



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of August 14, 2018

TO: Members of the City Council

SUBMITTED BY: David Biggs, City Manager

SUBJECT: Possible Six Month Extension to Performance Deadlines under the Hilltown Development Agreement

RECOMMENDED ACTION: Receive Report, Discuss, and Provide Direction, including Whether to Direct the City Manager and City Attorney to prepare an Extension to Performance Deadlines in the Development Agreement Amendment dated April 24, 2018.

FISCAL IMPACT OF RECOMMENDATION: There is no direct fiscal impact as a result of this item. There may be some delay in the start of revenues from the current scope of development should an extension be granted, although the possible revised scope of development to be considered during the extension period would generate substantially more public revenues (\$1,000,000 or more in sales tax annually) than the current scope.

DISCUSSION: On May 8, 2018, the City Council approved an Amendment to the Development Agreement (Attachment 1) with Santa Clara Valley Housing Group, Inc. ("SCVH"), for a planned 640 unit residential community with 4,000 of retail/commercial space. The main provision amended related to an extension of time with performance deadline incorporated in Sections 2.2.1 and Section 2.2.2. Since that time, SCVH has been pursuing the development of their final Planned Development Plan design drawings and application materials for the residential community for submittal later this fall consistent with the deadlines established.

In July, the City was contacted by the Bay Area Broker for a big box retailer about their interest in the Hilltown site for a new store.¹ The Broker was referred to SCVH, and discussions have occurred between the parties. SCVH has confirmed with staff that the big box retailer has an interest in the site, based on preliminary discussions and a site visit by retailer. SCVH has a strong interest in pursuing the possibility of entering into an agreement that would allow the big box retailer to acquire the site for the purpose of building a new big box retail center in Hercules. SCVH has indicated to staff that the retailer may be providing a Letter of Intent ("LOI") in order to formalize their negotiations in anticipation of reaching an agreement.

¹ The name of the retailer is being withheld, pending a meeting between City Manager Biggs and the retailer that will allow city staff to assess the proposal. The meeting has been scheduled but has not taken place as of the date this staff report was prepared; more information should be available at the August 14th council meeting..

SCVH has recently met with staff to discuss the possibility of amending their proposed scope of development to include a big box retailer. In the meantime, the developer has requested a six month extension to the performance deadlines under the Amended Development Agreement to allow for the retail option to be fully vetted and formalized. The extension would allow SCVH to delay incurring significant costs associated with completing their residential community entitlement application which, if the retail option were to work out, would be an unnecessary expense.

City staff is scheduled to meet with the Developer, Broker, and big box retailer principals on August 14th, at which time we expect to be able to validate the retailer's interest in the site, including confirming whether a LOI between the Developer and retailer is forthcoming.

CONCLUSION:

A big box retail store at the Hilltown site would generate significant positive ongoing revenue for the City. If Council directs staff to proceed, the City Manager and City Attorney will work with the developer to extend the Performance Deadlines in the Development Agreement to afford SCVH additional time to assess the big box retail proposal. The extension may require further Council action; should Council direct staff to proceed with preparing an extension, the City Attorney will provide advice regarding the legal requirements for implementing an extension.

ATTACHMENTS:

1. Development Agreement Amendment dates April 24, 2018

<i>Financial Impact</i>			
Description:			
Funding Source:			
Budget Recap:			
Total Estimated cost:	\$	New Revenue:	\$
Amount Budgeted:	\$	Lost Revenue:	\$
New funding required:	\$	New Personnel:	\$
Council Policy Change: Yes <input type="checkbox"/> No <input type="checkbox"/>			