



Item No: 1
Meeting Date: April 8, 2014

To: Planning Commission

Date: April 3, 2014

Authorized By: Ron Munekawa
Chief of Planning

By: Darcy Forsell, AICP
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Subject: PA 14-022 Bay Meadows Phase II Development Agreement 8th Annual Review,
2600 S. Delaware Street

RECOMMENDATION

That the Planning Commission:

Adopt Planning Commission Resolution No. 2014-2 (Exhibit A) Finding that Bay Meadows Main Track Investors LLC has complied in good faith with the terms of the Bay Meadows Phase II Development Agreement for the review period of December 21, 2012 to December 20, 2013.

BACKGROUND

The Bay Meadows Phase II Development Agreement was adopted by the City Council on November 7, 2005, dated November 21, and became effective on December 21, 2005. The Development Agreement requires the annual review of the Agreement and all actions taken pursuant to the Development Agreement. The Planning Commission is required to undertake this annual review and determine the good faith compliance by the Owner with the terms of the Agreement. This review is also required per City Council Resolution No. 120 (1990) - Establishing Procedures and Requirements for the Consideration of Development Agreements.

Two changes to the Development Agreement have been approved since its adoption in 2005. The first change in 2008 was a Memorandum of Technical Corrections, dated July 21, 2008 and recorded on July 22, 2008. This memorandum corrected the clerical error in the name of the owner, and confirmed the correct name of the Owner party to the agreement. It also corrected

the effective date of the agreement, which had been incorrectly filled in after-the-fact. The second change was a Minor Modification to the Development Agreement, dated November 21, 2011 and recorded on March 26, 2012. This document revised the provisions related to the proposed interim Community Park improvements and clarified the specific dates for certain defined terms in the Development Agreement. The City and the Owner started extensive discussions about the exact design and type of interim improvements in the park in 2011, resulting in the City Council approval and recordation of the Minor Modification. The adopted changes are included with the full Development Agreement in Attachment 1.

ANNUAL REVIEW OF DEVELOPMENT AGREEMENT

The Bay Meadows Phase II Owner (Bay Meadows Main Track Investors, LLC) "Owner" is required to submit a letter and additional documentation demonstrating good faith compliance with the terms and conditions of the Development Agreement no less than 30 days nor no more than 60 days prior to the anniversary of the effective date of the Agreement. A detailed matrix table (Attachment 2) was submitted to the City for the period of the eighth year of the Development Agreement (December 21, 2012 to December 20, 2013). The matrix, which is organized by timing, lists the following information:

- Development Agreement requirement and section number;
- Requirement trigger;
- Requirement status; and
- Requirement due date.

This matrix demonstrates that the Owner has complied with all applicable requirements of the Development Agreement for the review period of December 21, 2012 to December 20, 2013. These include:

- The Owner recorded an offer of dedication for the one acre affordable housing site located on Block MU 1 adjacent to Nueva School on January 15, 2013. The related required affordability covenant was also recorded pursuant to Development Agreement Section 5.12 (b), which requires the one acre site to be developed with affordable housing.
- The Owner made a payment of \$250,000 for traffic calming in January 2013.
- Building permit plans for the green building demonstration project, a 108-unit apartment complex on RES 1, were issued in 2013. The Development Agreement requires at least one residential building in the project to be constructed in a manner that will achieve a LEED Silver certification, or its equivalent.
- The City Council accepted several streets on February 4, 2013 which are open to the public to provide access to the project, including Delaware Street north of E. 28th Avenue, E. 28th Avenue, Paddock Way and portions of Baze Road. Franklin Extension was accepted by the City on April 15, 2013. The City accepted the remainder of Baze Road, Kyne Street, Landing Avenue, and Franklin Parkway on May 6, 2013.

- The City Council accepted the Owner's offer of dedication for the Bay Meadows Neighborhood Park "Paddock Park" at their meeting of June 3, 2013. The Irrevocable Offer to Dedicate was recorded on May 15, 2012.
- The City Council accepted the Owner's offer of dedication for the Bay Meadows Community Park at their meeting of August 19, 2013. The Irrevocable Offer to Dedicate was recorded on May 15, 2012.
- Maintenance by the Owner of all landscaping, medians and open space (except for the 15 acres of public parks) has commenced on the streets that were accepted by the City in 2013.
- Below Market Rate Housing Unit Agreements were executed in 2013 between the City and two of the three residential developers currently building on the site (Bay Meadows RES 1 Investors and Tri Pointe Homes). These builders are setting aside 10 percent of their units as BMR units consistent with the Development Agreement requirements.

CONSTRUCTION STATUS

Infrastructure construction consisting of the installation of new public streets, related utilities and street trees and lights commenced in September 2009 and was recently completed. Not all of the accepted streets are open to the public at this time because there is no public access needed in this area. Attachment 3 shows a map of the public streets that have been accepted by the City, with the final phase 3 area identified. These streets are anticipated to be accepted by the City soon.

Vertical construction on the project site is underway with townhomes on block RES 3 and RES 5 being built by TRI Pointe Homes and Shea Homes. Occupancy of the first townhome units on RES 3 occurred in the summer of 2013. Additionally, Nueva School is under construction on block MU 1 and is anticipated to be open for students in summer 2014. A 108-unit apartment complex on RES 1 called "Field House" is underway and is anticipated to be completed by the end of 2014. Some building permits for townhome units on RES 5, also being built by TRI Pointe Homes, have been issued with more permits currently under review. Additionally, permits are under review for construction of townhomes on block RES 2 by Shea Homes.

The Neighborhood Construction Update Newsletter (January 2014) has been included as Attachment 4 with additional information and photographs of the current construction status on the project site. A map showing the current phasing of construction is included as Attachment 5. Additional construction information is available on the project website at www.baymeadows.com.

FINDING OF COMPLIANCE

The Development Agreement requires the Planning Commission to determine the good faith compliance by the Owner with the terms of the Development Agreement, in accordance with the provisions of the Development Agreement Article 6.3, Section 8 (a) of the Development

Agreement Resolution and Government Code Section 65865.1. A Resolution (Exhibit A) was prepared for adoption to formally find that Bay Meadows Main Track Investors LLC has complied in good faith with the terms of the Bay Meadows Phase II Development Agreement for the review period of December 21, 2012 to December 20, 2013.

ENVIRONMENTAL REVIEW

In accordance with CEQA Guidelines section 15378, this development agreement review is not a project subject to CEQA in that it will not have a significant effect on the environment.

NOTICE PROVIDED

In accordance with City Council Resolution No. 120 (1990) - Establishing Procedures and Requirements for the Consideration of Development Agreements, Government Code section 65091 and the City's Municipal Code noticing requirements, this hearing was noticed to the following parties ten days in advance:

- Property owners, residential tenants and business tenants within 500 feet of the project site;
- The City's "900 List" which contains nearly 100 Homeowner Associations, Neighborhood Associations, local utilities, media, and other organizations interested in citywide planning projects;
- The City's "Notify Me" email distribution list titled "Planning - Master Planning Notice List"; and,
- The interested parties list for the planning application.

EXHIBITS

- A. Resolution No. 2014-2

ATTACHMENTS

1. Bay Meadows Phase II Development Agreement with Amendments
2. Bay Meadows Phase II Development Agreement Annual Review Matrix
3. Map with Roadway Acceptance Locations and Dates
4. Neighborhood Construction Update Newsletter, January 2014
5. Bay Meadows Phase II Approved Program with Construction Information

CC (AR and attachments (hardcopy) via USPS First Class Mail)

Genelle Osendorf, Wilson Meany
Amy Forbes, Gibson, Dunn & Crutcher LLP
Janice Thatcher, Wilson Meany
Larry Patterson, City Manager
Patrice Olds, City Clerk
Gary Heap, Senior Engineer