



STAFF REPORT
2/12/2020

TO: Honorable Mayor and City Council Members

FROM: Luis Lopez, Development Services Director

SUBJECT: Ordinance No 1155 approving the La Entrada Development Agreement (DA) – First Amendment to extend the milestone dates for commencement of grading and construction activities for an additional five years, and to amend provisions in the Development Agreement for affordable housing and to make conforming amendments. PSAV, LLC and LLSE Holdings LLC, Co-Applicants. (*First Reading*)

STAFF RECOMMENDATION:

Staff recommends that the City Council introduce for first reading, by title only, the attached Resolution No. 1155 approving the La Entrada Development Agreement – First Amendment allowing for additional time to commence construction activities and to amend the provisions for affordable housing.

EXECUTIVE SUMMARY:

The La Entrada master-planned community is a proposed development on approximately 2,200 acres of vacant land located on the south side of the I-10 Freeway, east of the All-American consisting of up to 7,800 homes and 1.5 million square feet of mixed-use/commercial uses, open space and common area lots. La Entrada Development Agreement outlines the developer's obligations for commencement of construction and timing of improvements, fee credits and financing of public improvements, and related City and Applicant responsibilities. The First Amendment to the La Entrada Development Agreement is proposed by the owner/developer in order to extend the milestone dates for commencement of grading and construction activities for an additional five years, and to amend the provisions in the Development Agreement regarding affordable housing, and making conforming amendments.

BACKGROUND:

Sections 65864-65869 of the California Government Code provide a framework for the creation, drafting and processing of development agreements in all jurisdictions in the State. The Government Code specifies certain requirements of a development agreement including: periodic (at a minimum annual) review of the agreement, the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes.

On June 11, 2014 the City Council approved Ordinance No. 1067 which authorized the La Entrada Development Agreement (“DA”) between the City of Coachella and PSAV, LLC and LLSE Holdings, LLC. This agreement vested the previously-approved entitlements pursuant to the “La Entrada Specific Plan and Environmental Impact Report (EIR)” project for 15 years including three 5-year term extensions. The DA grants the City and the owner/developer certain benefits and obligations related to the phased development of the La Entrada Community which will allow up to 7,800 dwelling units and 1.5 million square feet of mixed use/commercial development on 2,200 acres.

The Planning Commission reviewed the La Entrada Development Agreement - Amendment #1 on December 4, 2019 and recommended to the City Council approval of the proposed request. The Commission was pleased with the developer’s commitment to providing additional affordable housing for the community, and inquired as to the status of the project.

DISCUSSION/ANALYSIS:

On July 31, 2019, the City Council gave staff direction to work with the La Entrada Specific Plan developer regarding the owner’s request for first amendment to the Development Agreement, and to negotiate an increase in the amount of affordable housing units for the overall project, as outlined in Section 13.3 of the DA which currently reads as follows:

“13.3 Affordable Housing. Prior to or concurrent with the submittal of the first Master Tentative Map, an affordable housing plan must be submitted to, and approved by, the City that provides for the following:

- 1. A minimum of five hundred (500) affordable dwelling units must be identified and constructed as follows, in accordance with the terms and provisions of Section 26 herein:*
 - i. Two hundred forty (240) affordable dwelling units must be identified and constructed within the first two (2) phases of the La Entrada Project; Phase 1 will contain a minimum of one hundred fifty (150) affordable dwellings units and Phase 2 will contain the balance of ninety (90) affordable dwelling units; and*
 - ii. Two hundred sixty (260) affordable dwelling units must be identified and constructed within the remaining three (3) phases of the La Entrada Project.*

Affordable housing, as that term is used in this Agreement, shall include, but not be limited to, housing for low-income residents, seniors, veterans, and the disabled. The affordable dwelling units will be evenly distributed within the mixed-use, high-density residential and medium-density residential land use designations of the La Entrada Specific Plan.

The maximum sales or rental rates for the affordable units shall not exceed the maximum levels established by the City of Coachella consistent with the provisions of the Housing Element and State law.

All affordable housing units in La Entrada shall remain restricted to the corresponding income households for a minimum of thirty (30) years through a restrictive covenant, unless otherwise specified by State law or the City's density bonus provisions contained in Chapter 17.88 of the City's Municipal Code."

Requested Amendments:

The owner/developer has requested the following changes to the milestone obligation timelines in Section 13.1 of the DA, to extend them by five years, as highlighted below.

§13.1 In order to preserve and maintain the provisions of this Agreement, Landowner must commence Construction on the Project within ~~five (5)~~ ten (10) years from the Effective Date of the Agreement. For purposes of this section, "Construction" is defined as any one or more of the following: rough grading, finished grading, utility construction, infrastructure construction, and any other physical preparations or building construction either on-site or off-site for the project.

Notwithstanding any other provisions of this Agreement, Landowner shall be required to perform the following additional construction obligations:

- a. A minimum of eight hundred (800) Units shall receive certificates of occupancy within the ~~first ten (10)~~ fifteen (15) years of the Effective Date.*
- b. A minimum of fifty thousand (50,000) square feet of commercial or retail uses, including at least one grocery store, shall be constructed and occupied within the first ~~ten (10)~~ fifteen (15) years of the Effective Date.*
- c. A minimum of 140 hotel or motel rooms shall be constructed and available for reservations within the first fifteen (15) ~~twenty (20)~~ years of the Effective Date.*

Staff has included the above amendments in the DA – First Amendment document attached to this staff report. Additionally, staff has included a clarifying sentence in the above section to read as follows:

"Landowner must have an approved Master Tentative and approved and recorded Master Final Map for that phase prior to the start of any Construction."

Negotiated Amendments – Affordable Housing:

As previously stated, staff was directed by City Council to increase the amount of affordable housing that is currently required under the La Entrada DA. After numerous discussion meetings and exchanges between the owner and city staff, the following show the proposed changes to the affordable housing provisions, including some minor changes to the implementation of the affordable housing plan for the project.

§13.3 Affordable Housing. Prior to or concurrent with the submittal approval of the first Master Tentative Map, an affordable housing plan must be submitted to, and approved by, the City Council that provides for the following:

1. A minimum of five hundred (500) one thousand (1,000) affordable dwelling units must be identified and constructed as follows, in accordance with the terms and provisions of Section 26 herein:
 - (i) Four hundred eighty (480) Two hundred forty (240) affordable dwelling units must be identified and constructed within the first two (2) phases of the La Entrada Project; Phase 1 will contain a minimum of one hundred fifty (150) three hundred (300) affordable dwellings units and Phase 2 will contain the balance of ninety (90) one hundred eighty (180) affordable dwelling units; and
 - (ii) Five hundred twenty (520) Two hundred sixty (260) affordable dwelling units must be identified and constructed within the remaining three phases of the La Entrada Project.

Additionally, staff has included the following paragraph to provide more specificity regarding implementation of the required Affordable Housing Plan:

Prior to the issuance of the first building permit for any phase, Landowner must have an approved Builder's Tentative and approved and recorded Builder's Final Map for that phase and the City Planning Director shall approve the specific method of implementation of affordable housing in furtherance of the City Council approved affordable housing plan for that phase.

Conforming Amendments – Minor Changes:

In addition to the amendments explained above, staff has included some conforming amendments that require the developer to pay the current DA Fees, as specified in the Municipal Code (which were not in place when the original project was approved). All affordable housing projects are exempt from the one-time DA Fee that is assessed at the time that a building permit is issued. Secondly, there is a conforming amendment adding a 5% transfer and assignment fee, to make up for the time value of money that is being created by the additional 5 years of delay in construction milestones.

Five-Year DA Term Extension:

Section 8.3 of the La Entrada DA includes a clause that allows the owner to request up to three five-year term extensions on the DA, with a written request to City Council who may grant the extension provided the owners are not in default of the Agreement. The owners have submitted a written request indicating they are seeking a five-year term extension on the overall DA and that this was a consideration in their willingness to negotiate the added affordable housing for the project. Currently the DA term does not run out until July 2029 and the owners could request this term extension at any time. In any case, if the City Council is inclined to grant the first 5-

year term extension, staff will bring back the item at the next City Council meeting for final approval.

ENVIRONMENTAL REVIEW:

The La Entrada Specific Plan, previously approved by the City on November 13, 2013 subject to conditions of approval, proposes the development of a master-planned community in the northeastern portion of the City on approximately 2,200 acres. The Specific Plan includes a mix of residential, commercial, open space, education, and recreational uses, as well as associated infrastructure to support buildout of the Specific Plan. An Environmental Impact Report (EIR) for the La Entrada Specific Plan was also certified on November 13, 2013 (SCH #2012071061), which analyzed the environmental impacts from development of the Specific Plan and imposed mitigation measures.

The City and property owner (“Owner”) first entered into a Development Agreement on July 25, 2014, to facilitate the development of the La Entrada Project, consisting of the construction of 7,800 single and multi-family units, commercial, retail and offices uses and community/public facilities within the Specific Plan area. On May 22, 2019, the Owner requested an amendment to the La Entrada Development Agreement (“Amendment”) for an additional five (5) years to commence construction on the project.

The Amendment is a minor timing correction that does not modify the Project or the mitigation measures contained in the certified EIR. Specifically, the mitigation measures (such as those related to traffic) are required prior to approval of a Tentative Map for each phase, which doesn’t conflict with the new terms in the Development Agreement, as the Amendment requires an approved Master Tentative and Master Final map prior to the start of any Construction. The Amendment revises the timing of the conditions of approval for the Specific Plan to from “prior to or concurrent with submittal of a Master Tentative Map” and “prior to or concurrent with submittal of a Builder’s Tentative Map or Commercial Map” to “prior to or concurrent with approval of a Master Tentative Map” and “prior to or concurrent with approval of a Builder’s Tentative Map or Commercial Map”. The amendment does not affect the conditions themselves. Where mitigation contained in the conditions of approval requires studies be completed, such as traffic studies, the conditions already contain language that they be prepared “prior to or concurrent with approval.”

Accordingly, no new information of substantial importance exists under Public Resources Code 21166 or State CEQA Guidelines 15162 showing that any new or substantially increased significant impacts would arise from the Amendment. The Amendment extends the timing for the commencement of construction by five years and increases the number of affordable dwelling units without increasing the total number of units to be constructed. The Amendment does not modify the Project or change the significance conclusions of the previously certified EIR and no new mitigation is required as a result of the Amendment. Therefore, no further CEQA review is required.

ALTERNATIVES:

1. Introduce for first reading, by title only, Ordinance No. 1155 approving the La Entrada DA – First Amendment
2. Make findings to recommend denial of the La Entrada DA – First Amendment request.
3. Continue this item and provide staff with direction.

FISCAL IMPACT:

The La Entrada Development Agreement (DA) is a complex land entitlement that granted mutual benefits, and imposed mutual obligations, between the City and the Owner, over a 25-30 year period. The fiscal impacts are numerous and difficult to quantify. Some of the major mutual benefits and obligations that have a fiscal impact on the City are as follows:

- 1) The DA will require all future homebuilders to pay the City a \$2,500 “Development Agreement” fee at the time of issuance of a Certificate of Occupancy. This will provide up to \$19.5 million of General Fund revenues over the life of the project.
- 2) The DA will require the City to freeze all Development Impact Fees for the first 2,000 dwelling units of the project. These fees would be based on the City’s updated nexus study expected in 2020 and will affect Phases 1 and 2 of the project. Depending on the level of construction activity for the project, the City may be put in a position of collecting the 2020 fees even after a post-2020 nexus study is in place.
- 3) The DA commits the City to facilitate the creation of Community Facility Districts to issue bonds that will pay for the City’s General Government Facilities component of the development impact fees. The City will collect \$4.75 million as part of the 1st series of financing districts. The City will then collect the remaining \$4.75 million as part of the subsequent series of financing districts. These financing districts are anticipated to be completed during the first phases of construction of each of the three villages (Central, Gateway, and Hillside), as these funds will be used for backbone infrastructure.
- 4) Any transfer, sale or assignment that involves the sale of less than 1,000 lots will require the transferring party to pay the City a fee of \$5,000. Any transfer, sale or assignment that involves 1,000 to 2,500 lots will require the transferring party to pay the City a fee of \$25,000. Any transfer, sale or assignment that involves the sale of more than 2,500 lots will require the transferring party to pay the City a fee of \$50,000. Therefore, land investor and resale activity will have positive fiscal effects for the City.

Overall, staff believes the La Entrada DA is a fair agreement that provides positive fiscal impacts with adequate risk protection for the City, while providing the developer with the certainty of entitlements, adequate city services, and development incentives to make the project a success.

RECOMMENDED ALTERNATIVE(S):

Staff recommends Alternative #1 as noted above.

Attachments: Ordinance No. 1155 (1st Reading)
Exhibit A - La Entrada DA (First Amendment)