



DATE: May 19, 2015

CATEGORY: Public Hearing

DEPT.: Community Development

TITLE: **Introduce an Ordinance Amending a Development Agreement Between the City of Mountain View and EMBP 455, L.L.C., Located at 575 East Middlefield Road**

RECOMMENDATION

Introduce an Ordinance Amending a Development Agreement Between the City of Mountain View and EMBP 455, L.L.C., for the Property at 575 East Middlefield Road (Attachment 1 to the Council report), to be read in title only, further reading waived, and set a second reading for June 9, 2015.

BACKGROUND

On March 31, 2015, the City Council considered a request from Symantec to amend the Development Agreement (DA) between Symantec and the City (Attachment 2, March 31, 2015 City Council Report). Symantec requested the following changes:

- Extend the expiration date of the DA from five years (April 8, 2015) to six years (April 8, 2016) after the Effective Date;
- Change the date to enter into an improvement agreement with the City to ensure the installation of the trail improvements from the fourth anniversary of the Effective Date of the DA (April 8, 2014) to September 1, 2015;
- Amend the date the trail is installed and accepted by the City from the fifth anniversary of the Effective Date of the DA (April 8, 2015) to the sixth anniversary (April 8, 2016).

The Council expressed concern Symantec did not meet the time commitments listed in the original DA and directed staff to work with the applicant to ensure the following:

- Provide the easement for the Class I bike trail in 60 days.
- Submit a bond for the cost of the trail improvements in 60 days in order for the City to install the trail improvements if Symantec is unable to complete the bike improvements by April 8, 2016.
- Join the Mountain View Transportation Management Association (TMA) in 60 days.

The 60-day period to complete the easement agreement and execute the bond will start on May 11, 2015 and will need to be completed no later than July 10, 2015. Staff recommends the applicant's 60-day period to join the TMA start on May 11 and be completed by July 10. In addition, staff recommends the applicant be required to participate in the TMA shuttle program six months after the May 11 date, requiring active participation by December 7, 2015. The DA Amendments now include the following deadlines (Attachment 3, Development Agreement Amendment Language):

- Extend the expiration date of the DA from five years (April 8, 2015) to six years (April 8, 2016) after the Effective Date;
- Dedicate an easement by parcel map or by separate instrument for the Class I bike trail by July 10, 2015;
- Submit a fully executed bond for the cost of the Class I bike trail improvements by July 10, 2015;
- Change the date to enter into an improvement agreement with the City to ensure the installation of the trail improvements from the fourth anniversary of the Effective Date of the DA (April 8, 2014) to September 1, 2015;
- The trail is installed and accepted by City before the sixth anniversary (April 8, 2016) of the Effective Date hereof;
- Join the Mountain View Transportation Management Association (TMA) by July 10, 2015; and
- Enter into a service agreement with the TMA and commence operation of a shuttle service connecting the site to the Downtown Mountain View Caltrain Station

during morning and evening commute hours or during a schedule that is deemed appropriate by the TMA by December 7, 2015 and participate in the TMA for the term of this Agreement.

ANALYSIS

Pursuant to City Code Section 36.54.40(a), the procedure for amendment of a DA is the same as for entering into a DA and the DA must be amended by Ordinance (see Attachment 1), pursuant to the City Code.

If the DA expires, the developer will lose the right to develop a 102,419 square foot office building and the City will not benefit from the bike/pedestrian trail negotiated as a community benefit. The bike path is a key component of the City's approval for mobility in this part of the City. The proposal is in the East Whisman area and the future of any potential community benefits would be determined by the East Whisman Precise Plan, which is expected to be started in the near future.

The project and DA were previously analyzed as part of the project Initial Study/Mitigated Negative Declaration adopted by Council in 2010. The amendment does not propose changes to the project or the length of the DA; therefore, additional environmental analysis for the proposed amendment is not required.

FISCAL IMPACT

There is no direct fiscal impact to the proposed extension of the DA. The subject site has a total assessed valuation of \$41,700,423 and contributed \$486,236 in property taxes to the County of Santa Clara in the 2014-15 tax year. The City's share is about \$67,000 per year. The project will pay a Housing Impact Fee of \$693,623, the fee in effect at the time of the effective date of DA. The fee is based on the new building area of 102,419 square feet.

ALTERNATIVES

The City Council could decide not to amend the DA, which would allow the DA to expire. If the applicant wanted to redevelop the site, they would have to submit a new project application.

PUBLIC NOTICING

The item was continued to a date certain from March 31, 2015 to the May 19, 2015 meeting.

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SP-GB/7/CAM
804-05-19-15CR-E

- Attachments:
1. Ordinance Amending a Development Agreement Between the City of Mountain View and EMBP 455, L.L.C., for the Property Located at 455-575 East Middlefield Road
 2. [March, 31, 2015 City Council Report to Introduce an Ordinance Amending a Development Agreement Between the City of Mountain View and EMBP 455, L.L.C., Located at 575 East Middlefield Road](#)
 3. Development Agreement Amendment Language