



REPORT TO CITY COUNCIL

To: Honorable Mayor or Members of the City Council

From: Jason Simpson, City Manager

Prepared by: Damaris Abraham, Interim Assistant Community Development Director

Date: January 24, 2023

Subject: **First Amendment to Development Agreement No. 2022-02 (Ramsgate) to Include Tentative Tract Map No. 33725, a 52.7-acre Subdivision With 204 Lots, to the Development Agreement for the Ramsgate Specific Plan**

Applicant: SPT-AREP III Tuscany Associates LLC

Recommendation

Introduce by title only and waive further reading of AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, APPROVING A FIRST AMENDMENT TO THE RAMSGATE DEVELOPMENT AGREEMENT FOR THE PURPOSE OF INCLUDING TENTATIVE TRACT MAP NO. 33725 (DEVELOPMENT AGREEMENT NO. 2022-02).

Background

On June 20, 1990, the City approved and adopted the Ramsgate Development Agreement (DA), which was recorded on June 27, 1990. The original Ramsgate DA covered 1,190 acres of the overall 1,291-acre "Ramsgate Specific Plan" (RSP), a planned development community site now known as Rosetta Canyon.

On September 26, 2006, the City Council approved Mitigated Negative Declaration No. 2006-04 (SCH No. 2006071012), General Plan Amendment No. 2006-05, Pre-Annexation Zone Change No. 2006-05, Zone Change No. 2006-07, Ramsgate Specific Plan No. 89-1 Fifth Revision, Annexation No. 76, and Tentative Tract Map (TTM) No. 33725 for the subdivision of a 52.7-acre site into 221 single-family residential lots, five (5) water quality basins, 21 open space lots, and a storm drain easement/pedestrian paseo.

As amended in 2006, the RSP includes eleven Tentative Tract Map (TTM) Nos. 25472 through 25479, 30698, 34231, and 33725. Of these TTMs, Nos. 30698 and 33725 (each approximately 50 acres in size) were never made subject to the Ramsgate DA. The proposed First Amendment is intended to make TTM No. 33725 subject to the Ramsgate DA.

SPT-AREP III Tuscany Associates LLC (SPT) is the successor in interest and assignee of all of the rights, title, interests, and obligations in the Ramsgate DA to the extent such rights, title, interests, and obligations relate to TTM No. 25475. SPT is also the owner of TTM 33725.

Between 2003 and 2022, the City and various successors in interest to Rialto, including SPT, executed nine operating memoranda of understanding (OMOU) pursuant to Section 7.3 of the Ramsgate DA. Among other things, these OMOUs extended the term of the Ramsgate DA, consistent with Section 10 (Permitted Delays).

The following summarizes the specific extensions provided by the nine OMOUs to the Ramsgate DA:

1. The First OMOU between the City and White Rock (2003), extending the effective period for all TTMs until June 27, 2007.
2. The Second OMOU between the City and White Rock (2006), extending the effective period for TTM Nos. 25473, 25475, and 34231 until June 27, 2010.
3. The Third OMOU between the City and Centex Homes (2006), extending the effective period for TTM Nos. 25476 through 25479 until June 27, 2010.
4. The Fourth OMOU among the City, Centex Homes, and Richmond American Homes of Maryland, Inc. (RAH) (2010), extending the effective period for TTM Nos. 25476 through 25479 until June 27, 2012.
5. The Fifth OMOU among the City, SPT, and MBK Homes Ltd. (MBK) (2010), extending the effective period for TTM Nos. 25473, 25475, and 34231 until June 27, 2012.
6. The Sixth OMOU between the City and SPT (2011), extending the effective period for TTM Nos. 25473 and 25475 until December 31, 2022.
7. The Seventh OMOU between the City and RAH (2012), extending the effective period for TTM Nos. 25476 through 25479 until June 27, 2016.
8. The Eighth OMOU between the City and MBK (2012), extending the effective period for TTM No. 34231 until June 27, 2016.
9. The Ninth OMOU between the City and SPT (2022), extending the effective period for TTM No. 25475 to the earlier of either (1) 48 months after SCE is able to provide necessary power to serve TTM No. 25475 or (2) December 31, 2027.
10. The Tenth OMOU between the City and Hill Country S.A., Ltd., a Texas limited partnership (doing business in California as Hill Country S.A., L.P.) and American Superior Land, LLC, a Delaware limited liability company (collectively "Richland") (2022), extending the effective period for TTM No. 25473 to the earlier of either (1) 48 months after SCE (as defined below) is able to provide necessary power to serve TTM No. 25473 or (2) December 31, 2027.

Planning Commission Action

At the December 6, 2022 Planning Commission meeting, the applicant explained that they have diligently attempted to complete development of TTM Nos. 25475 and 33725. However, they were informed by Southern California Edison (SCE) in February 2022 that SCE's existing power grid has insufficient capacity to serve TTM Nos. 25475 and 33725 and that design and construction of the necessary infrastructure to provide sufficient power will take 3 to 5 years. The Planning Commission voted unanimously 5-0 to adopt a resolution recommending approval of the Development Agreement (First Amendment) for the Ramsgate Specific Plan.

Discussion

As originally approved, TTM 33725 was a subdivision of 52.7 acres into 221 single family residential lots, 5 water quality basins, 21 open space lots, and a storm drain easement/pedestrian paseo. As amended in 2021 (Revision No. 1), the subdivision now includes the construction of a sewer lift station on Lot 205, offsite sewer line extension, construction of a water pipeline extension along Greenwald Avenue, and modifications to the intersection of the proposed D Street and Little Valley Road and the intersection of Little Valley Road and Greenwald Avenue. To accommodate the new roadway alignment, the residential lots in the subdivision have been reconfigured, and the overall total is reduced to 204 lots. TTM 33725, Revision No. 1 now reflects a subdivision of 52.7 acres into 204 single family residential lots, three (3) water quality basins, 15 open space lots, and one (1) sewer lift station. TTM 33725 is located west of Greenwald Avenue and south of Little Valley Road within Ramsgate Specific Plan (APNs: 349-240-006, 043 thru 047, 054, 055, 056, 349-380-024 and 025).

As approved in 2006, TTM No. 33725 had a 2-year effective period. It subsequently received 8.5 years of state-law legislative extensions and 6 years of discretionary, City-approved extensions, which have extended its effective period until March 26, 2023. The proposed First Amendment to the Ramsgate DA would vest the development rights under TTM 33725 for an approximate five (5) year term expiring not later than December 31, 2027, unless the agreement is terminated, modified, or extended upon mutual written consent. The proposed First Amendment would memorialize the following:

- Vested Rights: The First Amendment provides certainty in the development process by vesting the development rights under Tentative Tract Map 33725 consistent with the conditions of approval and subject to the City's existing land use regulations. During the term of the First Amendment, TTM 33725 will be exempt from newly adopted City land use regulations and fees.
- Existing Development Impact Fees: During the five (5) year Term of the First Amendment to the Ramsgate DA, the City shall impose and the Developer shall be required to pay only existing development impact fees at the prevalent rate in effect at the time of the issuance of each building permit or other time of payment required by applicable City ordinance or resolution. No new categories of development impact fees will be imposed on the Project during the Term of the Ramsgate DA.

- Non-Vested Fees:, The Developer will be required to pay development permit application processing fees and charges, storm drain fees, TUMF, MSHCP, SKR and impact fees, exactions, assessments or fair share charges or other similar fees or charges imposed by other governmental entities regardless of whether the City is required to collect or assess such fees (e.g., school district impact fees pursuant to Government Code Section 65995) at the prevailing rate at the time such fees are due.
- Payment of a Development Agreement Fee. A \$5,500/unit Development Agreement Fee shall be paid upon issuance of each residential building permit to be used by the City in its discretion for the construction of capital facilities.

The applicant has diligently attempted to complete development of TTM 33725. However, TTM 33725 cannot be developed at present because Southern California Edison's (SCE) existing power grid has insufficient capacity to serve the map. SCE has stated that design and construction of the necessary infrastructure to provide sufficient power will take 3 to 5 years (2025-2027). Because SCE's inability to provide power, the applicant has requested that TTM No. 33725 be made subject to the Development Agreement, including the provisions of Section 8.5, which provide that "the term of any subdivision map or parcel map" subject to the Development Agreement "will be extended for the term of this agreement." This First Amendment expands the geographical boundary of the Development Agreement to include TTM 33725 and extends the effective period of TTM No. 33725 consistent with Section 8.5 of the Development Agreement.

The proposed First Amendment will facilitate the development of TTM No. 33725 and will provide development agreement fees of approximately \$1,122,000 for construction of future capital facilities. The First Amendment has been reviewed City Attorney and is consistent with and meets all legal requirements of State Government Code Sections 65864 through 65869.5 and the Lake Elsinore Municipal Code Chapter 19.12 regulating development agreements.

Environmental Determination

Pursuant to CEQA Guidelines Section 15162, no new environmental documentation is necessary because all potentially significant effects have been adequately analyzed in an earlier Environmental Impact Report (EIR) and none of the conditions described in Section 15162 exist. The City previously performed environmental review in compliance with CEQA when it approved the Development Agreement and first amendment to the Specific Plan in 1990 based on a Supplemental Environmental Impact Report (SCH 88090525); approved TTM 33725 in 2006, based on a Mitigated Negative Declaration (No. 2006-04); and approved modifications to TTM No. 33725 in 2021 based on an Addendum.

This First Amendment does not propose any changes to the Project and will not have any significant direct, indirect, or cumulative environmental impacts apart from or beyond those already analyzed, addressed, and mitigated as stated in the environmental documentation prepared and adopted/approved for TTM No. 33725. All potentially significant impacts have been avoided or mitigated pursuant to the earlier environmental impact report and none of the conditions in Public Resources Code Section 21166 or CEQA Guidelines Sections 15162, 15163 and 15164 calling for preparation of a subsequent or supplemental environmental impact report have occurred because of the following: (i) the Project does not propose substantial changes that would require major revisions to the previously certified EIR and subsequent Addendum due to new significant environmental effects or a substantial increase in the severity of previously identified significant environmental effects; (ii) no substantial changes in circumstances have occurred that require major revisions to the previously certified EIR and subsequent Addendum due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and (iii) no new information of substantial importance as described in Section 15162 (a)(3) has been identified that shows any of the following: (a) one or more significant effects not discussed in the EIR, (b) significant effects previously examined that are substantially more severe than shown in the EIR, (c) mitigation measures or alternatives previously found not to be feasible are in fact be feasible and substantially reduce one or more significant effects of the project, but the Project proponents decline to adopt the mitigation measure or alternative, or (d) mitigation measures or alternatives which are considerably different from those analyzed in the EIR and subsequent Addendum substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative. Therefore, no further environmental documentation is necessary.

Fiscal Impact

The time and costs related to processing this application have been covered by application fees paid for by the applicant. No General Fund budgets have been allocated or used in the processing of this application. In addition to the citywide development impact fees to be paid by the project, TTM 33725 shall pay a \$5,500 Development Agreement Fee for each residential building permit (approximately \$1,122,000). TTM 25473 (164 units) and TTM No. 25475 (131 homes) also pay a \$5,500 per residential unit Development Agreement Fee.

Attachments

- Attachment 1 - Ordinance
- Attachment 2 - First Amendment
- Attachment 3 - Vicinity Map
- Attachment 4 - Aerial Map
- Attachment 5 – Ramsgate Specific Plan Overall Boundary Map