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Title: ***BILL B-12 - (Intro'd 5/26/2022) (For Adoption) - Approving an Amendment to the Development Agreement by and between the City of Fresno and 2500 MLK, LLC for purposes of amending Section 3.9(a) of the Development Agreement which limits the specific number of units relative to respective residential housing types within the West Creek Village project area (Subject to Mayor's Veto).

Sponsors: Planning and Development Department

Indexes:

Code sections:

Attachments: 1. City Council Ordinance Bill for the Amendment to the Development Agreement by and between the City of Fresno and MLK 2500, LLC

Date	Ver.	Action By	Action	Result
6/23/2022	1	City Council	ADOPTED	Pass

REPORT TO THE CITY COUNCIL

FROM: JENNIFER CLARK, Director
Planning and Development Department

THROUGH: WILL TACKETT, Planning Manager
Development Services Division

BY: ROB HOLT, Planner III
Development Services Division

SUBJECT

***BILL B-12 - (Intro'd 5/26/2022) (For Adoption) - Approving an Amendment to the Development Agreement by and between the City of Fresno and 2500 MLK, LLC for purposes of amending Section 3.9(a) of the Development Agreement which limits the specific number of units relative to respective residential housing types within the West Creek Village project area (Subject to Mayor's Veto).

RECOMMENDATIONS

Adopt Ordinance approving an amendment to Section 3.9(a) of the West Creek Village Development Agreement.

EXECUTIVE SUMMARY

Jeff Reid of McCormick Barstow LLC, on behalf of Sylvesta Hall of Blue Ocean Development America, LLC, is requesting an amendment to Section 3.9(a) of the Development Agreement by and

between the City of Fresno and 2500 MLK., LLC (hereinafter referred to as the West Creek Village Development Agreement). This amendment to the original Development Agreement approved on March 5, 2020, pertains to ±115 acres of property bounded by East Church Avenue to the north, South Martin Luther King Jr. Boulevard to the east, East Jensen Avenue to the south, and South Knight Avenue to the west (the West Creek Village Project Area). The applicant proposes to revise Section 3.9(a) of the Development Agreement, which would remove text limiting a specific number of units relative to respective Residential Housing Types (i.e., single-family detached, single-family attached, multi-family, and mixed-use lofts). The amendment would retain existing language relative to the allowance of 481 total residential dwelling units without limiting the number of units of respective residential housing types.

Fresno City Planning Commission Action

This project was originally brought before the Planning Commission on April 20, 2022. After the public comment period, the Planning Commission voted to continue the item to allow additional time for Southwest Fresno community members to reach out to staff. Four members of the Southwest Fresno community visited staff on April 25, 2022, and three members visited staff on May 2, 2022, to discuss the project proposal. No letters and/or e-mails were received in opposition or support of the project during this time. The Planning Commission recommended to the City Council approval of the project, 4 votes to 0.

BACKGROUND / ANALYSIS

On March 5, 2020, the City Council approved a Development Agreement between the City of Fresno and the 2500 MLK, LLC pertaining to the development of a mixed-use activity center that will accommodate a diversified housing stock and commercial amenities and will be anchored by the future Fresno City College - West Fresno Satellite Campus.

Section 3.9 of the Development sets forth terms for Compliance with the West Creek Village Approvals. Subsection (a) of Section 3.9 specifies a density limitation of 481 total residential dwelling units comprised of 92 single-family detached, 25 single-family attached, 264 multi-family, and 100 lofts over ground floor retail. This section further provides amendment to this Section shall not be processed as a Minor Change pursuant to Section 3.3.

Subsection 3.3(b) of the Development Agreement defines Minor Changes (i.e., administrative amendments); and subsection (c), provides that all changes not considered Minor Changes will be considered Major Changes and shall require Council approval.

In order to provide further flexibility in the different types of residential uses allowed in the West Creek Village Master Plan Area, the applicant is proposing the removal of existing language specifying the composition of units respective to each identified Residential Housing Type. The subject amendment to the Development Agreement proposes only the removal (strike-through) of existing language included in Section 3.9(a), as follows:

Section 3.9(a): Density Limitation. Master Developer covenants and agrees to develop Master Developer's Property within the density limits articulated by the West Creek Village Approvals and shall not exceed the number of residential units which are set forth in those approvals as a total of 481 residential units comprised of 92 single-family detached, 25 single-family attached, 264 multi-family, and 100 lofts over ground floor retail.

The intent of the original adopted Development Agreement would still be intact with the maximum requirement of 481 total residential dwelling units in the West Creek Village Master Plan Area while providing further flexibility in the mix of residential units being allowed.

Notice of City Council Hearing

The Planning and Development Department published a notice of intent to consider adoption of the proposed amendment to the Development Agreement as provided in Government Code (Sections 65090 and 65091) and mailed notices of this City Council hearing to all surrounding property owners within 1,000 feet of the subject property, pursuant to Sections 15-6005 and 15-5007 of the Fresno Municipal Code (FMC) (**Exhibit C**).

ENVIRONMENTAL FINDINGS

A Mitigated Negative Declaration and Addendum were previously prepared for this project in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. This process included the distribution of requests for comment from other responsible or affected agencies and interested organizations.

Preparation of the environmental assessment necessitated a thorough review of the proposed project and relevant environmental issues and considered previously prepared environmental and technical studies pertinent to the Fresno General Plan Master Environmental Impact Report (MEIR SCH No. 2012111015). These environmental and technical studies have examined projected sewage generation rates of planned urban uses, the capacity of existing sanitary sewer collection and treatment facilities, and optimum alternatives for increasing capacities; groundwater aquifer resource conditions; water supply production and distribution system capacities; and traffic carrying capacity of the planned major street system.

It has been further determined that all applicable mitigation measures of SCH No. 2012111015 have been applied to the project, together with project specific mitigation measures, as necessary to assure that the project will not cause significant adverse cumulative impacts, growth inducing impacts and irreversible significant effects beyond those identified by SCH No. 2012111015 as provided by CEQA Section 15178(a).

The approved Mitigated Negative Declaration and Addendum for Environmental Assessment Nos. A-17-007/R-17-010/TPM-17-06/ANX-17-005 adopted by Council on August 2, 2017, and P18-03290 adopted by Council on February 13, 2020, anticipated a mixed-use activity center that includes a mix of single-family and multi-family residential uses. Section 3.9 of the Development Agreement requires an amendment to be approved by City Council if an amendment to the section is proposed. The applicant's proposal to remove the text regarding the limitation on the number of specified residential uses will not remove the original 481 total dwelling unit total that is existing within the Development Agreement. This would only allow for further flexibility of residential use types not to exceed the original intent of 481 total dwelling units within the West Creek Village Master Plan Area. This Addendum also includes an anticipated future 136-lot single-family residential subdivision which does not exceed the 481 total dwelling unit maximum requirement of the Development Agreement and single-family development was anticipated as a component of the original Mitigated Negative Declaration and Addendum that was adopted by Council. This Addendum is a minor technical change. Per Section 15164 of the CEQA Guidelines, this Addendum will not introduce any new

significant environmental impacts or substantially increase the severity of previously identified environmental effects (**Exhibit D**).

CONCLUSION

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Fresno General Plan, Southwest Fresno Specific Plan, Government Sections 65864 through 65869.5, its compatibility with surrounding uses, and its avoidance of mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of this evaluation, it can be concluded that this Amendment of the Development Agreement of West Creek Village are appropriate for the project site.

LOCAL PREFERENCE

Local preference was not considered because this project does not include a bid or award of a construction or service contract.

FISCAL IMPACT

Affirmative action by the Council will result in timely deliverance of the review and processing of the application as is reasonably expected by the applicant. Prudent financial management is demonstrated by the expeditious completion of this land use application inasmuch as the applicant has paid to the City a fee for this processing of this application and that fee is, in turn, funding the respective operations of the Planning and Development Department.

Attachment:

City Council Ordinance Bill for the Amendment to the Development Agreement by and