



# CITY OF SAN MATEO

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## Agenda Report

Agenda Number: 26

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**TO:** City Council  
**FROM:** Christina Horrisberger, Interim City Manager  
**PREPARED BY:** Community Development Department  
**MEETING DATE:** July 17, 2023

**SUBJECT:**

Concar Passage Mixed-Use Project - Vesting Tentative Map and Development Agreement Execution Extension Request – Ordinance Introduction

**RECOMMENDATION:**

Adopt a Resolution to approve a two-year extension of an approved Vesting Tentative Map and all other associated planning application approvals and a modification of Condition of Approval #61; and introduce 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(b), 26.48.140(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 a Supplemental Environmental Impact Report (EIR) to the Rail Corridor Transit Oriented Development Plan EIR. The Applicant, California Coastal Properties, requested a Development Agreement with the City, and the parties memorialized the terms and conditions in a Development Agreement, which was never executed, as further explained below. It should be noted that the project was granted all necessary Planning Application approvals and that it could proceed without the Development Agreement.

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 26.48.140(c), 26.48.135(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. Further, on July 11, 2023, the Applicant submitted a request to amend Condition of Approval #61 for consistency with both the Vesting Tentative Map and Development Agreement extensions. All three letters are included in Attachment 4.

The proposed revised Condition of Approval #61 (Exhibit A in Attachment 1) would extend the deadline for entering into

the negotiated development agreement from three to five years before requiring that the Applicant pay \$2.2 million to the City for its fair share of necessary traffic improvements. The revised condition of approval also includes an annual cost adjustment beginning August 17, 2023 (the current date of the Vesting Tentative Map expiration) to offset the effect of rising construction costs on the value of the fair share contribution.

The approved 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. These two amendments to the Concar Passage Development Agreement are shown in redline in Exhibit A of Attachment 2.

### **Site Description**

The project site is located on Concar Drive, between South Grant Street and South Delaware Street and is approximately 14.5 acres and consists of eight parcels as shown on a location map in Attachment 5. The site 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 extension requests are related to the approved Concar Passage Mixed-Use Project (PA-2018-052) for 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 in a new configuration, which aligns with the proposed building footprints and phasing schedule. The existing conditions and proposed conditions are shown in Attachment 6 and Attachment 7 respectively. Proposed commercial uses include Trader Joe's, Peninsula Ballet Theatre, 7-Eleven, a food hall, a daycare facility, and other retail and restaurant uses. Project approval was granted by the City Council on August 17, 2020 through Resolution Number 94 (2020).

### **Applicable Code and Policy Review**

#### Subdivision Code

SMMC Section 26.48.135 provides for the expiration and extension of tentative maps and Section 24.48.140 relates to vesting tentative maps. Subsection 26.48.135(b) provides for extensions of tentative maps 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

The Zoning Code provides for the extension of project entitlements when associated subdivision maps are extended. SMMC Section 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 Extension Request

The original Development Agreement, which was approved by City Council 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 a contribution of \$7,500,000 toward traffic improvements. Other community benefits contained in the Development Agreement include construction and maintenance of a public mobility hub for public and private transportation services, construction of a daycare facility with outdoor play area with the space reserved for day care operations for the life of the project, and construction of a community performance theater reserved for community theater use for the life of the project unless a different use is approved pursuant to a subsequent planning application. In addition, pedestrian and bike improvements must be constructed, and publicly accessible parks and public spaces must be constructed and maintained as depicted in the project plans.

California Government Code Section 65868.5 requires that Development Agreements be recorded within 10 days of entering into the Agreement. In order for the Development Agreement to be executed, all parties must have signing authority. To date, the Applicant has not acquired the necessary signing authority from the current property owners or property rights. 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 resulting in the Applicant 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 original 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. The Draft Ordinance is included as Attachment 2 and the Development Agreement amendments are included as Exhibit A.

#### **Planning Commission Recommendation**

The Planning Commission held a noticed public hearing on June 27, 2023 to review the extension requests for the Vesting Tentative Map and Development Agreement and provide a recommendation to the City Council. There were no public comments during the meeting. Following Planning Commissioner questions about the Applicant's purpose behind the request and a discussion, which included implications of not approving the extension request, the Commission also discussed why granting the extension is in the best interest of the project and the City because of the associated community benefits. The Commission voted unanimously (5-0) to adopt a resolution recommending extension of the Vesting Tentative Map and recommending adoption of an Ordinance to amend the Development Agreement.

#### **BUDGET IMPACT:**

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

#### **PUBLIC COMMENTS:**

A public comment received prior to the publication of this report is included in Attachment 8. This public comment included questions regarding a prior gasoline station that occupied the project site and not on the extension requests

being considered at this public hearing. Public comments submitted after publication of this report will be forwarded to the City Council 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. 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 City Council 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 – Proposed Resolution

Att 2 – Draft Ordinance

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

Att 8 – Public Comments

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