Oversight does not dispute that the plans submitted and

approved by the city provided all of the information required from the trail plan pursuant to the tentative tract map. Any misstatement in the city council meeting was at most harmless.

b. The Developer Negotiated Annexation With the Adjoining Homeowner's Association Prior to Final Map Approval

Inland Oversight argues the city violated the Map Act by approving the final map despite the developer's noncompliance with the tentative tract plan's condition that it negotiate annexation of the new subdivision into the adjacent home owner's association. That condition provided, in relevant part: "Prior to final map recordation or prior to grading permit issuance (whichever occurs first), the applicant shall negotiate to annex into 'The Country Estates' Homeowners Association."

The record contains substantial, uncontradicted evidence that the developer engaged in negotiations for a decade with the Country Estates' Homeowners Association. On February 25, 2016, the developer sent a letter to City staff summarizing its good faith annexation negotiations with the homeowners association. The letter documents that negotiations commenced in 2006. On November 1, 2007, an annexation agreement was signed by the homeowners association board, and the agreement was recorded and filed in Los Angeles County on January 31, 2008.

In 2012, a new board of the Country Estates Association repudiated the annexation agreement. The developer engaged in additional negotiations with the new board. In December of 2012, a new annexation agreement was drafted. In 2013, yet another new board of the Country Estates rejected the 2012 annexation agreement. The developer began negotiations anew

with the homeowners association; these discussions continued into 2014. From June to November of 2014, yet another annexation agreement was drafted and negotiations continued into 2015.

In September of 2015, the parties mediated the annexation issue. Another annexation agreement was prepared. Although the board initially decided to present the agreement to the homeowners for a vote, the board on its own subsequently rejected the new annexation agreement. Public comments at the city council hearing on the Final Map also expressly referred to these negotiations.

We conclude the February 6, 2016 letter to city staff documenting the lengthy negotiations constituted substantial evidence that the developer fulfilled its duty to negotiate annexation with the Country Estates Association. Without citation to authority, Inland Oversight asserts the developer's letter to the city documenting its negotiations was insufficient evidence of negotiations because the letter is self-serving. "Self-serving" is not an objection recognized by our Evidence Code. At most the trier of fact may consider that characterization in deciding what weight to be given to such evidence. "Modern courts have recognized that all evidence proffered by a party is intended to be self-serving in the sense of supporting the party's position, and it cannot be discounted on that basis." (*Oiye v. Fox* (2012) 211 Cal.App.4th 1036, 1050.) We reject Inland Oversight's contention.[4]

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[4] We also observe that in *Millennium Diamond Road Partners, LLC et al. v. Diamond Bar Country Estates et al.,* Los Angeles Superior Court case No. KC066717, the Los Angeles Superior Court concluded that the property had been annexed

c. The Right of Entry Condition Was Not a Prerequisite to Final Map Approval; In Any Event, It was Satisfied

Inland Oversight next contends that the developer failed to comply with the tentative map condition that: "Applicant shall submit document(s) from Diamond Bar Country Estates Association indicating the project will have proper/adequate right-of-entry to the subject site." Unlike most of the tentative tract map conditions, the required right of entry had no timeline. Inland Oversight nevertheless asserts that the developer was required to satisfy the right of entry condition before final map approval.

We do not agree with Inland Oversight that the right of entry documentation from the adjacent residential community, Diamond Bar Country Estates, was a condition precedent to final map approval. Where appropriate, the tentative tract map provided specific deadlines for the conditions it imposed. As a memorandum from the city manager to the mayor and city council explained: "the tentative tract map was approved by the city council on February 21, 2006, with conditions of approval that are required to be met at various stages of the project processing such as prior to final map approval, prior to permit issuance, and prior to final inspection." As an example, the tentative tract map stated the separate annexation condition we

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into the Country Estates Association in 2008, and that the developer was a full member of the Country Estates Association. This decision was issued in August 23, 2017. Even though the court's ruling was not made until after the city had approved the final map, the court's observation confirms that negotiations must have occurred and are no longer are necessary.

have discussed in part 3(c) must be fulfilled "[p]rior to final map recordation." Throughout the tentative tract map, the city had mandated deadlines and outlined timelines for completing the conditions but not in this situation. Nowhere in its appellate briefing does Inland Oversight point to a place in the record that proof of right of entry was a condition precedent to final map approval. The plain text of the tentative tract map simply does not require it. We will not read additional language into the tentative tract map conditions even though Inland Oversight suggests logic would have supported the term. "Where the developer has relied on a tentative map approval with conditions and has produced a final tract map which satisfies the conditions, he is entitled to acceptance and approval of that final map without the imposition of new or altered conditions by the local governing agency." (*South Central Coast Regional Com. v. Charles A. Pratt Construction Co.* (1982) 128 Cal.App.3d 830, 843.)

On the merits of right of entry approval, we conclude that a March 4, 2005 letter, sent 11 years before the final map was recorded from Country Estates Association General Manager Steve Sohus, satisfied the condition. That letter sent to the city, stated that Country Estates Association had reviewed the applicable title documents and confirmed that the developer's property had access rights. This letter was submitted to the city and kept on file with the access documents for the project. The 2005 letter satisfied the condition in question, which required the developer to "submit document(s) from Diamond Bar Country Estates Association indicating the project will have proper/adequate right-of-entry to the subject site."

Inland Oversight argues that this letter is insufficient to fulfill that condition because in a letter dated 10 years later, on September 16, 2015, and addressed to the city manager, Country Estates Association's then-General Manager, Daniel Chesworth, claimed that Mr. Sohus did not have authority to send the 2005 letter, and that it only represented "an opinion" on the access issue. That the board of the association later took the position the first general manager did not have authority to write the 2005 letter is not particularly germane to this condition. The actual language of the tract map is instructive on compliance. The 2005 letter constituted a document submitted by the developer that demonstrated "the project will have proper/adequate right-of-entry to the subject site." That the homeowner's association may have reneged on statements of its 2005 general manager does not undermine the developer's compliance with the condition.

d. The Developer Complied with the Mitigation Measures Related to Vegetation and Woodland Removal

Inland Oversight argues the city council should not be approved the final map because the developer failed to comply with the project's mitigation monitoring plan. Specifically, Inland Oversight asserts that the developer violated the EIR's biological mitigation measures one (sage scrub) and two (oak and walnut woodland) that respectively required:

1. "Prior to the issuance of a grading permit or the initiation of any activity involve[ing] the removal/ disturbance of coastal sage scrub habitat, the project applicant will develop a detailed coastal sage scrub mitigation plan and submit the plan to

the City of Diamond Bar for review and approval. Mitigation will include a combination of on-site and/or off-site preservation, enhancement, and/or restoration at no less than a 1:1 ratio."

2. "Prior to issuance of a grading permit or the initiation of any activity that involves the removal/disturbance of oak or walnut woodland habitat, the project applicant will develop a detailed oak and walnut woodland mitigation plan and submit the plan to the city for review and approval. Mitigation will include a combination of on-site and/or off-site preservation, and/or restoration at no less than a 1:1 ratio."

Inland Oversight argues that despite these adopted mitigation measures, the developer removed the coastal sage scrub and trees before the scrub and woodland mitigation plans were submitted and approved.

In response, respondents argue first that these mitigation measures were not tied to final map approval and thus were not relevant to the city's map approval. Respondents then argue that nevertheless the detailed coastal sage scrub and woodland mitigation plans were both submitted and approved prior to removal of vegetation.

We will assume for purposes of discussion that the creation of a mitigation monitoring plan was required before approval of the final map. Respondents satisfied these mitigation measures under both the EIR and tentative tract map. The EIR's mitigation monitoring plan specifically stated the developer must submit the mitigation plans to the city for review and approval

prior to issuance of a grading permit or the initiation of any activity involving removal or disturbance of the vegetation.

On January 10, 2008, the developer submitted to the city a draft coastal sage mitigation program and a draft oak and walnut woodland mitigation program to the city for review. As documented in a subsequent email from the city's community development director, the city reviewed the plans shortly thereafter and found compliance with the EIR's first two biological resource measures. On January 11, 2008, the city's planning division approved the developer's clear and grub (root removal) plan. The developer commenced clearing vegetation on January 16, 2008. These events are documented in a memorandum from the city's community development director to city council, and in emails sent from the developer's consultant to the city's development director. Inland Oversight's assertion that the mitigation plans were not approved until 2013 is simply contrary to the record, which shows that the city's community development director approved the mitigation measures at least as early as 2008.

Inland Oversight argues that the 2008 mitigation plans were insufficient because updated versions of these plans were submitted and approved in 2013 and 2014, respectively. Regardless of whether the plans were later updated, the fact remains that the mitigation plans were first submitted and approved in early January 2008 prior to any vegetation removal.

Inland Oversight argues that these plans were insufficient because they were captioned "draft." Yet, nothing in the EIR or tentative tract map required the mitigation plans to be final. In fact, the language of the EIR mitigation monitoring plan's biological measures one and two solely require submission of sage

scrub and woodland mitigation plans. The plain language of these provisions, quoted above does not require actual approval or some final approval by the city before the developer cleared vegetation or obtained a grading permit.[5]

In sum, substantial evidence shows that the vegetation removal activities took place after the developer had submitted the mitigation plans and after the city had approved them, in compliance with the mitigation monitoring plan and the tentative tract map conditions.[6]

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[5] Inland Oversight insinuates the city tried to hide the fact the land had been cleared before finalization of mitigation plans, stating in its brief: "the city sent a draft version of the [oak and walnut woodland mitigation] plan . . . to the County falsely representing that the vegetation at the Project site was going to be removed, as opposed to already being cleared." Inland Oversight mischaracterizes the record. The document at issue is a letter from a city representative to a county representative, stating that mitigation plans have been prepared by the developer. It does not indicate that the land had or had not been cleared by the date of the letter.

[6] Inland Oversight asserts that, separate from the developer's failure to comply with the final tract map mitigation measures, the city also violated CEQA. It argues the city approved the final map despite the developer's failure to comply with the EIR's mitigation measures for the vegetation and woodland removal. (*See Lincoln Place Tenants Assn. v. City of Los Angeles, supra,* 155 Cal.App.4th at p. 446 [Pursuant to CEQA, "mitigation measures are subject to monitoring and reporting to ensure the measures will be implemented. (Pub. Resources Code, § 21081.6, subd. (a).)"].) As we have explained in the text, the developer complied with these mitigation measures: the coastal sage scrub and the walnut and oak woodland

DISPOSITION

We affirm the judgment. We award costs to respondents defendant City of Diamond Bar and real parties in interest Millennium-Diamond Road Partners LLC and Hua Quing Enterprise LLC.

RUBIN, P. J.

WE CONCUR:

BAKER, J.

MOOR, J.

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mitigation plans were submitted prior to disturbing the vegetation and woodlands. Whether couched in terms of violating the tract map or CEQA, the record shows mitigation compliance.