



COUNTY OF SAN DIEGO

LAND USE AGENDA ITEM

BOARD OF SUPERVISORS

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Fifth District

DATE: December 6, 2023

05

TO: Board of Supervisors

SUBJECT

EXTENSION OF PERFORMANCE COMPLETION DATES ON VARIOUS SECURED IMPROVEMENT AGREEMENTS TO COMPLETE SUBDIVISION IMPROVEMENTS AND RELATED CEQA EXEMPTION (DISTRICTS: 2, 3 & 5)

OVERVIEW

Within the existing legal boundaries of their property, private property owners may use the County of San Diego's (County) land development process to further subdivide their land, creating new internal legal lots and boundaries, which are recorded on subdivision maps. Subdivision developers, as conditions of their permits, are often required to construct specific improvements that benefit the public, such as roads and storm drainage systems. In many cases, these improvements are accepted by the County to be owned, operated, and maintained by the Department of Public Works (DPW) in perpetuity.

Subdivision improvement agreements and the requirement for developers to provide security (i.e., a bond or other financial instrument) are executed at the time of final map approval in order to ensure that any required improvements are constructed for approved subdivisions with a recorded map. The security amount is 100% of the total estimate of the improvements, conditioned on the developer's completion of the improvements listed in the agreement, and an additional amount of 50% securing payment for labor and materials in the event the developer does not complete the improvements as required. If a developer defaults without completing the improvements included in the subdivision improvement agreement, this security can be used to finance the completion of the required improvements.

The San Diego County Code of Regulatory Ordinances allows for and establishes the requirements for time extensions for the completion of these required improvements on private development subdivisions in order to grant the developer additional time to complete construction, while simultaneously preserving the County's rights to have the public improvements constructed by the developer. It is not uncommon for development projects to take an extended time to complete. Construction schedules can be affected by the economy, the developer's circumstances, permitting, site conditions, and other related factors. DPW staff monitors the status of subdivision improvement agreements and the associated work. If developers need additional time and wish to extend the agreement, they can submit an extension request and provide a current cost estimate of the remaining work. DPW staff reviews the estimate to confirm the total security is adequate based

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on construction progress and estimated costs for remaining work based on current pricing. If the original security is insufficient, staff will confirm the increased total amount matches the current cost estimate. If staff determine a time extension is warranted, staff will then bring the request forward for Board of Supervisors (Board) consideration.

This is a request for the Board to approve two-year extensions of performance completion dates for the following subdivisions in Districts 2, 3, and 5:

1. Tract No. 5365-1 (Map No. 15888), Harmony Grove Village Unit 1, located in the Escondido area. This project has 71 single-family residential lots, one non-residential lot, one fire station lot, one wastewater treatment/water reclamation lot, seven property owners' association (POA) lots, 18 private road lots, and two open space lots. The overall acreage of the site is 84.4 acres. This extension is specifically for project condition 3.b to provide an additional northbound through-lane and a dedicated northbound right-turn lane at the Via Rancho Parkway and Del Dios Highway intersection per offsite public improvement plan CG 4777. All other conditions of the project have been met.
2. Tract No. 5110-1 (Map No. 14997), Belmont Estates, located in the Valley Center area. This project has 14 single-family residential lots and the overall area is 34.83 acres.
3. Tract No. 5537-1 (Map No. 16320), F Street Subdivision, located in the Ramona area. This project has 10 single-family residential lots and the overall area is 2.06 acres.

Staff has determined these two-year extensions to complete improvements are warranted due to the developers' requests, the County's continued interest in receiving the improvements, and the absence of negative impacts associated with later delivery. In the case of Harmony Grove Unit 1 (TM 5365-1), the developer encountered difficulties in designing the offsite intersection improvements and is currently working through design changes to complete the improvements. All units for Harmony Grove Unit 1 have been completed along with the onsite infrastructure to support this development. The extension would be solely for the offsite improvements required by project condition 3.b as described above. No units for Belmont Estates or F Street Subdivision have been completed to date. The developer of Belmont Estates has chosen not to begin construction due to economic reasons. For F Street Subdivision, the improvement permit was not issued until February of 2022 delaying the start of construction. The developer is currently working on site preparation in order to begin construction of the required improvements. For these reasons, staff believes there are no adverse consequences to granting the developers additional time to complete the improvements. Staff has also determined that there is adequate security for all improvements to guarantee completion of the remaining work for the agreement, should that become necessary to leverage in the future to ensure improvements are constructed.

Today's request is for the Board to approve the extension of the performance completion dates in subdivision agreements for developments referenced by Tract No. 5365-1, Tract No. 5110-1 and Tract No. 5537-1 to December 6, 2025.

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RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find in accordance with Section 15060(c)(3) of the California Environmental Quality Act (CEQA) Guidelines that extension of the performance completion dates in subdivision agreements to complete subdivision improvements is not a “project” as defined in Section 15378 of the state CEQA Guidelines.
2. Extend to December 6, 2025, the performance completion dates in subdivision agreements for developments referenced by Tract No. 5365-1, Tract No. 5110-1 and Tract No. 5537-1.

EQUITY IMPACT STATEMENT

It is anticipated that the extension will allow time for infrastructure to be completed by the developer for the benefit of the unincorporated communities where the projects are located. This infrastructure includes roads and drainage systems that will support housing development.

SUSTAINABILITY IMPACT STATEMENT

The extension will allow time for stormwater infrastructure to be completed by the developer which have environmental and sustainability benefits. Storm drain inlet filter inserts for Harmony Grove Unit 1 (5365-1); a bioretention basin, permeable interlocking pavers, and vegetated swales for Belmont Estates (5110-1); and tree wells for F Street Subdivision (5537-1) will be installed to address stormwater quality.

FISCAL IMPACT

There is no fiscal impact associated with these recommendations. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

Staff reached out via electronic mail to the San Dieguito Community Planning Group for Harmony Grove Unit 1, the Valley Center Community Planning Group for Belmont Estates, and the Ramona Community Planning Group for F Street Subdivision regarding the extension requests. Staff also provided information on the projects to labor union stakeholders, environmental stakeholders, and the Land Development Technical Working Group. No concerns were received.

BACKGROUND

The Subdivision Map Act, California Government Code Section 66410 et seq., requires developers to have completed required improvements, such as public streets, drainage, and water and sewer 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 improvement agreement with the developer for completion of the

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improvements. Security for the subdivision improvement agreements 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, improvements identified in the agreement are required to be completed within two years from the approval of the final map. If the improvements cannot be completed within that timeframe, developers may request additional time to complete them. It is not uncommon for development projects to take an extended time to complete. Construction schedules can be affected by the economy, the developer's circumstances, permitting, site conditions, and other factors. If developers need additional time and wish to extend the subdivision improvement agreement, they can submit an extension request and provide a current cost estimate of the remaining work.

Staff reviews the estimate to confirm the total security is adequate based on construction progress and estimated costs for remaining work based on current pricing. If staff determine a time extension is warranted, they bring the request forward for consideration. The Director of Public Works (DPW) and the Director of Planning & Development Services (PDS) may grant the first extension for up to two additional years. All subsequent extensions require Board of Supervisors (Board) approval. The County Regulatory Code does not limit the number of times the Board may grant extensions. All three projects presented in this action contain enhancements to address stormwater quality such as biofiltration basins, inlet filter inserts, tree wells, and other elements that reduce the overall impact of pollutants in stormwater. In the future, when building permits are sought, additional sustainability features such as water-efficient fixtures, Energy Star appliances, and solar energy will be gained through the application of the building code.

This is a request to approve the extension of performance completion dates to December 6, 2025, for two subdivision improvement agreements:

1. **Tract No. 5365-1:** (Map 15888) Harmony Grove Village Unit 1, located in the Escondido area (District 3). This project has 71 single family residential lots, one non-residential lot, one fire station lot, one wastewater treatment/water reclamation lot, seven property owners' association (POA) lots, 18 private road lots, and two open space lots, and the overall acreage is 84.4 acres. This extension is specifically for project condition 3.b to provide an additional northbound through-lane and a dedicated northbound right-turn lane at the Via Rancho Parkway and Del Dios Highway intersection per offsite public improvement plan CG 4777. All other conditions of the project have been met. However, construction of the offsite intersection improvements has not started. On January 9, 2013 (2), the Board approved the final subdivision map and subdivision improvement agreements between the County and the subdivision owner. The subdivision owner has requested the time extension to complete the improvements and close the associated permit. The improvement agreements for TM 5365-1 have been extended two times previously; the Board last approved an extension to the subdivision improvement agreement on August 7, 2019.
2. **Tract No. 5110-1:** (Map 14997) Belmont Estates, located in the Valley Center area (District 5). The project has 14 single-family residential lots, and the overall area is 34.83

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acres. On March 23, 2005 (23), the Board approved the final subdivision map and joint subdivision improvement agreement between the County, Valley Center Municipal Water District, and the subdivision owner, which includes street and drainage improvements and water facilities. No work has started yet for these improvements or the development generally, including the single-family residences due to the economic feasibility. The subdivision owner has requested the time extension to complete the improvements and close the associated permits. The subdivision improvement agreement has been extended five times previously; the Board last approved an extension to the subdivision improvement agreement on June 24, 2020 (08). As stated in the agreement, the Board may extend the completion dates for work and improvements or the performance of acts or obligations, except for the improvement of sewer and/or water facilities, which must be approved by the Valley Center Municipal Water District. The developer will seek an extension on the remaining improvements from the Valley Center Municipal Water District separately if required.

3. **Tract No. 5537-1:** (Map No. 16320) F Street Subdivision, located in the Ramona area (District 2). The project has 10 single-family residential lots, and the overall area is 2.06 acres. On December 11, 2018 (42), the Board approved the final subdivision map and subdivision improvement agreement between the County and the subdivision owner. This infrastructure is 10% complete. Work on the development supported by this infrastructure, including the single-family homes, has not yet started. The subdivision owner has requested the time extension to complete the improvements and close the associated permits. The improvement agreement for TM 5537-1 has been extended one time, most recently to December 13, 2022, by the Director of Public Works on December 13, 2020.

In the event of a default by the developer, bonding (or other accepted financial security) could be used to finance the completion of the required improvements. County staff monitor the status of agreements and project factors to determine if a time extension is recommended. DPW staff have determined extensions are warranted for these three agreements due to requests from each of the developers to extend the time for completion, the County's continued interest in receiving the improvements, and the absence of negative impacts associated with later delivery, or the developer's progress in addressing remaining work.

Time extensions preserve the County's and the developer's rights under the improvement agreement for the extension period. Staff has determined that there is adequate improvement security (i.e., capacity through a bond or other financial instrument) to guarantee the completion of the remaining work for each agreement recommended for the extension. In the event of a default by the developer, this security capacity could be used to finish the improvements required by the agreement and ensure payment to the contractor, subcontractors, and the persons furnishing labor, materials, or equipment to them for 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

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analysis of these requirements will allow for the 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 of approvals are sought (e.g., a grading permit) to address at least the following issues:

Stormwater – 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 the following:

- County Watershed Protection, Stormwater Management and Discharge Control Ordinance No. 10410 (N.S.), dated January 27, 2016, and
- Standard Urban Stormwater Mitigation Plan (SUSMP) Requirements for Development Applications, dated January 8, 2011, and
- Revised August 1, 2012, and/or Best Management Practice Design Manual, which became effective January 1, 2019.

These requirements are subject to periodic adjustment as changes are made to the National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements. Requirements are imposed by the San Diego Regional Water Quality Control Board (Regional Board) on discharges from municipal separate storm sewer systems (MS4). The new MS4 Permit was adopted by the Regional Board on May 8, 2013, and amended on February 11, 2015, and November 18, 2015. Additional studies and other action may be needed to comply with the new and future MS4 Permits.

Drainage – Updated studies may be required to be submitted with grading plans. The County must be satisfied with the drainage engineering prior to approval of grading and improvement plans for construction pursuant to County Grading Ordinance No. 10224 (N.S.), effective October 25, 2012, and Flood Damage Prevention Ordinance No. 9998, effective September 4, 2009.

Today’s request is for the Board to approve the extension of the performance completion dates in subdivision agreements for developments referenced by Tentative Map No. 5365-1 (Harmony Grove Unit 1), Tentative Map No. 5110-1 (Belmont Estates), and Tentative Map No. 5537-1 (F Street Subdivision), to December 6, 2025.

ENVIRONMENTAL STATEMENT

Section 15060(c)(3) of the California Environmental Quality Act (CEQA) Guidelines provides that activities identified in Section 15378 of the CEQA Guidelines are not subject to CEQA review. Section 15378 indicates that administrative activities of governments, which 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 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 Section 15060(c)(3) of the CEQA Guidelines.

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LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed action to approve the two-year extensions of the secured agreements for these projects supports the Community and Sustainability Strategic Initiatives in the County of San Diego's 2023-28 Strategic Plan by providing private improvements and public infrastructure that strengthen the local economy while providing post-construction features to address stormwater quality.

Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer

ATTACHMENT(S)

- A. Subdivision Improvement Agreements to be Extended