



## **CITY COUNCIL STAFF REPORT**

**ITEM NO. 6.3**

**DATE:** July 28, 2025

**TO:** Honorable Mayor and City Council

**FROM:** Brent Smith, Community Development Director

**SUBJECT:** Hearing to consider a request for the second amendment to Development Agreement 18-001 to revise the terms and timing of the off-site improvements including a public trail and public sewer line. The Development Agreement vests a previously approved project for 186 two- and three-story townhomes on a vacant 35-acre site located at the terminus of Lassen Road northwest of the First Street/I-580 Interchange and north of I-580.

### **RECOMMENDED ACTION**

Planning Commission and staff recommend the City Council:

1. Adopt a resolution finding that the environmental impacts of the Second Amendment to the Development Agreement for the Lassen Road Townhome Project are within the scope of the 2020 Initial Study and Mitigated Negative Declaration, the Active Transportation Initial Study and Mitigated Negative Declaration, and the Springtown Trunkline Sewer Initial Study and Mitigated Negative Declaration;
2. Direct the Planning Manager to file a Notice of Determination, in accordance with the provisions of the California Environmental Quality Act (CEQA), subject to project approval; and
3. **Introduce an ordinance**, and waive the first reading, amending Development Agreement (DA) 18-001.

### **SUMMARY**

The applicant and City are parties to a Development Agreement to secure terms, obligations, and timing of off-site improvements associated with the Lassen Road townhome project. In November 2020, the City Council approved Development Agreement 18-001, vesting a 186-unit townhome project in exchange for offsite trail, sewer, and Springtown Boulevard median improvements (collectively "off-site improvements"). The location of the townhome project and the nearby off-site improvements are in the Springtown area and shown in Attachment 2.

The Development Agreement requires the Developer to acquire easements for right-of-way, design, permit, and construct the off-site improvements in conformance with the performance schedule, which links milestones associated with the offsite improvements to the recording of the final map and issuance

of building permits for the future townhomes.

Although the Developer has made progress on design and regulatory permitting, they have not successfully secured the easements for right-of-way from the adjacent property owner and therefore have been unable to proceed with the townhome project. More recently, City staff have tentatively brokered terms for right-of-way acquisition to facilitate the off-site improvements.

Due to the time lapsed, and the increasing administrative costs associated with the delivery of off-site improvements, the parties are proposing to amend the Development Agreement. Development Agreement Amendment (DAA) 25-001 would change the performance schedule and relieve the applicant of the responsibility of acquisition and construction. Instead, the Developer would be responsible for funding the construction of off-site improvements by the City as part of the Capital Improvement Program.

## **DISCUSSION**

### **BACKGROUND**

On November 23, 2020, the City Council approved the General Plan and Zoning Amendments and all associated entitlements for the 186-unit Lassen Road townhome project (Attachment 1 - City Council Report). The approximately 35-acre townhome project site is in the northwest quadrant of the I-580 and First Street interchange, west of Springtown Boulevard and accessed via Lassen Road, which currently terminates at the project site's eastern boundary (Attachment 2 - Location Map). The approvals included Development Agreement 18-001 (Development Agreement), which secures terms and timing of off-site improvements and community amenities shown in Attachment 2 and listed below:

- Trail T-6 Arroyo Las Positas trail improvements
- Springtown Sewer trunkline replacement
- Springtown Boulevard median improvements

### **Development Agreement 18-001**

The townhome project approvals included the adoption of a Planned Development Residential District to address topographical and environmental factors associated with the project site. The Livermore Development Code requires additional design features to justify variation from conventional zoning, which may include open space and trails, beyond those typically required by ordinance. Off-site design features approved as part of the Planned Development are secured and implemented through the Development Agreement.

The current Development Agreement requires the Developer to secure property for right-of-way, design, obtain regulatory permits, and construct Segments E1 and E2 of the T-6, Arroyo Las Positas Trail (trail project), as identified in the Livermore Active Transportation Plan. Trail T-6 has been identified as a high priority project by the City, the Livermore Area Recreation and Park District, and the community. Once completed, the trail segment would close a significant gap in the Livermore trail network and provide a comfortable bicycle and pedestrian crossing over I-580 via Las Colinas Overpass. The Capital Improvement Program (CIP) identifies the trail project as Project #201945.

In addition, pursuant to the current Development Agreement, the developer would design and construct

the Springtown Sewer Trunkline project (sewer project). The CIP identifies the sewer project as Project #201414. The sewer project replaces an existing 60-year-old, approximately 2,400 linear-foot sewer trunkline between I-580 and Springtown. Life expectancy for this type of pipe is 50 years primarily due to corrosion. The sewer project relocates the sewer away from Arroyo Las Positas, which has potential to expose, impact, and/or damage the trunkline, and installs a new, corrosion resistant type of pipe. Sewer replacement funds (Fund 239) will reimburse the Developer for the sewer project.

Finally, under the current Development Agreement, the Developer would design and construct Springtown Boulevard Median Improvements, which include renovating an existing concrete median by installing street trees and landscaping to enhance this entryway into Springtown.

The terms of the Development Agreement tied these off-site improvement milestones to post entitlement development actions (final map approval and building permit issuance for the townhomes) detailed in the performance schedule.

#### Development Agreement Amendment 21-002

In 2021, the City authorized the First Amendment to the Development Agreement (DAA 21-002). The First Amendment allowed the parties to adjust the performance schedule in response to uncertainty around obtaining environmental regulatory agency permits. The Developer has successfully completed much of the necessary work for the off-site improvements in accordance with the terms of the Development Agreement including site analysis, design work, and securing regulatory permits. In addition, the applicant has submitted for final map and preliminary post entitlement permits. However, the final map approval process is on hold until the Developer acquires right-of-way in accordance with the Development Agreement performance schedule.

According to the Developer, they are unable to negotiate the necessary right of way with the adjacent property owner. Recently, staff have reached a tentative agreement to acquire both a sewer easement and trail easement from the adjacent property owner to facilitate the construction of the off-site improvements. Due to the length of time that has lapsed since the initial entitlements, the Developer is requesting a Second Amendment to adjust the terms of the Development Agreement performance schedule.

#### PROJECT DESCRIPTION

The proposed Second Amendment to the Development Agreement (DAA 25-001) (Amendment) would not change the project entitlements and would not impact the design of the approved 186-unit townhome project or the Developer's obligation to provide off-site Trail, Sewer, and Median improvements, but would modify the performance schedule by adjusting the roles and responsibilities of the parties. The Amendment would remove the Developer's rights-of-way acquisition obligations for the trail and sewer projects (the city is now doing the right-of-way acquisition as described above), adjust the construction requirements, and modify the timing of development milestones (final map approvals and building permit issuance).

#### PROJECT SITE CONTEXT

The offsite trail and sewer improvements secured through the Development Agreement are located on an adjacent vacant property to the west, north of Las Colinas Road and south of the terminus of

Redwood Road. The median improvements required as part of the Development Agreement are located east of the project site within the Springtown Boulevard Right of Way (Attachment 2).

## STAFF ANALYSIS

### Development Agreement Amendment 25-001

The Amendment modifies the way off-site improvements are delivered to the community and do not change the project entitlements, or the type of off-site improvements required in the Development Agreement.

As stated previously, the Development Agreement currently includes a clause requiring the applicant to acquire necessary right-of-way and to construct the trail and the sewer project. The Development Agreement anticipated that land acquisition may be challenging and includes a provision that allows the applicant to request the City acquire the easement for the sewer and trail projects through eminent domain in the event that the applicant is unable to do so. City staff have negotiated preliminary terms to acquire the necessary right-of-way needed to facilitate the sewer and trail projects directly from the adjacent property owner rather than through eminent domain.

In addition, after further evaluation, staff determined it is more cost effective for the City to reconstruct the sewer project rather than fully reimbursing the Developer through the City's Water Funds due to the overhead associated with duplicative construction management and administrative costs. Similarly, because of the delay and high priority associated with the T-6 trail completion, staff have determined it would be more efficient for the City to construct the trail project.

Therefore, the Amendments would relieve the Developer of the acquisition obligations, and the Developer would design and pay the full cost of the trail construction within 30-days of final map recordation, rather than construct the trail. The Developer funding contribution is based on industry standard construction estimates and includes labor and materials in addition to soft costs such as administration, construction management, and a contingency. The Developer is still responsible for all design work and preparation of improvement plans, as well as regulatory permitting for sewer and trail, as shown in Exhibit B to the ordinance.

As a result, Planning Commission and staff recommend amending the Development Agreement to reflect the change in process and relieve the Developer of the responsibility of acquisition and construction, as shown below:

<b>Terms and Obligations</b>	<b>Development Agreement Amendment 18-001</b>	<b>Proposed Second Amendment</b>
<b>Obtain Right of Way for Improvements</b>	Developer to acquire prior to recordation of Final Map	Obligation Removed
<b>Sewer Improvements</b>	Developer to design and construct prior to issuance of building permits	Developer to submit designs and obtain permits prior to final map approval
<b>Trail Improvements</b>	Developer to design, permit, and construct	Developer to submit designs, obtain permits, and fund prior to Final Map approval

<b>Median Improvements</b>	Developer to design, construct, and complete prior to issuance of the 75th building permit	No Change
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## **PLANNING COMMISSION**

On June 17, at a public hearing, the Planning Commission voted 5-0 recommending the City Council adopt an ordinance approving the Amendment. The Planning Commission further emphasized the importance of the trail and sewer improvements for the community. No public comments were received on this item. The Planning Commission Staff Report and Minutes are attached (Attachments 2 and 3).

## **ENVIRONMENTAL DETERMINATION**

An Initial Study and Mitigated Negative Declaration was prepared and adopted in 2020 for the original project (including the Development Agreement) in accordance with the California Environmental Quality Act (CEQA). In 2023, an Initial Study and Mitigated Negative Declaration was prepared and adopted for the Sewer project in accordance with CEQA. Additionally, in 2018, the Trail Improvements were evaluated as part of the Active Transportation Plan Initial Study and Mitigated Negative Declaration. Staff recommends the City Council adopt a Notice of Determination finding that the Development Agreement Amendments are not substantive and in conformance with the previously adopted Mitigated Negative Declarations.

## **FISCAL AND ADMINISTRATIVE IMPACTS**

Staff time allocated to Development Agreement Amendment review is offset by required entitlement application fees. The Amendment would result in efficiencies in construction management and administrative costs. The Developer would be responsible for funding all trail improvement construction costs as well as any fees incurred by the City with condemnation prior to the adoption of this agreement. The Sewer improvements are identified the Capital Improvement Program Budget.

## **COMMUNITY PILLAR**

5: A City That Works

### **GOAL**

14: Develop, operate, and maintain the City's infrastructure

## **GUIDING DOCUMENTS**

General Plan  
Development Code

## **ATTACHMENTS**

1. [City Council Report - November 23, 2020](#)
2. [Planning Commission Staff Report - June 17, 2025](#)
3. [Planning Commission Meeting Minutes - June 17, 2025](#)

4. Location Map
5. Resolution
6. Exhibit A - Planning Commission Environmental Resolution
7. Ordinance
8. Exhibit A - Planning Commission Project Resolution
9. Exhibit B - Draft - Development Agreement Amendment

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