



CITY OF SAN MATEO

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Agenda Report

Agenda Number: 1

Section Name: {{section.name}}

Account Number:

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TO: Planning Commission
FROM: Christina Horrisberger, Director
PREPARED BY: Community Development Department
MEETING DATE: June 27, 2023

SUBJECT:

Concar Passage Mixed-Use Project - Vesting Tentative Map and Development Agreement Execution Extension Request (PA-2023-033)

RECOMMENDATION:

Recommend to City Council adoption of a Resolution to approve a two-year extension of an approved Vesting Tentative Map and an Ordinance for a two-year extension to execute the Development Agreement for the Concar Passage Mixed-Use Project located at 640, 666, 678, 690 Concar Drive; 1820, 1850 S. Grant Street; and 1855 S. Delaware Street in accordance with Government Code Section 66452.6(e) and San Mateo Municipal Code Sections 26.48.135(c) and 27.08.085(d).

BACKGROUND:

On August 17, 2020, the City Council adopted Resolution Number 94 (2020), approving Planning Application PA-2018-052, which included a Site Plan and Architectural Review (SPAR), Site Development Planning Application (SDPA), and Vesting Tentative Map to construct 961 residential units, 73 of which are designated affordable at the very-low income level, 40,000 square feet of commercial space, on-site parking, publicly accessible open space, and associated infrastructure improvements on the existing 14.5-acre site, which is currently developed as a shopping center. The approval included adoption of the Environmental Impact Report for the Rail Corridor Plan as revised by the Supplemental Environmental Impact Report. The applicant requested a Development Agreement with the City, and the parties memorialized the terms and conditions in a Development Agreement that was never executed, as further explained below.

The Vesting Tentative Map was subject to expiration on August 17, 2022. However, the applicant requested a one-year extension; and on July 26, 2022, the Zoning Administrator approved PA-2022-042 ([Attachment 3](#)), extending the previously approved Vesting Tentative Map and all other associated Planning Application approvals for PA-2018-052 for one year in accordance with Government Code Section 66452.6(e) and San Mateo Municipal Code (SMMC) Sections 26.148.135(b) and 27.08.085(d). The Zoning Administrator approval did not authorize any changes to either the Vesting Tentative Map or the approved project. With this approval, the Vesting Tentative Map now expires on August 17, 2023.

On May 30, 2023, the Applicant submitted a letter requesting an extension of the previously extended Vesting Tentative Map and Development Agreement for the Concar Passage Mixed-Use Project (PA-2018-052) for a period of two years. This request was supplemented with additional information to support the extension request on June 15, 2023. Both letters are included in [Attachment 4](#).

Ordinance 2020-13, the Concar Passage Development Agreement (Exhibit A in [Attachment 2](#)), provides that the Applicant must execute the Development Agreement by September 30, 2023, with the term of said agreement being 12 years from the date of execution. The Applicant has not yet obtained property rights to all of the subject properties. The Applicant must secure property rights prior to execution of the Development Agreement, and therefore desires to extend the

deadline for execution by two years to September 30, 2025. The Applicant is not requesting an extension of the overall term of the Development Agreement. As a result, Article I, Paragraph B, would also be modified to reduce the term from 12 years to 10 years.

Site Description

The project site is located on Concar Drive, between South Grant Street and South Delaware Street ([Attachment 5](#)), and is approximately 14.5 acres in area and consists of eight parcels ([Attachment 6](#)). It is zoned TOD (Transit Oriented Development) and is currently occupied by Concar Shopping Center consisting of approximately 165,000 square feet of commercial development with tenants including Trader Joe's, Ross Dress for Less, 7-Eleven, Peninsula Ballet Theatre, The Pantry, T.J. Maxx, and Shane Co. The western boundary of the site is approximately 0.3 miles from the Hayward Park CalTrain station, placing it within the Hayward Park Station Overlay Zone of the Rail Corridor Transit Oriented Development Plan (Rail Corridor Plan).

Project Description

The approved project (PA-2018-052) consists of a proposed mixed-use development consisting of 961 residential units, 73 of which are designated affordable at the very-low income level; 40,000 square-feet of commercial uses; on-site parking; publicly accessible open space; and infrastructure improvements on the 14.5-acre shopping center site. The Vesting Tentative Map would reconfigure the existing eight parcels into six ([Attachment 7](#)) in a new configuration which aligns with the proposed building footprints and phasing schedule. Proposed commercial uses include Trader Joe's, Peninsula Ballet Theatre, 7-Eleven, a food hall, a daycare facility, and other retail and restaurant uses. The City Council approved the project on August 17, 2020 (Resolution No. 94 (2020)).

Applicable Code and Policy Review

Subdivision Code

SMMC Section 26.48.135 provides for the expiration and extension of tentative maps. Subsection 26.48.135(b) provides for extensions in accordance with Government Code Section 66452.6(e) for up to three two-year extensions. To date, the applicant has received approval for one one-year extension, and is therefore eligible for the requested two-year extension.

Zoning Code

SMMC Section 27.08.085 provides for planning approval expiration. Subsection 27.08.85(d) states that, "Projects with associated subdivision maps that remain in effect or have been extended by mandate of the state Subdivision Map Act or SMMC Section 26.48.135, 26.48.140, or 26.56.087" are exceptions to the two-year expiration from the date of final approval, and "those planning approvals remain effective for the term of the subdivision map approval, if required by State law."

California Government Code

Government Code Section 66452.6(e) states that, "Upon application of the subdivider filed before the expiration of the approved or conditionally approved tentative map, the time at which the map expires pursuant to subdivision (a) may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of six years. The period of extension specified in this subdivision shall be in addition to the period of time provided by subdivision (a). Before the expiration of an approved or conditionally approved tentative map, upon an application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension."

The effect of this code section is to grant an automatic extension of 60 days, in this case from August 17, 2023, to October 16, 2023, or until the extension request is approved.

Development Agreement Execution Extension Request

The development agreement approved by City Council (Exhibit A in [Attachment 2](#)) on August 17, 2020, secured project entitlements and vesting rights for a period of 12 years along with an obligation to include 73 very-low income units in the

project and contribute \$7,500,000 toward traffic improvements. Other community benefits contained in the agreement include a transportation hub, daycare facility, and community theater. California Government Code Section 65868.5 requires that development agreements be recorded within 10 days of entering into the agreement. In order for the agreement to be executed, all parties must have signing authority. To date the Applicant has not acquired the entirety of the real property subject to the agreement. At the time of the August 17, 2020 public hearing before City Council, the Applicant stated that they anticipated acquiring the property within three years of that date. As a result, a deadline of September 30, 2023 for execution of the development agreement was included.

As outlined in the extension request letters ([Attachment 4](#)), the anticipated timeline for acquiring the properties and obtaining signing authority has not been met, so the Applicant is seeking an additional two years to secure property rights and subsequently execute the development agreement. Along with the two-year extension to execute, there would be an amendment to adjust the term from 12 to 10 years to maintain the overall term of the agreement, which concludes in 2035. No other changes to the development agreement are being requested. The original development agreement was approved by ordinance, and an ordinance amendment is required to make the requested changes.

BUDGET IMPACT:

There are no direct fiscal implications to the City's General Fund associated with this request.

PUBLIC COMMENTS:

No public comments were received prior to the publication of this report. Public comments submitted after publication of this report will be forwarded to the Planning Commission for review and consideration at the public hearing and posted to this item on the City's Agendas & Minutes Public Meeting Portal as "Post Packet Public Comments."

ENVIRONMENTAL DETERMINATION:

This project received prior CEQA clearance, and a Final Supplemental Environmental Impact Report for the PA-2018-052 was certified by the City Council on August 17, 2020. Staff has determined that pursuant to CEQA Guidelines Section 15162, *Subsequent EIRs and Negative Declarations*, PA-2023-033 requires no further environmental review, as there have been no changes to the environmental character of the project site or the surrounding areas since the project (PA-2018-052, Concar Passage Mixed-Use Project) was originally approved by City Council on August 17, 2020.

NOTICE PROVIDED

All meeting noticing requirements were met. In accordance with Government Code Section 65091 and the City's Municipal Code public noticing requirements, this public hearing was noticed to the following parties at least ten (10) days in advance of the Planning Commission meeting:

- Property owners, residential tenants and business tenants within 1,000 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 Planning "Notify Me" email list; and
- The interested parties list which includes interested individuals who contacted the city and requested to be added to the project notification list.

ATTACHMENTS

Att 1 – Resolution with Findings

Att 2 – Draft Ordinance and Development Agreement

Att 3 – Zoning Administrator Decision Letter (PA-2022-042)

Att 4 – Applicant Extension Request and Supplemental Information Letter

Att 5 – Location Map

Att 6 – Existing Conditions

Att 7 – Final Parcel Configuration

STAFF CONTACT

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