



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of November 12, 2019

TO: Members of the City Council

SUBMITTED BY: David Biggs, City Manager
Patrick Tang, City Attorney

SUBJECT: Amendment# 3 to 2008 Hilltown Development and Owner Participation Agreement (“Development Agreement”) with Santa Clara Valley Housing Group (SCVHG) to Extend Key Performance Dates and Correct Reference to Affordable Housing.

RECOMMENDATION: Receive staff report, Open, Conduct, and Close Public Hearing, and take the following actions:

Waive the First Reading and introduce an Ordinance (Attachment 1) of the City Council of the City of Hercules approving amendments to the Hilltown development agreement to extend key performance dates, and to correct reference to affordable housing.

COMMISSION/SUBCOMMITTEE ACTION AND RECOMMENDATION: On October 21, 2019, the Planning Commission approved Resolution 19-11 to recommend to the City Council the approval of the proposed amendments to the Development Agreement (Attachment 2).

FISCAL IMPACT OF RECOMMENDATION: None as a result of this action.

DISCUSSION: The City Council previously approved two amendments to the original Development Agreement (DA) for the Hilltown site on May 8, 2018, through Ordinance 509, and January 8, 2019, through Ordinance 516 respectively. The current Amendment #2 provided automatic extensions to the Development Agreement pending the performance of several components. The first component was having a “complete application for a tentative map” for the project, which the Planning Department deemed complete on August 29, 2019. The developer also paid their first installment of \$50,000 on August 29, 2019 for prior CEQA work done, with the second payment due on or before in January 10, 2020.

As of August, 2019, there were still a few outstanding items on the applicant’s Design Review application; a newly submitted set is now under review by staff, and the Planning Commission conducted an initial design review workshop on October 21, 2019. The Planning Department has also embarked on the environmental background reports for the project, which were delayed due to

complications amending the required consultant contracts. Subsequently the draft timeline does not show the CEQA documents being complete until January 2020, which means the earliest date for a Planning Commission formal public hearing would be February, 2020.

Given the project's complexities and the multiple project related applications being processed, there is a need to modify and extend the deadline by which final entitlements are obtained, including City Council approval, to June 30, 2020.

Additionally, it was identified that the Affordable Housing section of the agreement needed to be modified to remove the reference to an Affordable Housing Plan contained in Exhibit G, because an Exhibit G was never included as a part of the DA. An Affordable Housing Plan will now be required prior to the issuance of the building permits for the first residential units. Both modifications are reflected in the attached Amendment #3 to the DA (Attachment 2).

Under the Original DA and the City's Municipal Code Title 10, Chapter 8, amendments to the term of the Development Agreement are considered a major amendment and therefore require a public hearing review by the Planning Commission with a written recommendation to Council, followed by a public hearing before the City Council and consideration of an Ordinance. The Planning Commission conducted their required review on October 21, 2019 (see Planning Commission Resolution 19-11, Attachment 3).

ATTACHMENTS:

Attachment 1 – Draft Ordinance

Attachment 2 – Development Agreement Amendment #3

Attachment 3 – Planning Commission Resolution 19-11