

CITY OF
HAYWARD
HEART OF THE BAY

South Hayward BART TOD Project: Modifications to Project Approvals

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City Council Meeting
June 17, 2014



Project Approval Milestones

- March 17, 2009 - South Hayward BART Transit–Oriented Development Project approved by City
- June 14, 2011 – Housing Authority approved loans to Eden Housing
- July 26, 2011 – Council approved the Owners Participation Agreement (OPA) & Conditions of Approval for modified project. The new first phase of the project includes 151 affordable units & 206 market-rate units.
- June 28, 2012 – Planning Commission approved the Precise Development Plan
- November 15, 2012 – Planning Commission approved vesting tentative map



Requested Council Actions

Adopt Resolutions Relating to:

- 1) The Assignment of JMJ Development, LLC's Rights and Obligations Under the South Hayward BART Owner Participation Agreement to AMCAL Equities, LLC; and
- 2) Modifications and Clarifications to the Conditions of Approval Related to the First Phase of the South Hayward BART Transit-Oriented Development; and
- 3) \$1,000,000 Housing Authority Conditional Loan to Eden Housing, Inc., for the Affordable Housing Component of the South Hayward BART Transit-Oriented Development



Assignment from JMJ to Amcal

- JMJ Development, LLC (“JMJ”, formerly Wittek Montana Development) has negotiated an agreement to sell its interest in the Phase I Project, including its interest in the South Hayward BART Owner Participation Agreement (the “OPA”), to AMCAL Equities, LLC (“AMCAL”). In the event that AMCAL elects to purchase JMJ's interest in the Phase I Project, JMJ will require City approval of its transfer to AMCAL.
- AMCAL is a well-known & highly regarded developer in California:
 - AMCAL has developed more than 4,000 units over 30 years in a variety of markets, primarily throughout communities in Southern California, and several projects in Northern California;
 - The majority of these are affordable housing projects
 - AMCAL has been a recipient of many millions of dollars of federal and state low-income housing tax credits, redevelopment low-and moderate-income housing tax increment funding, and Prop 1C assistance. They are familiar with the funding and development complexities associated with this project.



Revised Conditions of Approval: Public Art

- **Current Requirement:** Developers are to install art (or pay 50% of value) – equal to 1% of the project construction cost
- **Developer Request:** Both Eden & JMJ/AMCAL have requested that this condition be waived
- **Recommendation:** The condition was approved by the Planning Commission because several buildings in the original project were 70' tall, in excess of the 60' height allowed. As the buildings in the new Phase 1 are not taller than 60', staff recommends that the condition be applicable to Phase 2 of the project only.



Revised Conditions of Approval: Landscape & Lighting District (LLD)

- **Current Requirement:** The Developer can receive final certificate of occupancy only after the LLD is formed
- **Developer Request:** The Developer is not in control of this process and has asked for clarification / rewording.
- **Recommendation:** The City is to make its best efforts to form the LLD within 6 months after the Developer makes the deposit to cover the City's costs.



Revised Conditions of Approval: Park Dedication In Lieu Fees

- **Current Requirement:** The market-rate Developer is to pay park in-lieu fees totaling \$2,347,370
- **Developer Request:** That improvements made to the park and the recreational facilities in the project be credited toward the fees due
- **Recommendation:**
 - \$1,988,518 in fees payable now; total amount due reduced by credits below:
 - \$358,852 would be payable once the units are sold as condos
 - \$246,655 be credited, as the Developer acquired 50% of the park land
 - \$509,707 be credited for recreational facilities in the project consistent with City ordinance
 - Improvements to the park in excess of \$455,000 be credited (est. to be \$495,000), subject to City & HARD verification



Housing Authority Loan to Eden Housing

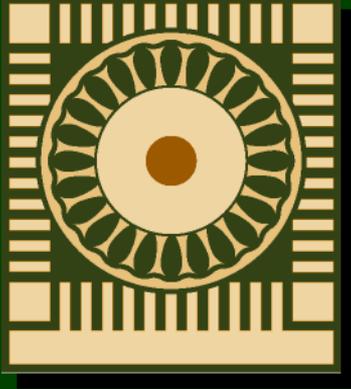
- **Current Loans:**
 - \$4,250,000 - Housing Authority
 - \$900,000 - HOME funds
 - \$813,000 - NSP2 funds
- **Developer Request:** That the market-rate Developer be relieved of its obligation to “backstop” any cost overruns (up to \$1,000,000) in Eden’s construction of the site infrastructure
- **Recommendation:** That the Housing Authority approve a conditional loan of up to \$1,000,000 to Eden, to be made only after the Authority and Eden have met to review the budget and staff has agreed that the additional funds were necessary to ensure the viability of the affordable component of the Phase I Project.



Next Steps

- July 2 – AMCAL's purchase contract due diligence period expires – they will need to remove contingency & deposits become non-refundable (otherwise, either the contract is extended or it is cancelled)
- July 16 – CDLAC announcement of tax credit allocations and Eden will most likely be awarded credits for the project
 - Requires Eden to commence construction within 120 days





Questions/Comments?

