

File #: 2016-01126

Consent Item 14

Title: Authorization to Terminate and Release Inclusionary Housing Regulatory Agreement for Strawberry Field Project

Recommendation: Pass a City Council Resolution authorizing the Sacramento Housing and Redevelopment Agency (Agency) to Terminate and Release the Inclusionary Housing Regulatory Agreement for the Strawberry Field project.

Location: District 1

Contact: David Levin, General Counsel, (916) 440-1330, Sacramento Housing and Redevelopment Agency; Sheryl Patterson, Senior Deputy City Attorney, (916) 808-5346, Office of the City Attorney

Presenter: None

Department: Sacramento Housing and Redevelopment Agency

Attachments:

- 1-Description/Analysis
- 2-Council Resolution
- 3-Release of Regulatory Agreement
- 4-Vicinity Map

Description/Analysis

Issue Detail: On March 22, 2005, the Sacramento City Council by Resolution No. 2005-172, approved the Inclusionary Housing Plan (Plan) for the Strawberry Field project (Project). As a result, an Inclusionary Housing Regulatory Agreement was recorded with the final subdivision map for the Project to enforce the Plan, but not as condition of the subdivision map. At the end of 2008, the Federal Emergency Management Agency (FEMA) remapped the Natomas Basin area into a flood plain with an AE flood zone designation, causing a de facto moratorium on residential building in the Natomas Basin, which prevented the Project from proceeding. This moratorium was lifted in June 2015 when the FEMA flood zone designation in North Natomas was upgraded to A99.

On September 1, 2015, the Sacramento City Council adopted the Mixed Income Housing Ordinance No. 2015-0029 (Ordinance) that repealed Chapter 17.712 and added Chapter 17.712 and Section 17.808.260 to the Sacramento City Code. Sacramento City Code Section 17.712.030 subsection C states that projects subject to an inclusionary housing plan approved prior to the effective date of the Ordinance may elect to either comply with the existing plan or comply with the provisions of the new chapter. The owners of the Project have elected to comply with the provisions of the Chapter by terminating the Plan and paying a housing impact fee as required under the Ordinance. As a result of this action, the Regulatory Agreement to enforce the Plan is no longer necessary.

Policy Considerations: The recommended action has been reviewed by the City Attorney's Office which determined that the Plan termination was allowed under the Ordinance. As a result, the Project will be required to pay the fee in lieu of implementing the prior Plan. There are other projects pending which are subject to an inclusionary housing regulatory agreement which also have not yet been developed. The Project is the only project where the delay was because of the de facto residential building moratorium in effect for approximately seven years and not by inaction on the part of the owner. However, the Ordinance's plan termination option provision is not limited to projects that were subject to the building moratorium.

Economic Impacts: Not applicable.

Environmental Considerations:

California Environmental Quality Act (CEQA): Pursuant to the California Environmental Quality Act (CEQA), Guidelines Section 15378(a), the recommended administrative action does not constitute a project subject to environmental review.

Sustainability Considerations: The Project was previously approved.

Other: No federal funding is involved in the recommended action. Therefore, the National Environmental Policy Act (NEPA) does not apply.

Commission Action: Not applicable.

Rationale for Recommendation: The recommended action is to implement an election by the Project owner as provided for in Sacramento City Code Section 17.712.030 subsection C. Council approval is required because the Ordinance does not provide authorization for the Agency to release the Inclusionary Housing Regulatory Agreement. Guidelines for the implementation of the new Mixed Housing Ordinance are in the process of being completed and will address this issue for future plan terminations, if any, and will require approval by the City Council.

The action recommended in this report is consistent with the Ordinance and authorizes the Agency to terminate and release the Inclusionary Housing Regulatory Agreement for the Project so that it will no longer be an encumbrance on title to the property.

Financial Considerations: The owner of the Project elected to comply with the provisions of the Ordinance, specifically Sacramento City Code Section 12.712.030 (affordable housing requirement) and 17.712.050 (housing impact fees).

LBE/M/WBE/Section 3 and First Source Considerations: Minority and Women's Business Enterprise and Local Business Enterprise requirements do not apply to this action.

RESOLUTION NO. 2016 –

Adopted by the Sacramento City Council

on date of

AUTHORIZATION FOR THE SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY (AGENCY) TO TERMINATE AND RELEASE THE STRAWBERRY FIELD INCLUSIONARY HOUSING REGULATORY AGREEMENT

BACKGROUND

- A. On March 22, 2005, the City Council, by Resolution No. 2005-172, approved the Inclusionary Housing Plan for the Strawberry Field project.
- B. Pursuant to the Linkages in that Plan, an Inclusionary Housing Regulatory Agreement by and between Towne Development and the Agency, dated July 1, 2006, was executed and recorded in conjunction with recording the Final Subdivision Map for the Strawberry Field project.
- C. In 2008, a de facto moratorium on residential building went into effect halting residential construction of this project and other residential projects in the Natomas Basin from 2009 to spring 2015.
- D. On September 1, 2015, the Sacramento City Council adopted Ordinance No. 2015-0029 (Ordinance) which repealed Chapter 12.712 of the Sacramento City Code and added Chapter 17.712 and Section 17.808.260 thereto all relating to mixed income housing.
- E. Sacramento City Code Section 12.712.030 subsection C states that projects subject to an inclusionary housing plan approved prior to the effective date of the Ordinance may elect to either comply with the existing plan or comply with the provisions of the new Chapter 17.712.
- F. The owners of the Strawberry Field project have elected to terminate the plan and comply with the provisions of the Chapter by paying a housing impact fee in lieu of building the inclusionary housing units as required under Section 17.712.050.
- G. The proposed action has been analyzed in accordance with the California Environmental Quality Act (CEQA) and is an administrative activity that is exempt from environmental review under CEQA Guidelines Section 15378(b)(5).

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The facts as presented and stated in the Background above, including the environmental findings are found to be true and correct.
- Section 2. The Sacramento Housing and Redevelopment Agency (Agency) is authorized to terminate and release the Inclusionary Housing Regulatory Agreement that was recorded against the Strawberry Field project property.
- Section 3. The form of the Agency's release of the Inclusionary Housing Regulatory Agreement, attached as Exhibit A, is approved.

TABLE OF CONTENTS:

Exhibit A – Release of Inclusionary Housing Regulatory Agreement – Strawberry Field

NO FEE DOCUMENT:

Entitled to free recording
per Government Code §§ 27383 and 6301.

When recorded, return to:

Sacramento Housing and Redevelopment Agency
801 12th Street
Sacramento, California 95814
Attention: Portfolio Management

**RELEASE AND TERMINATION OF
INCLUSIONARY HOUSING REGULATORY AGREEMENT REQUIREMENTS**

WHEREAS, the Sacramento Housing and Redevelopment Agency (“Agency”) with the owner of the Property, Sky Park at Natomas Field LLC, a California limited liability company, (“Owner”) entered into and recorded the Inclusionary Housing Regulatory Agreement (“Regulatory Agreement”), on October 12, 2006 at Book 20061012, commencing at page 0380 against that certain real property (“Property”) described in the Legal Description attached to and incorporated in this instrument (“Release”) by this reference; and

WHEREAS, the Regulatory Agreement was recorded on behalf of the Agency in furtherance of and for purpose of enforcement of the former Mixed Income Housing Ordinance, City of Sacramento City Code Chapter 17.190 (“Ordinance”) and to permit Owner to obtain entitlements for the development of the Property; and

WHEREAS, the Owner has elected under the provisions of Sacramento City Code Chapter 17.712 to terminate the above Regulatory Agreement and comply with this chapter of the City Code, which actions are sufficient for the termination and release of the Regulatory Agreement with regard to the Property;

NOW THEREFORE, the Sacramento Housing and Redevelopment Agency releases and terminates the Inclusionary Housing Regulatory Agreement as it affects the Property, and it shall be of no further force or effect with regard to the Property.

IN WITNESS WHEREOF, this Release has been executed in Sacramento County this ___ day of July, 2016.

THE SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

By: _____
La Shelle Dozier, Executive Director

Approved as to form:

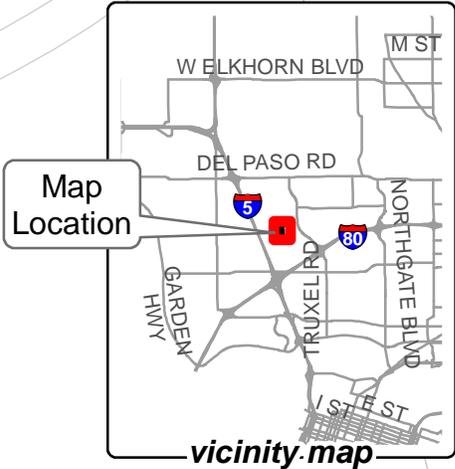
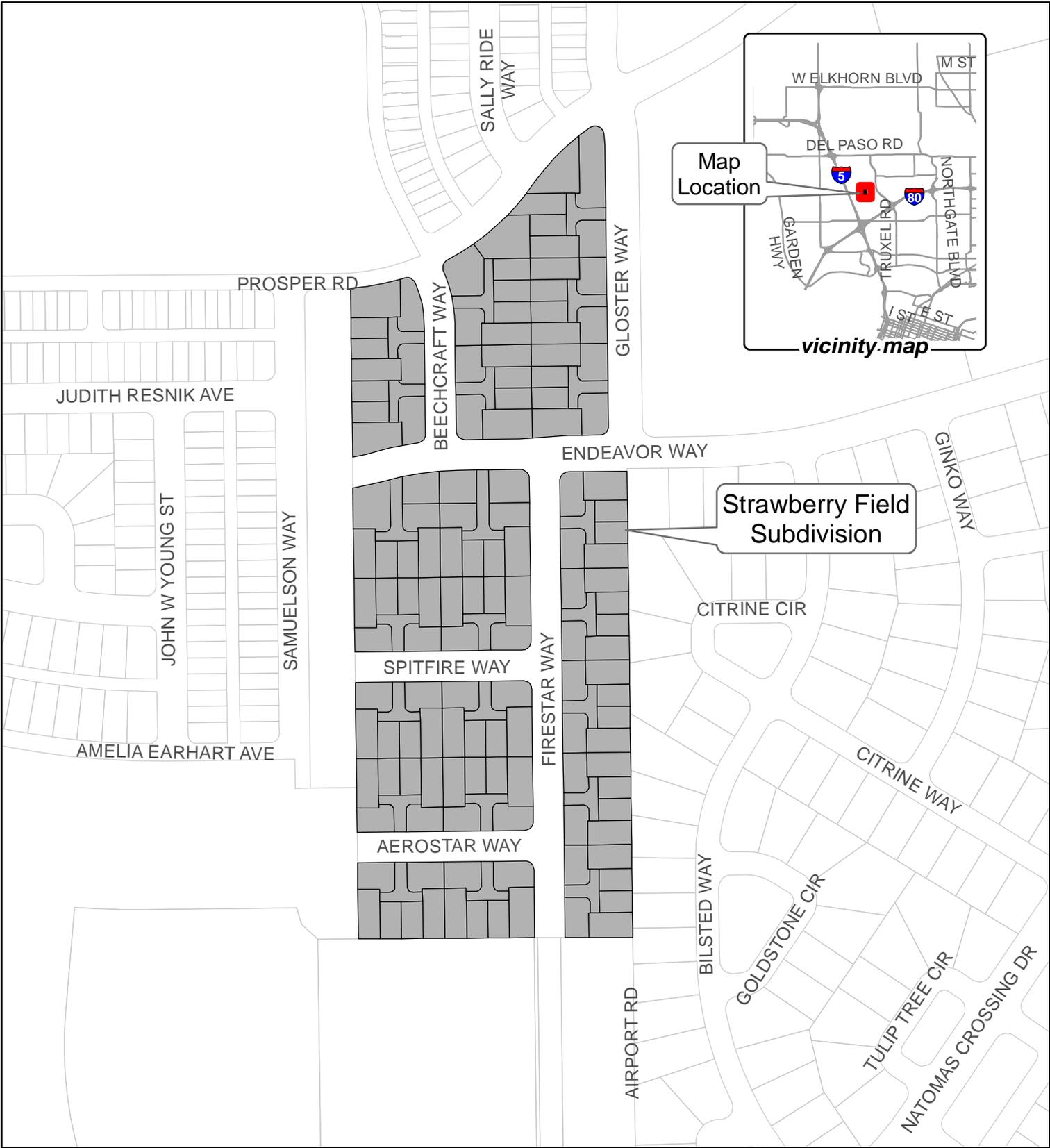
Agency Counsel

[NOTARIZED ACKNOWLEDGEMENTS]

Legal Description



Strawberry Field Subdivision In North Natomas



Strawberry Field Subdivision Parcel



SHRA GIS
July 2010