

DATE: January 29, 2008

TO: Mayor and City Council

FROM: Director of Community and Economic Development

SUBJECT: Final Map Tract 7736, Stonebrae Country Club Village B – Stonebrae, L.P. (Subdivider) - Request to Amend Final Map Relating to Certain Conditions of Approval Pertinent to Traffic Fees and Roadway Improvements - The Project is Located Southeast of Fairview Avenue/Hayward Boulevard in Eastern Hayward on Walpert Ridge

RECOMMENDATION

That the City Council relies on previously approved environmental documents and adopts the attached resolution approving amendments to the conditions of approval for Final Map Tract 7736 pertaining to traffic fees and roadway improvements as follows:

1. The payment date for the second and final payment of \$1,611,574 for traffic impact fees shall be remitted either upon issuance of the 289th building permit or January 1, 2010, whichever occurs first; and
2. The commencement date for Phase 1B off-site roadway improvements along Fairview Avenue from the project boundary through the planned Fairview/Woodstock roundabout shall be no later than June 1, 2009, in order to complete construction prior to the 2009 rainy season.

SUMMARY

The developer for Stonebrae submitted a letter requesting an extension of time for two conditions of approval of Final Map Tract 7736. These conditions pertain to traffic fees and roadway improvements and when they will be completed. Currently, the conditions stipulate the payment date for traffic impact fees is either at the issuance of the 215th building permit or on January 1, 2008, whichever is earlier; and the commencement date for improvements along Fairview Avenue is June 1, 2008.

On November 14, 2006, the City Council approved Final Map Tract 7736, which primarily encompasses Village B, consisting of 117 lots for production builders and 32 larger custom lots. Due to current economic conditions, the construction and occupancy of these Village B homes is now anticipated to occur later than previously anticipated. The Stonebrae developer is requesting

that the City reconsider the timing of the second and final payment of traffic fees, and the schedule for the construction of the remaining off-site traffic improvements. Staff has reviewed the developer's request and determined that an extension of time does not constitute significant changes to the final map.

The project is under construction, with the school and golf course completed. As of December 28, 2007, 154 building permits have been issued and 65 homes are occupied.

BACKGROUND

The vesting tentative tract map for the Stonebrae Country Club was approved by the City Council in September 2002. The first Final Map Tract 5354 for Village A (214 homes) was approved on April 19, 2005, and recorded on July 29, 2005. Construction of homes within Village A is ongoing and 154 building permits have been issued. The second Final Map Tract 7736 for Village B (149 homes) was approved on November 14, 2006, and recorded on May 24, 2007. Work under the City-approved improvement plans for Village B has commenced; however, home construction has not yet started in this village.

DISCUSSION

Pursuant to the California Subdivision Map Act, any modifications to an existing approved final map shall be set for public hearing in that the City Council shall confine the hearing to consideration of, and action on, the proposed modification.

Payment of Traffic Impact Fees -

The traffic impact fees in the amount of \$1,611,574 represents the remaining 50% of Stonebrae's pro-rata share towards the required improvements to the local street system identified in the project's traffic analysis. As modified with approval of the second Final Map, Tract 7736, condition of approval No. 46 established a time frame for the payment of the remaining \$1,611,574, as either at the issuance of the 215th building permit or on January 1, 2008, whichever is earlier. However, lot sales for Village B have not met the developer's expectation. More specifically, Toll Bros, Inc., who had a sale contract in 2006 for the purchase of 59 lots in Village B, has elected to terminate that sale agreement.

Under these circumstances and in light of the slower schedule for home construction in Stonebrae, the developer has requested that the due date for the remittance of traffic impact fees to be the earlier of either the issuance of the 289th building permit or January 1, 2010. The 289th building permit represents the total number of homes in Village A and one-half of the homes in Village B. This payment delay for traffic impact fees could represent a loss of interest income to the City, but as previously modified, the condition includes interest at the rate of 5% and the developer has confirmed that 5% interest would be compounded annually, from January 1, 2007. The 5% rate is reasonable considering the City's present return on its investment portfolio. With the interest covered, staff supports this request.

Off-site Roadway Improvements -

Off site improvements to Fairview Ave were divided into two phases (1A and 1B) during approval of the first final map. Phase 1A covering the project frontage has been completed. Condition of Approval No. 3w established a commencement date of June 1, 2008, for Phase 1B, which consists of roadway improvements along Fairview Avenue from the project boundary through the planned Fairview/Woodstock roundabout. The Stonebrae developer had also agreed to include undergrounding of utilities and new street lights along this section of Fairview Avenue, which were added improvements during approval of the second Final Map. The construction date of June 1, 2008 was selected so that roadway improvements would be completed prior to the beginning of rainy season.

For the aforementioned reasons relating to the projected timing of actual home construction and occupancy, and due to the voluntary nature of the expanded scope of work for the remaining roadway improvements, Stonebrae has also requested that the commencement date for the off-site roadway improvements be postponed one year, to June 1, 2009. Given the current economic conditions and revised schedule for home construction in Stonbrae, staff supports this request.

Amendment to a recorded final map may be made as follows: (1) if the changed circumstances make the conditions of the map no longer necessary; (2) if the modifications do not impose any additional burden on the fee owners of the real property; (3) the modifications do not alter the right, title, or interest in the real property reflected on the recorded map; and (4) the local agency finds that the final map as modified conforms to the California Subdivision Map Act Section 66474. Staff has reviewed and determined that the amendments are justified by the changed circumstances in the housing market and do not propose new provisions that modify the development authorized under the approval of the final map, nor alter any right, title or interest in the property. Therefore, it is recommended that the City Council make the required findings and approved the amendment.

Environmental Review -

The City certified the Final Supplemental Environmental Impact Report (FSEIR) for the project in 1998, and thereafter adopted an Addendum to the FSEIR when it approved the Precise Development Plan and Vesting Tentative Map in 2002. These requested changes in conditions of approval are not substantial; therefore, no additional environmental review under CEQA Guidelines is required, and the FSEIR, with Addendum, is sufficient for the City Council to adopt the amendments to the two Conditions of Approval for Final Map Tract 7736.

PUBLIC CONTACT

Notice of this hearing was published in the Daily Review and mailed to all interested parties regarding the Stonebrae Development. A copy of this report was also sent to the Stonebrae Developer.

FISCAL IMPACT

There is no fiscal impact for this recommendation because the developer had previously agreed, and has reaffirmed such agreement, that 5% annual interest would continue to accrue on the unpaid portion of the fees and would be included with final payment.

NEXT STEPS

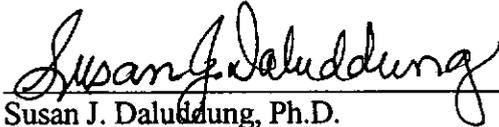
If the request is approved, an addendum to the Subdivision Agreement for Final Map 7736 will be created and executed.

Prepared by:



John Nguyen, P.E.
Development Review Engineer

Recommended by:



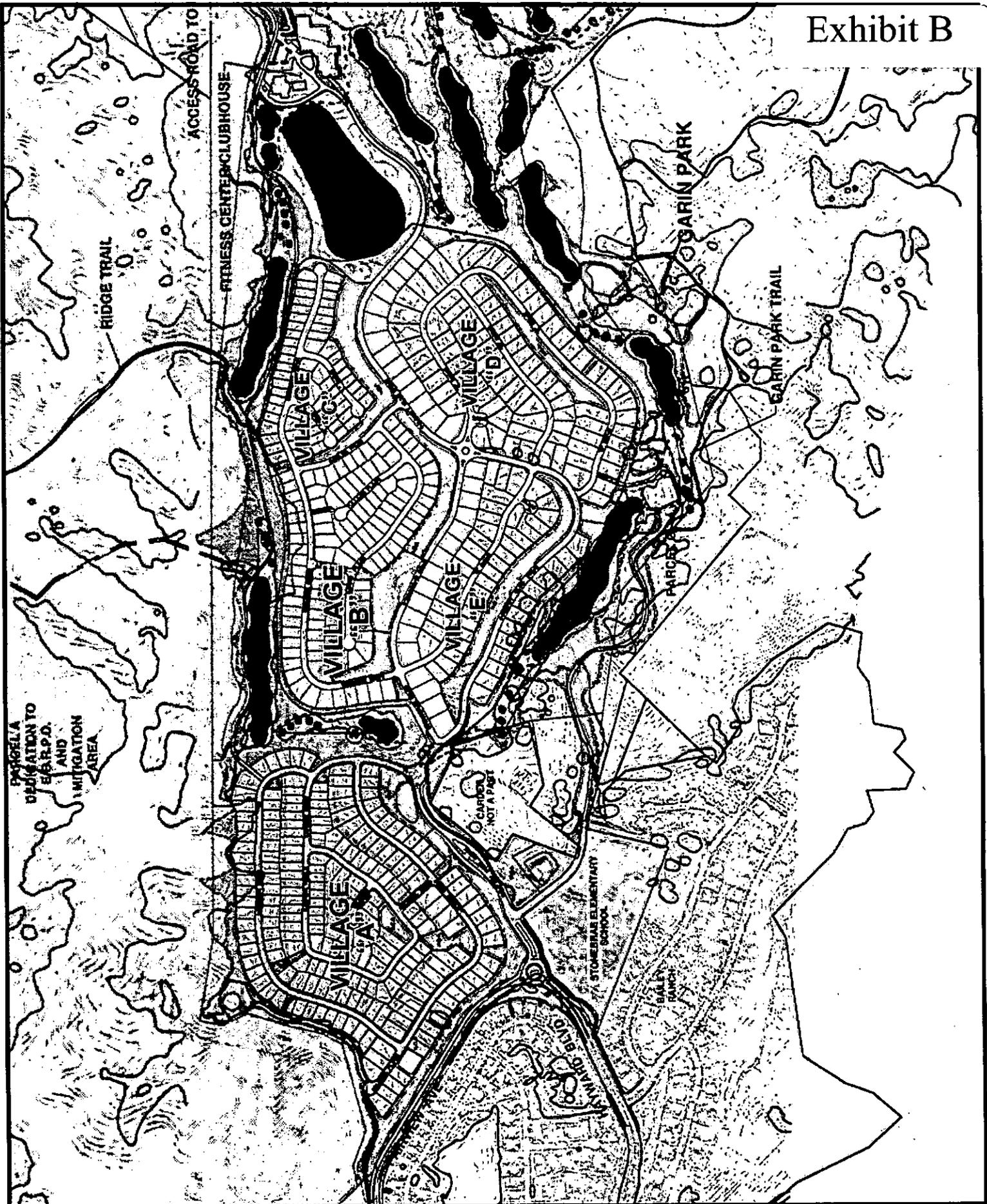
Susan J. Daluddung, Ph.D.
Director of Community and Economic Development

Approved by:



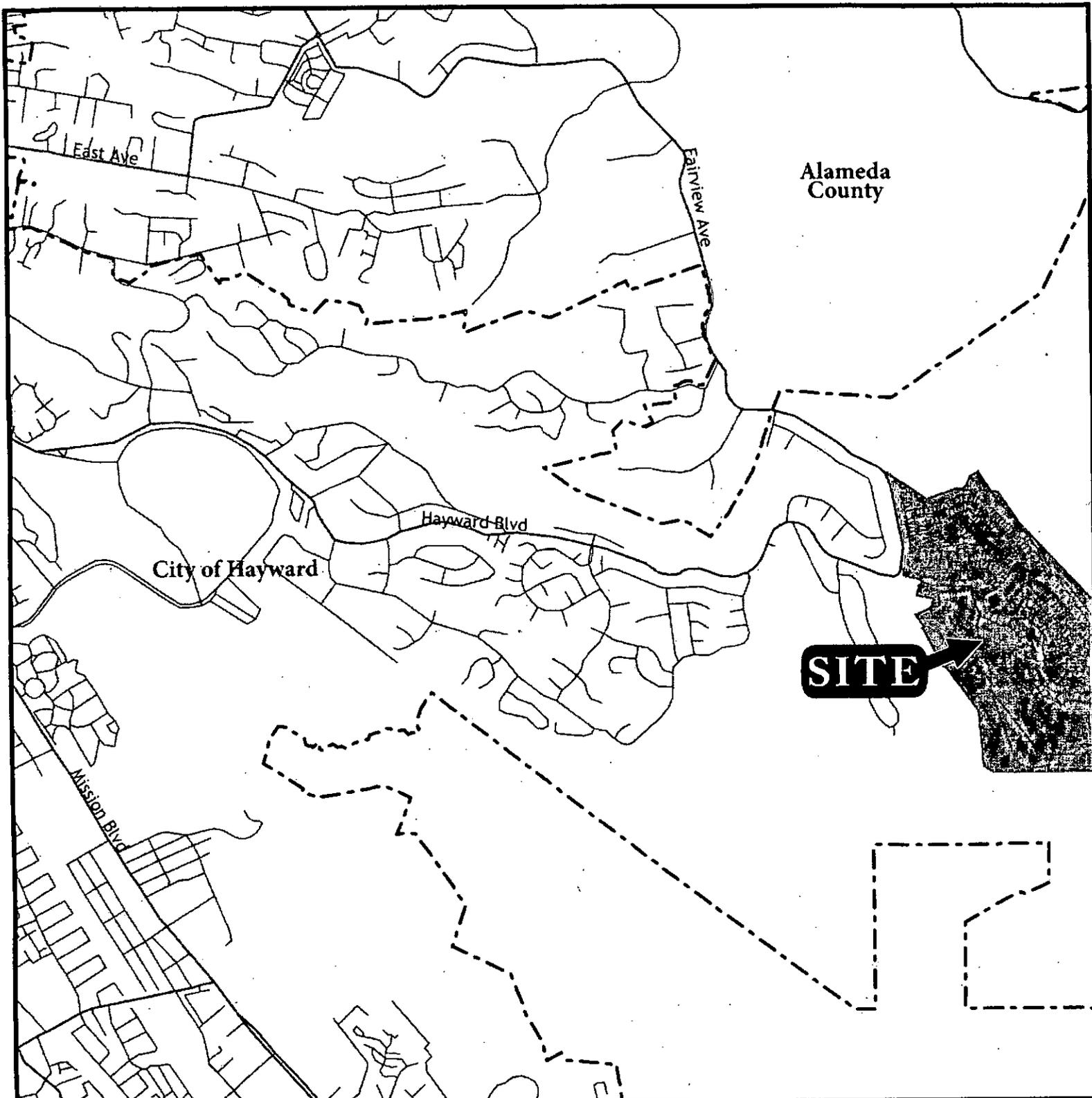
Fran David, Assistant City Manager

Attachments:	Exhibit A.	Vicinity Map
	Exhibit B.	Final Map Tract 7736 Location Map
	Exhibit C.	Fairview Avenue – Location Map for Roadway Improvements
	Exhibit D.	December 28, 2007 Letter from Developer
		Draft Resolution



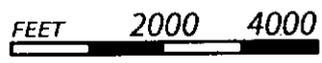
Tract 7736 - Village B

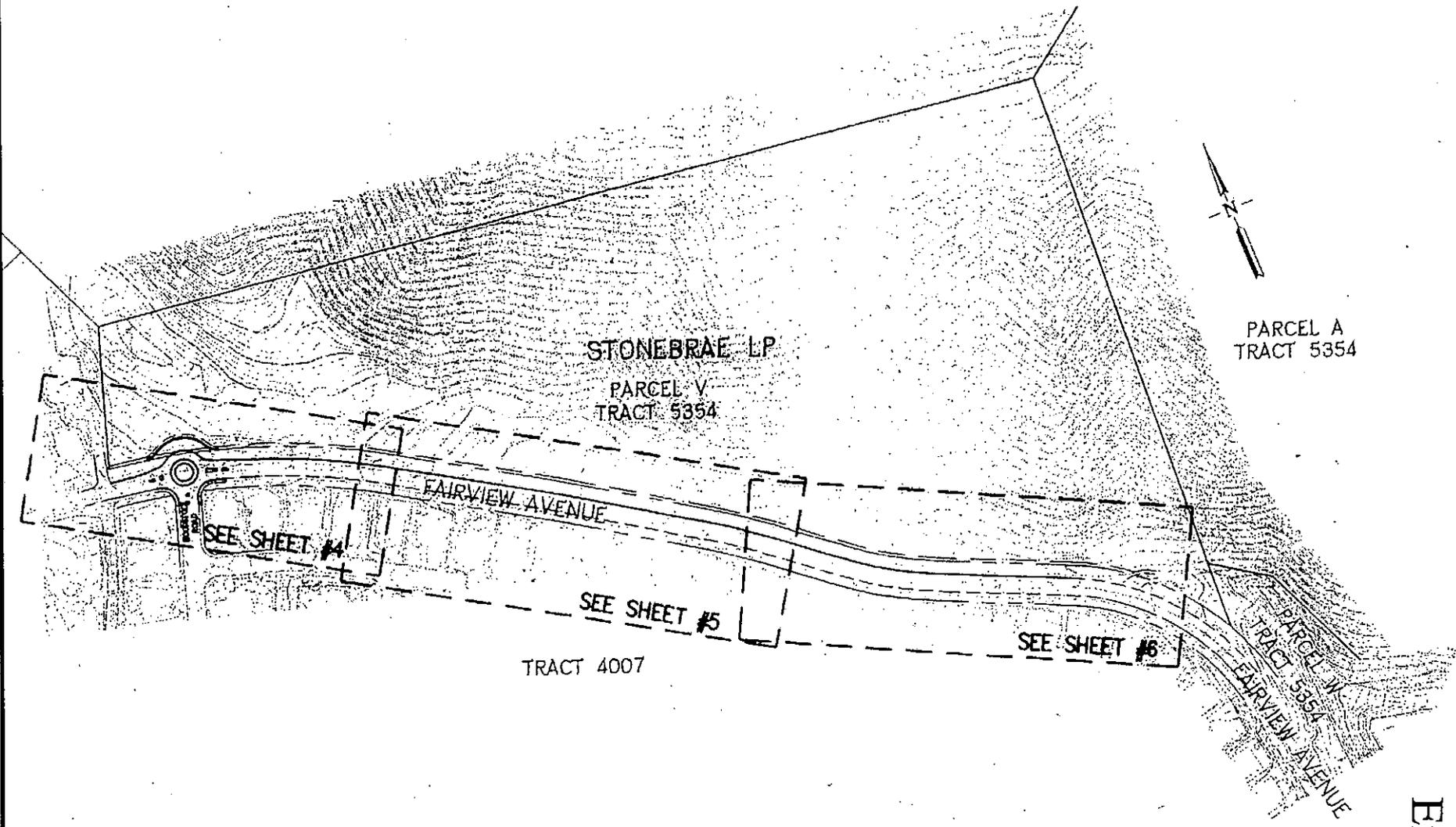




Vicinity Map

Tract 7736
Village B





Tract 7736 - Village B
Location Map for Offsite Roadway
Improvements on Fairview Avenue



S T O N E B R A E
C O U N T R Y C L U B

December 28, 2007

Fran David
Assistant City Manager
City of Hayward
777 B Street
Hayward, California 94541

Re: Stonebrae Country Club - Implementation of Traffic Improvements

Dear Fran:

The Stonebrae community was approved for 614 homes in 2002 with a Development Agreement, Vesting Tentative Map and other approvals. Pursuant to the development plan for Stonebrae, construction will occur in five phases spread over several years. The first two phases are already underway. The initial phase is the 214-home Village A (Tract 5354), which the City approved in 2005. The City approved the 149-home Village B (Tract 7736) in 2006. Village B consists of the creation of 119 lots for production builders and 32 larger lots fronting on a spine road leading to the country club facilities.

The Village B conditions of approval established a schedule for the remaining off-site project traffic fees and completion of actual road improvements. These included a second and final payment of \$1,611,574 (of a total approximate \$3.2 million) for traffic improvements. This fee is due prior to the issuance of the 215th building permit or January 1, 2008, whichever occurs first. (See the attached Agenda Report of November 11, 2006 and City Council Resolution No. 06-137.) Additionally, the outside construction start date for the roadway improvements at the northern end of Fairview Avenue from the project boundary through the planned Fairview/Woodstock roundabout is June 1, 2008. (See the attached Subdivision Agreement for Village B, Exhibit A, Condition 3w.)

Stonebrae has made substantial progress in the development of Villages A and B. For example, we have developed Village A, completed the entrance roundabout at the Hayward Blvd. and Fairview Ave. intersection, completed the Fairview Avenue roadway enhancements and buried utilities from this roundabout to the project boundary, created all 18 holes of the golf course, finished a spine road to the country club facilities, established and opened the interim golf club facilities, and completed the Village B improvements. In February 2007, Village A was opened to the general public with 10 model homes by three fine homebuilders. At this point, 154 building permits have been issued, approximately one-half of those homes are completed and 65 homes are occupied.

Although we are very pleased with the market's acceptance of Stonebrae, in the current economic conditions 2007 lot sales have not met our expectations. In June 2006, we successfully entered into a contract to sell to Toll Bros., Inc. 59 of the production lots in Village B. Since these lots would comprise about one-half of the 119 lot production homes in Village B, Toll's involvement was a significant part of the village. Although we have completed the improvements to these Village B lots and were ready to complete the sale, Toll Bros., Inc. has elected to terminate this agreement without completing the purchase. Under these present conditions, the construction and occupancy of these Village B homes will now occur later and more gradually than originally planned when the City approved Village B in 2006.

Fran David
Assistant City Manager
777 B Street
Hayward, California 94541

In light of the revised schedule for home construction in Stonebrae under current conditions, we request that the City reconsider the schedule for the remaining off-site traffic mitigations. Consistent with the original intention for these improvements, we request the modification of the timing of this remaining payment and construction of the remaining improvements as summarized below.

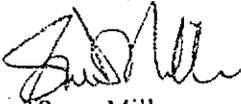
With respect to the traffic mitigation fee, the first half, \$1.6 million, was paid in connection with Village A, and the approvals for Village B require payment of the remainder by January 1, 2008. We request that this final payment occur instead before the earlier of either issuance of the 289th building permit or January 1, 2010. This threshold equals all of the Village A homes and half of the Village B homes. Under this timetable, 100% of the fee will have been paid well before 50% of the homes are occupied. As Stonebrae has previously agreed, interest will accrue on the unpaid portion of the fee at a rate of 5%, compounded annually.

With respect to the extension of the off-site improvements along Fairview Avenue, substantial progress has been made. We also would note that the scale of these improvements has been expanded previously to include the roundabout at Fairview and Woodstock, the widening of Fairview from the project boundary to the roundabout, which also includes our agreement to add additional project-designed light poles and the burying of all utilities. Finally, shortly after the approval of "Blue Rock Country Club" (the previous project name) in 1998, we agreed to participate in additional Fairview Avenue traffic improvements as negotiated by the City and Alameda County and in 2005 we contributed \$800,000 towards Fairview Avenue improvements (which was in addition to our traffic mitigation fees). For the reasons explained above relating to the projected timing of actual home construction and occupancy, and due to the voluntary nature of the expanded scope of the remaining improvements, we request that the required outside starting date for this portion of the project be delayed one year, until June 1, 2009.

A development of the size and scope of Stonebrae takes on many aspects that cannot always be anticipated. The City has comprehended this facet of long term construction, especially as it relates to the need for occasional modifications during phased build-out to reflect changing conditions. We are proud of the successes Stonebrae has achieved with the City's assistance and believe it will continue to be a highly respected community throughout the Bay Area.

Please consider these requests. We will be pleased to meet and discuss any information requested. We look forward to hearing from you.

Sincerely,



Steve Miller
Executive Director

cc: Robert Bauman, Mike Letchinger, Paul Yuen, Joanna Callenbach

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

mae
1/22/08

RESOLUTION AMENDING FINAL MAP TRACT 7736,
STONEBRAE COUNTRY CLUB VILLAGE B RELATING TO
CERTAIN CONDITIONS OF APPROVAL PERTINENT TO
TRAFFIC FEES AND ROADWAY IMPROVEMENTS

WHEREAS, the City Council, under Resolution No. 06-137, on November 14, 2006, approved Final Map Tract 7736, which primarily encompasses Village B, consisting of 117 lots for production builders and 32 larger custom lots; and

WHEREAS, Stonebrae L.P. has submitted a letter requesting an extension of time for Conditions of Approval Nos. 46 and 3w of Final Map Tract 7736; and

WHEREAS, the City certified the Final Supplemental Environmental Impact Report (FSEIR) for the project in 1998, and thereafter adopted an Addendum to the FSEIR when it approved the Precise Development Plan and Vesting Tentative Map in 2002; and

WHEREAS, Condition of Approval No. 46 for Final Map Tract 7736 established a time frame for the payment of the remaining traffic impact fees in the amount of \$1,611,574 as either at the issuance of the 215th building permit or on January 1, 2008, whichever is earlier, for which delay Stonebrae L.P. agreed to pay five percent interest rate from January 1, 2007; and

WHEREAS, Condition of Approval No. 3w established a commencement date of June 1, 2008, for off-site roadway improvements including undergrounding of utilities and new street lights along Fairview Avenue from the project boundary through the planned Fairview/Woodstock roundabout; and

WHEREAS, due to the changed circumstances in the housing market and the project timing of actual home construction and occupancy, Stonebrae L.P. has requested that the City reconsider the timing of the second and final payment of traffic fees and the schedule for the construction of the remaining off-site traffic improvements; and

WHEREAS, staff has reviewed the developer's request and determined that an extension of time does not constitute significant changes to the final map and that the amendments are justified by the changed circumstances in the housing market and do not propose new provisions that modify the development authorized under the approval of the final map, nor alter any right, title or interest in the property.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Hayward that the amendments are justified by the changed circumstances in the housing market and do not propose new provisions that modify the development authorized under the approval of the final map, nor alter any right, title or interest in the property.

BE IT FURTHER RESOLVED that Condition of Approval No. 46 is hereby revised to require that the payment date for the remaining traffic impact fees in the amount of \$1,611,574 shall be either upon issuance of the 289th building permit or January 1, 2010, whichever occurs first, with interest accruing at the rate of five percent from January 1, 2007, until paid in full.

BE IT FURTHER RESOLVED that Condition of Approval No. 3w is hereby revised to require that the commencement date for Phase 1B off-site roadway improvements along Fairview Avenue from the project boundary through the planned Fairview/Woodstock roundabout shall be no later than June 1, 2009, in order to complete construction prior to the 2009 rainy season.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized for and on behalf of the City of Hayward to negotiate and execute an addendum to the Subdivision Agreement for Final Map Tract 7736 relative to the changed conditions of approval in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2008

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward