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Staff Report for a City of San Leandro City Council Ordinance for the First Amendment to the Development Agreement for 2436 Washington Avenue - 2450 Washington Avenue Development Project

SUMMARY AND RECOMMENDATIONS

In November 2011 and December 2011, the City Council adopted Resolution No. 2011-192 and 2011 -193, and Ordinance No. 2011-013, approving a 66-unit residential rental apartment project referred to as the 2450 Washington Avenue Development Project (“Project”), APN 077D-1410-025-00, PLN2009-00006 and PLN21-0001. The Project approval consisted of Vesting Tentative Tract Map 8003, a General Plan Map Amendment from Office to High Density Residential, a Rezone from P (AU)-Professional with Assembly Use Overlay to RM-1800(PD)-Residential Multi-Family with Planned Development Overlay, a Development Agreement, an Initial Study, a Mitigated Negative Declaration and a Mitigation Monitoring Reporting Program.

The project’s approved Development Agreement has an initial ten (10) year term, expiring on January 4, 2022, which may be extended for one additional five (5) year term. This would extend the life of the Development Agreement, as well as the Vesting Tentative Tract Map, to January 4, 2027.

The Development Agreement approved in 2011 contemplated the Project as rental housing. Section 2.10 of the Development Agreement prohibits the Applicant from requesting approval for conversion to a for-sale condominium project. This provision may only be amended through approval by the City Council.

The Developer, William Mathew Brooks of Wm. Mathews, Inc. (the “Applicant”), submitted an application to amend the Development Agreement: (1) to exercise the five (5) year term extension; and (2) to modify the Development Agreement by deleting Section 2.10.

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Staff recommends that the City Council approve the amendments to the Development Agreement, as reflected in the proposed First Amendment to the Development Agreement.

Staff further recommends amending the Development Agreement to extend the term by an additional five (5) years, to expire on January 4, 2027.

Staff also recommends amending the Development Agreement to apply upon the Project the current requirements of the City's Inclusionary Housing Ordinance (Zoning Code Section 6.04.100 et seq.).

BACKGROUND AND DISCUSSION

The subject site comprises a ±124,469 square foot (2.85 acre) parcel located on the east side of Washington Avenue at the north corner of San Leandro Boulevard. Surrounding commercial and residential sites on Washington Avenue are developed with residential uses including a mobile home park to the south and east (Trailer Haven and San Leandro Court), single-family residential to the north (Sandpiper Condominiums), and automotive businesses to the west across Washington Avenue. The site was formerly part of the Singer-Friden business machine, calculator, circuit board, cash register, and sewing machine manufacturing plant from approximately 1968 to 1976.

The Applicant proposes to amend the Development Agreement previously approved by the City Council on December 5, 2011 to exercise the five (5) year extension as allowed by Section 1.3.2 of the Development Agreement, and to delete Section 2.10 prohibiting the Applicant from requesting approval for conversion to a for-sale condominium project.

Subsequent to the approval of the Development Agreement, and due to a change in state law, the City's Inclusionary Housing Ordinance, San Leandro Zoning Code Chapter 6.04, became enforceable. Section 2.4.2(c) of the Development Agreement provides that in the event that "Future Rules" are adopted by the City after the effective date of the Development Agreement, such Future Rules shall apply to the Project upon the written consent of the Applicant.

Pursuant to Government Code Section 65868, a development agreement may be amended by mutual consent of the parties to the agreement. Notice of intention to amend any portion of the agreement shall be given in the manner provided by Government Code Section 65867, and an amendment to an agreement shall be adopted by ordinance, and the City Council must find that the amended Development Agreement is in compliance with the City General Plan, as required by Government Code Section 65867.5.

ANALYSIS

Five (5) Year Extension and Vesting Tentative Map

The Vesting Tentative Map was approved and adopted by City Council in November 2011. Government Code Section 66452.6 provides that a vesting tentative map on property subject to a development agreement may be extended for the period of time provided by the development agreement, but not beyond the duration of the development agreement. The proposed amendment to the Development Agreement to exercise the five (5) year extension to the term of the Development Agreement would extend the life of the Vesting Tentative Map to January 2027. Currently, the Development Agreement is set to expire on January 4, 2022, which would also be the time of

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expiration of the Vesting Tentative Map. In order to extend the time for this Project, including the viability of the Vesting Tentative Map, the five (5) year extension must be exercised.

For Sale Addition

The Development Agreement contemplated the Project initially as an all rental project. Section 2.10 provides that the Applicant will not seek, and the City will not approve, an application to convert the Project into any future subdivision of any or all individual buildings in the Project into individual condominium units. The proposed amendment deletes Section 2.10, which would allow more flexibility for the Applicant to determine based on market forces if rental or for sale housing is more appropriate.

Inclusionary Housing Requirements

After the date of the Development Agreement, and due to a change in state law the City's Inclusionary Housing Ordinance, San Leandro Zoning Code Chapter 6.04 became enforceable, to apply the inclusionary housing requirements to rental and for sale/ownership housing projects. As provided by Development Agreement Section 2.4.2(c), in the event that "Future Rules" are adopted by the City after the effective date of the Development Agreement, such Future Rules shall apply to the Project upon the written consent of the Applicant. The Applicant is willing to consent to the application of the Inclusionary Housing Ordinance, as it exists today, to the Project. This will provide additional affordable housing to the community, while keeping intact the Project as originally contemplated. The Inclusionary Housing Ordinance requires that for new rental housing development, fifteen percent (15%) of the Base Units be reserved as affordable housing (the "Inclusionary Units"). Sixty Percent (60%) of the Inclusionary Units must be reserved for occupancy by Very-Low Income Households, and Forty percent (40%) of the Inclusionary Units must be reserved for occupancy by Low-Income Households. The Inclusionary Housing Ordinance requires that for new "for sale" housing developments, fifteen percent (15%) of the Base Units be reserved as affordable housing (the "Inclusionary Units"). Sixty Percent (60%) of the Inclusionary Units must be reserved for occupancy by Moderate Income Households, and Forty percent (40%) of the Inclusionary Units must be reserved for occupancy by Low-Income Households. The Inclusionary Units count towards Developer's obligations under the State Density Bonus Law.

ENVIRONMENTAL REVIEW

The first amendment to the Development Agreement is exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the amendment may have a significant effect on the environment. Furthermore, the City Council previously adopted a Mitigated Negative Declaration for the Project on November 21, 2011 by Resolution No. 2011-192.

Board/Commission Review and Actions

The proposed ordinance exercising the five (5) year extension of the term of the Development Agreement was presented to the Planning Commission for consideration on July 1, 2021, where the motion to forward the item to Council with a recommendation of approval was passed with a vote of 6 -0 (one commissioner absent).

LEGAL ANALYSIS

The City Attorney's Office drafted the proposed ordinance and proposed First Amendment to the Development Agreement. The legal discussion can be found in the narrative above.

ATTACHMENT(S)

Attachments to Staff Report
- 2012 Development Agreement
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- Planning Commission Staff Report, andResolution

Attachments to Ordinance
- Proposed First Amendment to the Development Agreement

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