



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: September 27, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

PREPARED BY: Darcy Smith, Assistant City Manager

SUBJECT: Waive the Second Reading and Adopt an Ordinance of the City of San Bruno Approving the First Amendment to a Development Agreement Between the City of San Bruno and Williams Portfolio 16 for the Construction of the Mills Park Center Residential and Commercial Development at 601-799 El Camino Real and the Adjacent Site at 601-611 El Camino Real. CEQA Determination: It Has Been Determined That the Proposed Amendments Are Within the Scope of the Prior Project CEQA Documentation and Exempt From CEQA Pursuant to Sections 15168 (Program EIR), 15162 (Subsequent EIRs and Negative Declarations) and 15183 (Projects Consistent With a Community Plan or Zoning) and Section 15061(B)(3) Because It Can Be Seen With Certainty That the Extension of the Term of the Agreement and Other Deadlines in the Agreement Have No Possibility of Having a Significant Effect on the Environment

BACKGROUND:

The City Council held a public hearing on September 13, 2022, and took action with a vote of 4-0-1 to read by title only, and waive further reading and introduce an Ordinance Approving the First Amendment to a Development Agreement based upon the Findings for in the Ordinance including the CEQA Conformity Determination.

2020 Project Approvals

The Mills Park Center project ("Project") consists of the demolition of all structures on the site, and the development of two (2) one to five-story, 70-foot tall, mixed-use buildings with a total of 427 residential condominiums units and approximately 7,947 square feet of ground floor commercial space with associated improvements and infrastructure. The project would result in the vacation of Camino Plaza, a portion of San Bruno Ave and Kains Avenue, and the southern portion of White Way, and the realignment of Kains Avenue, along with vacation of certain utility and access easements affected by the project. A total of 676 parking spaces are proposed with the development. The project provides one parking space for each bedroom, plus dedicated guest parking at a ratio of one space for every 10 units.

The development site measures 5.38 acres in total area (inclusive of White Way and Camino Plaza) and is bounded by San Bruno Avenue West to the north, Angus Avenue to the south, El

Camino Real to the east, and White Way and Linden Avenue to the west. The project site is currently zoned P-D (Planned Development) to allow mixed-use buildings within close proximity to bus and rail transit as specified within the Transit Oriented District (TOD) General Plan land use designation. The General Plan land use designation was established for this property in 2009. The project site is within the Transit Corridors Specific Plan area, which was approved by the City Council in 2013.

On June 25, 2020, the City Council approved the Project (with subsequent adoption actions on July 14, 2020), which included the following actions:

- Determined that the project was exempt from the California Environmental Quality Act (CEQA) Guidelines sections 15168 (Program EIR), 15162 (Subsequent EIRs and Negative Declarations) and 15183 (Projects Consistent with a Community Plan or Zoning) as described below.
- An Ordinance Amending Section 12.96.020 of Title 12 (Land Use) of the San Bruno Municipal Code to Change the Zoning Map from the Commercial (C) to the Planned Development (P-D) District with a Development Plan;
- Planned Development Permit;
- Architectural Review Permit;
- Phased Vesting Tentative Tract Subdivision Map for Condominium Purposes that would result in lot mergers and the vacation of Camino Plaza, a portion of San Bruno Ave and Kains Avenue, and the southern portion of White Way and the realignment of Kains Avenue and vacation of certain utility and access easements; and
- An Ordinance approving a Development Agreement and Affordable Housing Plan for the project. Approval of the Development Agreement included community benefits agreed to by the applicant. The most notable provision is a \$10 million community benefit payment to the City's General Fund, subject to annual CPI increases.

DISCUSSION:

The purpose of this consent item is to serve as the action for the adoption of the ordinance associated with the First Amendment to the Development Agreement which extends the overall agreement terms for an additional two years (from 10 years to 12 years) and makes other amendments to the agreement. California Government Code Section 65864, et seq., and City Resolution 1986-77 authorize the City to enter into development agreements establishing certain development rights. Development agreements can provide certainty for the city and developer, and typically address necessary public improvements required by development. In San Bruno, development agreements are common for larger projects to be built in at least two phases that require multiple years to construct.

The development agreement for the Project became effective on November 3, 2020, after all challenge periods for the project had ended. The following modifications to the agreement are included in this first amendment:

- Amend Section 2.2 (Term of the Agreement) from 10 years to 12 years.
- Amend Section 2.2.1.1 (Parcel A Horizontal Permit Application Deadline) to require submittal of the complete application with 4 years instead of 2 years. This would have the effect of pushing the deadlines under Sections 2.2.1.2(Parcel A Commence Construction

Deadline), 2.2.2.1 (Parcel B Horizontal Permit Application Deadline), and 2.2.2.2 (Parcel A Commence Construction Deadline), which are all keyed to the deadline for the Parcel A Horizontal Application Deadline. This change would also move the payment of the \$1,500,000 Public Benefits payment advance by two years.

- Amend Section 2.3.1.2 to extend the time for payment of public benefits by two years (i.e., the fifth anniversary goes to seventh, and sixth goes to eighth).
- Amend Section 3.12.1.1 to extend the Condo Application Deadline from 2 years after the Final Approval Date to 4 years. Given that DA Section 3.2 (1) provides for extension of approvals to the end of the Term of the DA (10 years), the extension of the Condo Application Deadline for 4 years should not run afoul of the Vesting Tentative Map, which otherwise would be only for 2 years under the City's default rules.
- Amend Section 3.2 (Life of Approvals) which currently provides as follows:

"3.2 Life of Approvals. Pursuant to Government Code section 66452.6(a) and this Agreement, the life of the Project Approvals shall automatically be extended to and until the later of the following: (1) the end of the Term of this Agreement, as it may be earlier terminated pursuant to the terms set forth herein; or (2) the end of the term or life of any such Project Approval."

To Read: "3.2. Life of Approvals. Pursuant to Government Code section 66452.6(a) and this Agreement, (a) the life of all non-legislative Project Approvals other than the Vesting Tentative Map and any subsequent amendment thereof shall automatically be extended to and until the later of the following: (1) the end of the Term of this Agreement, as it may be earlier terminated pursuant to the terms set forth herein; or (2) the end of the term or life of any such Project Approval, and (b) the life of the Vesting Tentative Map and any subsequent amendment thereof, regardless of any other statute, rule, or authority that purports to set a different term, shall automatically be extended to and until but in no event beyond the end of the Term of this Agreement, as it may be earlier terminated pursuant to the terms set forth herein."

No changes have been made to the ordinance since introduction. Should the Council waive the second reading and adopt the ordinance at this meeting, the ordinance will be in effect 30 days after. The ordinance and exhibit A is presented in Attachment 1.

ENVIRONMENTAL CLEARANCE:

The proposed Project has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq., hereafter the "CEQA Guidelines"). The Mills Park project is located within the Transit Corridors Plan (TCP) area. A Program Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program were prepared for the TCP, and both adopted by the City Council on February 12, 2013. The proposed project was analyzed in the TCP EIR at a programmatic level, with potential impacts identified and mitigations applied in the program EIR to avoid or reduce potentially significant impacts.

Under California Environmental Quality Act (CEQA) Guidelines sections 15168 (Program EIR), 15162 (Subsequent EIRs and Negative Declarations) and 15183 (Projects Consistent with a Community Plan or Zoning), subsequent individual projects can utilize a previously certified program EIR if all potentially significant environmental impacts of the proposed individual

project: (1) have been previously identified (i.e., are not new) and are not substantially more severe than those identified in the previous EIR, (2) have been avoided or mitigated to the extent feasible as a result of the previous EIR, and (3) have been examined in sufficient detail in the previous EIR to enable those impacts to be avoided or mitigated by the mitigations in the EIR, site-specific project revisions, or the imposition of uniformly applicable development policies. If these conditions are met, then the City can approve the individual project as within the scope of the previous EIR, and no additional environmental document is required. An Initial Study/Environmental Checklist was prepared for the Project prior to the project approval which confirmed that the proposed project would not result in any new or substantially more severe significant environmental effects than those analyzed in the TCP EIR document. Further, the previously certified Transit Corridors Plan EIR adequately describes the proposed project for the purposes of CEQA. In accordance with CEQA Guidelines Section 15168(e), this contemplated development agreement amendment is within the scope of the Program approved earlier in the Transit Corridors Specific Plan and the previously certified program EIR adequately describes the activity for the purposes of CEQA. In addition, the amendment is exempt from CEQA pursuant to the State CEQA Guidelines Section 15061(B)(3) because it can be seen with certainty that the extension of the term of the Agreement and other deadlines in the Agreement have no possibility of having a significant effect on the environment.

NEXT STEPS

If the City Council waives the second reading of the attached ordinance, the ordinance would go into effect 30 days after the second reading.

FISCAL IMPACT

Subject to City Council approval of the amendment, the City and Developer will execute the first amendment to the development agreement that will continue to require a cash payment of \$10,000,000, subject to annual CPI increases, to the City's General Fund as unrestricted revenue to be allocated at the future discretion of the City Council, as detailed in the Development Agreement attached to the ordinance. The City will also obtain other associated permit fees, property taxes, business license taxes, water and sewer capacity fees, cable account revenues, other utility connection fees and utility billing revenue associated with the Project.

ALTERNATIVES

1. Do not adopt the ordinance.
2. Direct staff to make modifications to the Ordinance; substantive modifications will require re-introduction at a subsequent meeting.

RECOMMENDATION

Read by Title Only, and Waive Further Reading and Adopt an Ordinance of the City of San Bruno Approving the First Amendment to a Development Agreement Between the City of San Bruno and Williams Portfolio 16 for the construction of the Mills Park Center residential and commercial development at 601-799 El Camino Real and the adjacent site at 601-611 El Camino Real.

ATTACHMENTS:

1. City Council Ordinance Approving the First Amendment to a Development Agreement with Exhibit A to Ordinance: First Amendment to Development Agreement