



COUNTY OF SAN DIEGO

LAND USE AGENDA ITEM

BOARD OF SUPERVISORS

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DATE: December 6, 2023

03

TO: Board of Supervisors

SUBJECT

COUNTY OF SAN DIEGO TRACT NO. 5610-1 (FINAL MAP NO. 16348): APPROVAL OF FIRST AMENDMENT TO AGREEMENT TO IMPROVE MAJOR SUBDIVISION (INCREASE AMOUNT OF SECURITY AND EXTENSION OF TIME) FOR CREEKSIDE AT VILLAGE WALK LOCATED IN THE RAMONA COMMUNITY PLAN AREA (DISTRICT: 2)

OVERVIEW

The San Diego County Code of Regulatory Ordinances establishes the requirements for time extensions for completion of required improvements on private development projects. As conditions of their permits, applicants are often required to construct specific improvements that benefit the public, such as roads and stormwater drainage systems. In many cases, these improvements are accepted by the County of San Diego (County) into the County-maintained system to be owned, operated, and maintained by the Department of Public Works (DPW). Subdivision Improvement Agreements and their financial security protect the County by ensuring any required improvements are constructed. In the event of a default by the applicant, the financial security can be used by the County to complete the required improvements. However, under certain circumstances, the County can grant time extensions to allow an applicant additional time to complete the improvements, while simultaneously preserving the County's rights to have the public improvements constructed by the applicant.

The Creekside at Village Walk project (TM 5610), is a subdivision consisting of a 40-unit market rate residential detached condominium project. The site is 5.5 acres and is located north of the Pala Street/Robertson Street intersection in the Ramona Community Plan Area within unincorporated San Diego County. On July 14, 2017, the San Diego County Planning Commission approved the Subdivision Map and Improvement Agreement, which includes improvements to streets, drainage, water, and sewer facilities. The Director of Planning & Development Services approved an extension to the Improvement Agreement on June 4, 2019. The subdivision owner has requested an additional two-year extension to construct the public improvements due to rising construction costs and current interest rates. To date, no improvements or construction has begun.

This is a request for the Board of Supervisors (Board) to approve the First Amendment to Agreement to Improve Major Subdivision (First Amendment to Agreement) which includes an increase in the amount of security from \$361,900 to \$431,800 for the Faithful Performance Bond

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and an increase of \$180,900 to \$215,900 for the Labor & Material Bond. The request also includes a two-year extension of performance completion date of the improvements for County Tract No. 5610-1 (Final Map No. 16348), known as Creekside at Village Walk. The County Code allows the Director of PDS to grant the first extension for up to two additional years. All subsequent extensions require Board approval. If the Board chooses not to grant the extension as recommended, it may have other options available, including (but not limited to): Approving the recommended extension upon substitution of security; denying the recommended extension and using the existing security to fund the completion of the improvements; denying the recommended extension and seeking a remedy against the developer or surety.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the approval of the First Amendment to Agreement (Attachment A) and associated actions for County Tract No. 5610-1 is not a project subject to review under the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(3) and 15378(b)(5) of the CEQA Guidelines because administrative activities of governments will not result in a direct or indirect physical change in the environment.
2. Approve and authorize the Clerk of the Board of Supervisors to execute the First Amendment to the Agreement. This agreement extends the time to construct improvements to two (2) years after the execution of this First Amendment to Agreement.

EQUITY IMPACT STATEMENT

Planning & Development Services (PDS) ensures that public improvements are constructed as part of new housing developments, such as roads and stormwater drainage systems. PDS ensures the completion of the public improvements through agreements and financial security, which ensures communities are safe. This extension to the improvement agreement will allow the applicant additional time to complete the required public improvements, which will help provide housing for unincorporated communities.

SUSTAINABILITY IMPACT STATEMENT

The requested Improvement Agreement extension to construct public road, water, and sewer improvements associated with the construction of 40 detached condominiums will contribute housing to the unincorporated area while protecting natural spaces and water quality. The project will treat and address stormwater runoff in accordance with State requirements.

FISCAL IMPACT

There is no fiscal impact associated with the approval of the requested time extension as presented today. Any costs incurred to continue this project, at such time the owner wishes to move forward, will be paid for by the applicant (or owner/developer). There will be no change in net General Fund costs and no additional staff years.

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BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

Staff reached out to both the Ramona Community Planning Group and Design Review Board regarding the extension request. Staff also provided information on the project to the labor union stakeholders, the Environmental Coalition Group, and the Land Development Technical Working Group at the regularly scheduled meetings in September. No comments or concerns were received from any of the groups.

BACKGROUND

The Creekside at Village Walk project (TM 5610), is a subdivision consisting of a market rate 40-unit residential detached condominium project. The site is 5.5-acres and is located north of the Pala Street/Robertson Street intersection in the Ramona Community Plan Area within unincorporated San Diego County. On July 14, 2017, the San Diego County Planning Commission approved the Subdivision Map and Improvement Agreement, which includes improvements to streets, drainage, water, and sewer facilities. The Director of Planning & Development Services (PDS) approved an extension to the Improvement Agreement on June 4, 2019. The subdivision owner has requested an additional two-year extension to complete the public improvements. No public improvements have been completed at this time.

The California Subdivision Map Act requires developers to have completed required improvements, such as public streets, drainage, sewer, and water facilities, at the time a final map is approved. An alternative, if improvements are not completed at the time the final map is approved, is for the County of San Diego (County) to enter into a secured subdivision agreement (Agreement) with the developer for completion of the public improvements. Security for the Agreement can include performance bonds, letters of credit, or a cash deposit. In accordance with Section 81.405 of the San Diego County Code of Regulatory Ordinances (County Code), improvements identified in the Agreement are required to be completed within two years from approval of the final map. On occasion, improvements are unable to be completed within that timeframe and applicants may request additional time. The County Code provides authority to the Director of PDS and the Director of the Department of Public Works (DPW) to grant the first extension for up to two additional years. All subsequent extensions require Board approval. There is no limit in State law or the County's Subdivision Ordinance on the number of extensions, however, staff ensures that no construction occurs on the site until the improvement agreement is extended with updated financial security. This process ensures the completion of all required improvements by the applicants. In the event of a default, bonding (or other accepted financial security) can be used to finance any remaining required improvements.

This is a request to approve the First Amendment to Agreement for County Tract No. 5610-1 (Final Map No. 16348), which extends the time to construct improvements to two (2) years after the approval of this First Amendment. PDS staff have determined an extension is needed for this Agreement to ensure adequate financial security is in place due to the County's continued interest

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in receiving the public improvements. The Improvement Agreement and financial security enable the County to finish the improvements if the developer starts the construction but does not complete it. As part of this process, staff has determined that there is adequate financial security (i.e., capacity through a bond or other financial instrument) to ensure the completion of any outstanding improvement work for the subdivision map. If the applicant fails to meet their obligations, this financial security could be used by the County to finish the public improvements required by the agreement.

A Faithful Performance Bond (Bond No. PB01798100545) was increased from \$361,900 to the amount of \$431,800 (Attachment B) in favor of the County and guarantees faithful performance for streets and/or easements, sewer facilities, water facilities and final monumentation. A bond is a type of security used to ensure the applicant has the funding needed to pay for the public improvements.

A Labor & Material Bond (Bond No. PB01798100545) was increased from \$180,900 to the amount of \$215,900 (Attachment C) in favor of the County and guarantees payment for labor and materials involved in the construction of the improvements.

Subsequent Development Approvals

There may be significant changes in State and local requirements that may need to be addressed if new development permits and approvals are sought. It is not known at this time if a review and analysis of these requirements will allow for full development of the proposed subdivision. The owner may need to update grading and improvement plans and will likely need to complete additional environmental review at the time any discretionary permits or approvals are sought (e.g., a grading permit) to address at least the following issues:

Updated studies including Hydromodification Management Plans for Priority Development Projects may be required prior to approval of grading and improvement plans for construction pursuant to County Watershed Protection, Stormwater Management, and Discharge Control Ordinance No. 10410 (N.S.), effective February 26, 2016, and Best Management Practice Design Manual. The County must be satisfied with the drainage engineering prior to approval of grading permits and improvement plans for construction pursuant to County Grading Ordinance No. 10224 (N.S.), effective October 25, 2012, and Flood Damage Prevention Ordinance No. 10091, adopted December 8, 2010.

ENVIRONMENTAL STATEMENT

Section 15060(c)(3) of the CEQA Guidelines provides that activities identified in Section 15378 of the CEQA Guidelines are not a project and not subject to CEQA review. Section 15378(b)(5) provides that administrative activities of governments will not result in a direct or indirect physical change in the environment are exempt from CEQA review. The proposed action is administrative in nature as it involves the extension of performance completion dates in subdivision improvement agreements. CEQA review was completed in connection with the approval of each of the Tentative Maps, which were conditioned on completion of improvements identified in the improvement

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agreements. The proposed action does not change any improvement obligations imposed at the time of Tentative Map approval. Therefore, the proposed action is not subject to CEQA review pursuant to Sections 15060(c)(3) and 15378(b)(5) of the CEQA Guidelines.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed action to approve the two-year extension of the secured agreement for this project supports the County of San Diego's 2023-2028 Strategic Initiatives of Sustainability, Equity, and Community by providing public infrastructure and additional housing opportunities that strengthens the local economy and by securing funding to align the County's available resources with services to maintain fiscal stability.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sarah Aghassi', with a stylized flourish at the end.

SARAH E. AGHASSI
Deputy Chief Administrative Officer

ATTACHMENT(S)

Attachment A – First Amendment to Agreement to Improve Major Subdivision
Attachment B – Endorsement – Faithful Performance Bond
Attachment C – Endorsement - Labor & Material Bond