

LOCATION MAP



BACKGROUND

Site Description

Ordinance No. 2195 dated April 6, 2016 approved a Development Agreement for 12 residential allotments which would allow for the development of 10 detached single-family residences, two single family attached homes and retention of two single family detached homes on a 3.65 acre site located at the southeast corner of the intersection of East Dunne Avenue and Murphy Avenue.

Prior Council/Commission Actions

The project is to commence construction of the first 7 homes no later than December 30, 2016.

The applicant filed the Development Agreement Amendment (DAA) request on October 7, 2016. The applicant has indicated in the DAA request that an extension of time is requested due to extended processing of the tentative subdivision map resulting in need to make major changes to the subdivision map and the site development plan. The architectural plans also needed to be revised to include one additional single story floor plan.

The project competed in the Residential Development Control System (RDCS) competition in 2013-2014 and was awarded in February 2014, seven allotments for Fiscal Year 2015-2016 and six allotments for Fiscal Year 2016-2017. The redesign of

the project eliminated of the need for one of the FY 2016-2017 allocations resulting in a total of five FY 2016-2017 allocations being incorporated into the project and in the approved Development Agreement. Since that time, the following items have been completed:

1. Precise Development Plan;
2. Development Agreement;
3. Subdivision Map;
4. Final Map/Improvement Plans submitted and pending;

ANALYSIS:

The proposed development agreement amendment was analyzed with respect to consistency with applicable ordinances and policies.

City Ordinances and Policies Governing Time Extensions

Section 18.78.125.G of the Morgan Hill Municipal Code allows for the City Council to grant an exception to the loss of allotment if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation, or extended delays in environmental reviews, delays not the result of developer inaction, or allotment appeals processing. The City Council also further refined the loss of allotments in City Council Policy CP 09-02 (Attached), which allows for "Exception to the Loss of Building Allocations (ELBA)", when the need for the ELBA is not the result of developer inaction; and that the need for an ELBA is due to circumstances outside of the developer's control.

A Developer "Action" is defined by completion of the following eight steps:

1. Planning Applications submitted;
2. Planning Applications approved;
3. Final map/Improvement plans submitted;
4. Final map/Improvement plans approved;
5. Master plan check submitted;
6. Master plan check approved;
7. Final map/Improvement plans recorded; and,
8. Building permits issued/construction commenced.

Projects that have completed steps 1-6 will be considered more favorably for extensions. An extension may be considered for a project that has not completed these steps, if evidence of circumstances outside developer control or other circumstances unique to the project that has precluded the developer from completing steps 1-6. A developer must be able to demonstrate timely submittals and that the developer has not contributed to the delay. The project has almost completed three of the eight steps as described in Council Policy CP 09-02 (Site Review submittal and approval are missing from step one and two).

The applicant explains in the letter dated October 4, 2016, that due to City delays, a six month extension of time is being requested (Attached). The Zoning, Subdivision Map and Development Agreement applications were submitted to the City on October 31, 2014. A letter stating the application was incomplete for processing was provided to the

applicant on December 9, 2014. A revised site development plan was submitted on March 5, 2015. Revised subdivision map and civil engineering drawings in response to staff comments were received on September 10, September 16, October 12, 2015, and January 13, 2016. The project was found complete in January 14, 2016 and was presented to the Planning Commission on February 9, 2016 for approval of the Subdivision Map and recommended approval of the Zoning Amendment and Development Agreement. The Zoning Amendment and Development Agreement were approved by the City Council on April 6, 2016. The Final Map and Improvement Plans were filed with the Public Works Department on October 24, 2016 and the applicant has yet to submit a Site Review application.

CEQA (California Environmental Quality Act)

In accordance with Section 15162 of the CEQA Guidelines (Subsequent Negative Declarations), there is no substantial evidence, in light of the whole record, that the project development agreement as revised would have a significant effect on the environment; therefore no further environmental analysis is required. A Mitigated Negative Declaration/Exemption was adopted for the projects and a Notice of Determination/Exemption was filed.

Community Engagement

The proposed project was publicly noticed (mailing to property owners within 300 feet of the project and newspaper legal noticing) for the minimum 10-day period

Conclusion

Based on Council Policy CP 09-02, the project was previously granted a six month extension to the commencement of construction deadline based on the delay of Planning and Public Works processing times for the Tentative Subdivision Map and Development Agreement. This processing delay cited in the applicant's letter of request was already factored into the approval of the Development Agreement and the Exhibit "B" Development Schedule where the original FY 2015-2016 commence construction deadline was extended from June 30, 2016 to December 30, 2016. The current delay is due to the applicant's inaction since no action has occurred for the past six months. As stated previously, Final Map and Improvement Plans were recently submitted October 24, 2016 and a Site Review application has yet to be submitted. The applicant's delay does not warrant a further six month extension.

Obtain Building Permits	Original Date	Request	Staff Recommendation
FY 2015-2016 (7 allotments)	June 30, 2016 extended by DA to December 30, 2016	June 30, 2017	Not recommended
FY 2016-2017 (5 allotments)	June 30, 2017	No extension requested	June 30, 2017

LINKS/ATTACHMENTS:

1. Resolution
2. City Council Policy CP 09-02
3. Letter of Justification