



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning &
Development
Department No.: 053
For Agenda Of: March 12, 2024
Placement: Departmental
Estimated Time: 1.5 hours
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Lisa Plowman, Director, Planning and Development
Director(s) (805) 568-2086
Contact Info: Travis Seawards, Deputy Director, Planning and Development
(805) 568-2518

SUBJECT: **Hearing to Consider the Key Site H Development Agreement, Case No. 23ORD-00004**

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

On March 12, 2024, to follow the recommendations of the County Planning Commission, your Board's action would include the following:

- a) Receive and file the County Planning Commission's recommendation to approve the Key Site H Development Agreement project (23ORD-00004, Attachment 3);
- b) Approve the introduction (first reading) of an Ordinance approving the Key Site H Development Agreement (23ORD-00004; Attachment 3);
- c) Read the title of the Ordinance into the record and waive full reading of the Ordinance; and
- d) Set a hearing for the Administrative Agenda of March 19, 2024, to consider recommendations, as follows:
 - i. Make the required findings for approval of the project, Case No. 23ORD-00004, including CEQA findings, as specified in Attachment 1, Findings for Approval.

- ii. Determine that the ninety-nine (99) unit multifamily residential development project as described in the Development Agreement, including Exhibit B (Example Project Plans Implementing Development Agreement Provisions), is exempt from CEQA pursuant to State CEQA Guidelines Section 15194, Affordable Housing Exemption, and Public Resource Code Section 21159.23, Low Income Housing, as specified in Attachment 2, CEQA Notice of Exemption; and
- iii. Approve the adoption (second reading) of an Ordinance approving the Key Site H Development Agreement (23ORD-00004, Attachment 3).

Summary Text:

The proposed Key Site H Development Agreement project is the result of discussions between the project applicant and Planning & Development to establish provisions for a future 99-unit 100% affordable project that is compatible with the neighborhood. The Developer has an approved entitlement for a 61-unit affordable multi-family development in a single three-story structure under the provisions of Senate Bill 35 (Case No. 21ZCI-00000-00232), which established a by-right administrative approval process for qualifying projects. The goal of the Development Agreement was to establish a future permitting path for an alternative project with increased setbacks from existing residential development on Hilltop Road, development divided between multiple structures, two-story development along Foster Road, parking away from the Foster Road frontage, improvements to the existing trail, and development over the site rather than clustering it in a single three-story structure on the south half of the property. Analysis of these provisions is included in Sections 6.2 and 6.3 of the Planning Commission staff report included as Attachment 5, and the Development Agreement is included in Attachment 3.

The County Planning Commission (PC) heard the Key Site H Development Agreement project on January 10, 2024. At that hearing, the PC recommended 5-0 that the Board approve and adopt an ordinance (Attachment 3), thereby approving a new Development Agreement, inclusive of granting an additional 37-unit density bonus for a maximum of 99 units on the 4.15-acre parcel.

Project Description:

The Developer proposes a Development Agreement (Exhibit to Attachment 3) for a future maximum 99-unit Multi-Family Development (inclusive of State Density Bonus). The Development Agreement encompassed by Case No. 23ORD-00004 is not an application for development; future entitlements are required in accordance with the contents of the Development Agreement.

The Development Agreement requires the following components for future development:

- 97 units shall be affordable units available for rent, with the two remaining units reserved for manager use. The Developer shall record an affordable housing agreement in a form acceptable to the County that assures that the dwellings are occupied by, and remain affordable to, low income persons having incomes not exceeding 80% of area median income adjusted for family size, as defined by Section 50079.5 of the Health and Safety Code and in accordance with this Development Agreement for a minimum period of 55 years.

- The Developer is required to demonstrate compliance with the County's Multiple Unit and Mixed-Use Housing Objective Design Standards. No Board of Architectural Review will be required in accordance with LUDC Chapter 35.33.
- The height of the future project will be no more than a typical 2- or 3- story standard design, and no more than 2 stories shall be permitted along Foster Road. Pursuant to LUDC Subsection 35.23.060.D.2.a, a 40-foot height limit from existing grade applies, though the LUDC also contains some height exceptions for architectural features and equipment pursuant to Subsection 35.30.090.D. The applicant may also request a waiver or concession in accordance with State Density Bonus Law for height in excess of LUDC requirements.
- Structural development will include four multi-family housing buildings with studios, 1-bedroom units, 2-bedroom units, and 3-bedroom units, in addition to residential accessory structures such as pergolas and a playground structure. Approximately half of the units will be studio or one-bedroom, and half will be two- or three-bedroom. The building footprint for the four multi-family structures will not exceed 45,000 sq. ft. in total, and gross floor area for the four multi-family structures will not exceed 120,000 sq. ft. in total
- On the westerly portion of the site directly adjacent to the homes along Hilltop Road, a buffer measuring a minimum of 30 feet shall exist along the entire side. This buffer area may be utilized for roads or parking, in compliance with applicable objective standards.
- No parking shall be permitted along the portion of the Project Site fronting Foster Road.
- The Project may utilize compact parking stalls to serve residential uses.
- The Developer is not required to improve the existing private road located within the Project Site parallel to Highway 101. At the Developer's sole expense and as part of the future Project, the public trail along the eastern property line shall be improved with decomposed granite within the boundaries of the existing easement. The trail shall be maintained for the life of the Project at the Developer's sole expense.
- The Developer is not required to upgrade, move, or underground the existing utility pole located at the northerly portion of the site, unless the proposed improvements encroach within 10' of the power lines and power pole.
- The Developer is not required to construct the sound barrier to meet the requirements of DevStd KSH-3 in the Orcutt Community Plan if the Developer provides an acoustical study from a licensed, third-party acoustical engineer that the project can meet interior noise standards set by the County of Santa Barbara Comprehensive Plan.

Base density for the site allows 34 units, and with State Density Bonus for a 100 percent affordable project on the site, the project is eligible for an additional 28 units, for a total of 62 units. In order to accommodate a 99-unit affordable housing project on the site, the Developer requests a density bonus greater than provided for in the provisions of State Density Bonus Law. Through approval and execution of the Development Agreement, the County grants an additional density bonus of 37 units, for a maximum future build out of 99 affordable housing units.

The future project will be processed with approval of a Development Plan and issuance of a Zoning Clearance to effectuate the Development Plan, consistent with the terms of the Development Agreement. Once the Development Plan application is deemed complete, the County shall have 80 days to bring the Development Plan application to Planning Commission hearing, and the Planning Commission shall not conduct more than two hearings for the item. If approval of the Development Plan is appealed to the Board

of Supervisors, the County shall bring the appeal to the Board of Supervisors within 80 days, unless this timeline is unachievable based on docketing schedules and meeting availability, in which case the County shall bring the appeal to the Board of Supervisors within 90 days. Review of the Development Plan shall be completed consistent with the requirements of the Housing Accountability Act, and consistent with Government Code Section 65865.2, and shall not prevent development of the land for the uses and to the density or intensity of development set forth in the Development Agreement.

Upon execution of the Development Agreement, the Developer shall not develop the subject property with the 61-unit project (Case No. 21ZCI-00000-00232) for so long as the County remains in compliance with the Development Agreement and processes subsequent applications, described in the Development Agreement (Exhibit to Attachment 3), in good faith. The Developer agrees to relinquish the ability to process and develop the entitlement granted by Case No. 21ZCI-00000-00232 when all permits required by the Subsequent Approvals section of the Development Agreement are approved and issued.

Background:

Development Agreements:

Pursuant to Government Code Section 65864 et seq., development agreements are contracts negotiated between project proponents and public agencies that govern the land uses that may be allowed in a particular project. Neither the Developer nor the public agency is required to enter into a development agreement. When they do, the allowable land uses and other terms negotiated between the municipality and developer are subject to the municipality's ultimate approval.

Generally, development agreements provide assurance to an applicant that they may proceed with a project in accordance with existing policies, rules, and regulations, subject to conditions of approval. However, the scope of development agreements also allows for the parties to agree to other mutually-enforceable promises between the municipality and the developer.

Should the Board of Supervisors approve the proposed Development Agreement (Exhibit to Attachment 3), the applicant will need to proceed with the required subsequent approvals required by Article 5 of said Exhibit, including a Development Plan subject to Planning Commission approval to effectuate the project approved by the Development Agreement.

Environmental Review:

As discussed above and in Sections 5.2 and 6.3 of the Planning Commission staff report, pursuant to Government Code Section 65865.2, the Development Agreement includes conditions, terms, restrictions, and requirements for subsequent discretionary County approval of a Development Plan and Zoning Clearance for the project, provided that these approvals "shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement." The Development Agreement includes the granting of an additional 37-unit local density bonus pursuant to LUDC Subsection 35.32.030.A, which results in the ninety-nine (99) unit multifamily residential development project described in the agreement. At this stage, the Developer has provided a conceptual site plan and renderings (Exhibit to Attachment 5) as an example of the reasonable maximum development that could occur pursuant to the Development Agreement provisions.

Based on the project described in the Development Agreement, including Exhibit B (Example Project Plans Implementing Development Agreement Provisions) to the Development Agreement (all included in Attachment 3), staff prepared a Notice of Exemption (NOE) (Attachment 2) pursuant to the requirements of California Environmental Quality Act (CEQA), the regulations promulgated thereunder (CEQA Guidelines), and the County's Environmental Thresholds and Guidelines Manual. The NOE analyzes the ninety-nine (99) unit multifamily residential development project as described in the Development Agreement, including Exhibit B to the Development Agreement (Example Project Plans Implementing Development Agreement Provisions), and concludes that the project, as described in the agreement, is exempt from CEQA pursuant to CEQA Guidelines Section 15194, Affordable Housing Exemption, and Public Resource Code Section 21159.23, Low Income Housing. The Notice of Exemption (NOE) is included as Attachment 2.

Fiscal and Facilities Impacts:

Budgeted: Yes The costs to process the project were borne by the applicant through the payment of processing fees. Funding for this project is budgeted in the Planning and Development's Permitting Budget Program on Page 313 of the County of Santa Barbara Fiscal Year 2023-24 Adopted Budget.

Special Instructions:

Planning & Development shall publish a legal notice in the *Santa Maria Times* at least 10 days prior to the hearing on March 12, 2024. The Clerk of the Board shall fulfill mailed noticing requirements at least 10 days before the scheduled hearing. Clerk of the Board shall forward a copy of the notice and proof of mailing to the Planning and Development Department, Attention: Shannon Reese.

The Clerk of the Board shall provide a copy of the executed Resolution, and Board Minute Order to the Planning and Development Department, Hearing Support, Attention: David Villalobos. A second Board Minute Order of the hearing shall be forwarded to the Planning and Development Department, Attention: Shannon Reese.

Attachments:

1. Findings for Approval
2. Notice of Exemption
3. Development Agreement Resolution and Ordinance
4. County Planning Commission Action Letter dated January 12, 2024, with Planning Commission Resolution No. 24-01
5. Planning Commission Staff Report dated December 14, 2023, with Attachments A-F
6. Comment Letters from the January 10, 2024 Planning Commission Hearing

Authored by:

Shannon Reese, (805) 934-6261
Development Review Division, Planning and Development Department