

VILLAGE AT LOS CARNEROS DEVELOPMENT AGREEMENT



City Council

April 4, 2017

Background

- 465 Residential Units approved by the City Council on August 19, 2014
- Project included:
 - 70 affordable housing units
 - Recreational Center
 - Bridge across Tecolotito Creek

Development Agreement

- The Development Agreement (DA) applied to the entire market rate development
- The DA provisions required:
 - Completion of all Affordable Housing Units before issuance of building permits to allow the construction of the 220th market rate unit
 - Completion of the Recreational Center in the first phase
 - Start of construction on the bridge before final inspection of the 232nd cumulative market rate unit

Requests

➤ Comstock Homes request:

To change the timing associated with the affordable housing provision from “220 building permit” to “220 certificate of occupancy” (applicable to all market rate units)

➤ RTA request:

To be relieved from the DA provisions regarding affordable housing, recreational center and the bridge (applicable to Lot 9 only)

Methods to Change the DA

- Operating Memorandum or Implementation Agreement
- Development Agreement Amendment

Actions Taken Since DA Adoption

- May 2, 2106 Operating Memorandum No. 1 to change the timing requirement for a permit required by the Army Corps of Engineers (ACOE) between City and Comstock Homes
- May 2016 “Estoppel and Agreement to Development Agreement” between City and RTA
- June 6, 2016 Assignment and Assumption Agreement between Comstock Homes and RTA for Lot 5
- December 30, 2016 Assignment and Assumption Agreement between Comstock Homes and RTA for Lot 9

Affordable Housing DA Provision

Building Permit Leverage to Ensure Completion of Affordable Units

- City's leverage under the existing DA: 176 market rate building permits
- Lot 5 Agreement reduced City's leverage to 102 market rate building permits
- RTA's request results in City's leverage reduced to 14 market rate building permits
- Comstock Homes request changes the DA provision to withholding Certificate of Occupancy so no building permits would be withheld

Affordable Housing DA Provision

Certificate of Occupancy (CO) Leverage

- City's leverage under the existing DA: 176 market rate CO
- Lot 5 Agreement reduced City's leverage to 102 market rate CO
- RTA's request results in City's leverage reduced to 14 market rate CO
- If RTA's request is not granted and Comstock Homes request is granted the City's leverage would be 102 CO
- If RTA and Comstock Homes requests are granted the City's leverage would be 14 CO

Current Development Status

- Peoples' Self Help Housing – 70 apartments under construction. Completion date: Dec. 2017/Jan. 2018
- Comstock Homes has 95 market rate units under construction Completion date: Spring/Summer 2017
- RTA has 74 market rate apartments under construction. Completion date: Fall 2017
- 124 more building permits may be issued according to the existing DA and Lot 5 Agreement restrictions

RTA's Good Cause Representation

- RTA does not have control over the affordable housing construction. Therefore, RTA believes the affordable housing provision should not apply to RTA.

Comstock Homes Justifications for DA Change

- Comstock Homes is the General Contractor for the affordable housing units
- Comstock Homes has shown steady progress in the affordable housing development
- Construction delays occurred due to rain

Recreational Center and Bridge Provisions

- DA provision requires Recreational Center to be completed in the first Phase (Anticipated Completion: May 2017)
- DA provision requires bridge construction to begin before the 232nd certificate of occupancy
- RTA request relief from these two provisions
- Reduces City's leverage in ensuring these amenities are constructed in a timely manner

Conclusion

- Staff requests that the City Council provide direction regarding the various requests by Comstock Homes and RTA
- Council may find good cause and relieve RTA from the affordable housing provision
- Council may direct staff to prepare an operating memorandum or process a DA amendment if Council decides to grant the additional requests from RTA and Comstock Homes as discussed

Fiscal Impacts

- The costs associated with processing these requests would be shared equally by Comstock Homes and RTA

Alternatives

- The Council may elect to continue this item for further review to grant some, all or none of the requests or change the DA affordable housing provision to a different number on the building permit limitation
- Council may also elect to continue the item and direct staff to enter into discussion with Comstock Homes and RTA

