

**HERCULES PLANNING COMMISSION
RESOLUTION NO. 24-01**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERCULES RECOMMENDING THAT THE CITY COUNCIL APPROVE ADOPTION OF AMENDMENT #4 TO EXTEND THE TERM OF THE DEVELOPMENT AND OWNER PARTICIPATION AGREEMENT (DOPA 07-01) BY AND BETWEEN THE CITY OF HERCULES AND THE SANTA CLARA VALLEY HOUSING GROUP, INC. AND TO EXTEND THE EXPIRATION DATE OF THE VESTING TENTATIVE MAP NO. 9533 FOR THE HILL TOWN PROJECT

WHEREAS, The City and the Santa Clara Valley Housing Group (“Owner”) are Parties to that certain Development and Owner Participation Agreement (“Development Agreement”) adopted by ordinance of the City Council on or about September 23, 2008, with respect to the development of approximately 44 acres of certain real property located in the City of Hercules, California; and

WHEREAS, the Development Agreement addresses, among other things, the potential development of up to 640 residential dwelling units, a neighborhood retail facility, a series of public and private open space amenities, and a network of new roadways (the “Project”) in accordance with all required project approvals; and

WHEREAS, the Development Agreement was revised by City Council’s approval on May 8, 2018 of Amendment #1 making certain amendments to the 2008 Hill Town Development Agreement, including but not limited to removal of the Redevelopment Agency as a party to the agreement and an extension of the term of the Agreement; and

WHEREAS, the Development Agreement was further revised by City Council’s approval on January 8, 2019 of Amendment #2 making further modifications of timelines; and

WHEREAS, the Development Agreement was revised by City Council’s approval on December 10, 2019 of Amendment #3 by modifying the land use term of the agreement, creating a payment date for the remaining Environmental Impact Report funds and providing clarification of the affordable housing timing; and

WHEREAS, City and Owner desire to further amend certain provisions of the Development Agreement as described in this Amendment No. 4, including but not limited to the term of the Development Agreement as stated therein; and

WHEREAS, the Hill Town Vesting Tentative Map #9533 was approved by the City Council on April 14, 2020; and

WHEREAS, the Owner provided financial documentation of off-site public improvements, allowing an administrative extension of the Vesting Tentative Map #9533, thus modifying the expiration date until April 14, 2024; and

WHEREAS, California Government Code 66452.6(a) allows a Vesting Tentative Map on property that is subject to a development agreement to be extended for the period of time provided for in the agreement, but not beyond the duration of the agreement; and

WHEREAS, the Owner has requested that the approval timeframe of both the Development Agreement and Vesting Tentative Map #9533 be extended for five (5) years, until April 14, 2029; and

WHEREAS, based on the facts and evidence set forth in the entire record for this proceeding, including but not limited to the staff report prepared for this project, the Planning Commission finds, after due study, deliberation, and public hearing, that the following circumstances exist with regard to the request to extend the expiration date of the Development Agreement and Vesting Tentative Map #9533 to April 14, 2029:

- a. That the proposed modification of the Development Agreement expiration date is consistent with the objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan because the extension of the expiration date does not alter Hill Town's compliance with the original approvals and with applicable provisions of the General Plan;
- b. That the proposed modification of the Development Agreement expiration date is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located because the extension of the expiration date does not modify the previously approved uses, thereby allowing the Hill Town project to remain compatible with applicable uses and regulations;
- c. That the proposed modification of the Development Agreement expiration date is in conformity with public convenience, general welfare and good land use practice because the extension of the expiration date does not modify the original approvals for the Hill Town project, therefore the project continues to be in conformity with public convenience, general welfare and good land use practice;
- d. That the proposed modification of the Development Agreement expiration date will not be detrimental to the health, safety and general welfare because the modification of the expiration date will not result in physical modifications to the site or to the approved design, therefore health, safety and general welfare will be maintained;
- e. That the proposed modification of the Development Agreement expiration date will not adversely affect the orderly development of property or the preservation of property values because the extension of the expiration date will allow an additional five (5) years to start construction per the adopted plan and consistent with the original approvals;
- f. That the extension of the expiration date of the Vesting Tentative Map #9533 will not be inconsistent with the Hercules General Plan and applicable specific plans, Zoning Ordinance or other Code provisions because the extension of the expiration date does not alter the original compliance with the General Plan objectives, policies and general land uses. Further, there are no specific plans applicable to the Hill Town development and compliance with the Zoning Ordinance and other applicable Municipal Code provisions were also confirmed through the original approvals; and

WHEREAS, the Planning Commission did hold a properly noticed public hearing on March 4, 2024 to consider owner's application to amend the Development Agreement and the expiration date of the Vesting Tentative Map #9533, and did hear and use its independent judgment to consider said application, reports, recommendations, and related testimony.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Hercules recommends that the City Council:

1. The foregoing recitals are true and correct and made a part of this Resolution.

2. The Planning Commission, based on its independent judgment and analysis, after due study, deliberation and public hearing, finds and determines that the proposed fourth amendment to the Development Agreement contained in Attachment 2B and the Vesting Tentative Map #9533 to this Resolution is in the public interest, is in conformance with the requirements of state law (Government Code Section 65864 *et seq.*) and the City's municipal code (Title 10, Chapter 8).
3. Find that the draft ordinance (Attachment 2A hereto) is Categorically Exempt from CEQA pursuant to Section 15061(b)(3) of the California Environmental Quality Act Guidelines. This Exemption is known as the "Common Sense Exemption" that CEQA applies only to projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, therefore the activity is not subject to CEQA.

BE IT FURTHER RESOLVED: The Planning Commission recommends that the City Council approve the proposed fourth amendment to the Development Agreement as specified in Attachment 2B to this Resolution, attached hereto and incorporated by reference herein.


PASSED AND ADOPTED by the Planning Commission of the City of Hercules on this 4th day of March 2024, by the following vote:


AYES: Morrison, Rubio, Schaufenbil and Most-Walker

NOES: None

ABSTAIN: None

ABSENT: Bhattarai

DocuSigned by:

3A25AB5080A44A3...
Robert Schaufenbil, Chair

ATTEST: DocuSigned by:

93C0BDCF0850444...
Timothy Rood, AICP
Community Development Director

Attachment 2A: Draft Ordinance
Attachment 2B: Draft DOPA