

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #20-16 - Addendum

AGENDA ITEM: 4.1

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: August 19, 2020

PREPARED BY: Julie Nelson,
Associate Planner

CITY COUNCIL
MEETING DATE: Sept. 21, 2020
(Tentatively)

SUBJECT: **Modification to the Pre-annexation Development Agreement for the Absolute-Bright Annexation**, initiated by Rick Telegan on behalf of Exposition Properties, LLC, and Leeco, LLC, property owners. This application involves a request to modify Exhibits “D” and “G” of the Pre-Annexation Development Agreement. The requested modification of Exhibit “D” would remove the requirement that development within the annexation area be done from south to north, thus allowing any of the property owners to develop without being delayed by the development of the other property, and the requested modification of Exhibit “G” would modify Condition #7 of Planning Commission Resolution #2871 removing the requirement that all infrastructure on G Street be completed in one construction project, and not be divided by ownership or tentative maps. The affected property consists of approximately 85 acres, generally located on the east side of G Street, north of Merrill Place (extended). The property has General Plan designations of Low Density Residential (LD), Village Residential (VR), and Open Space/Park Recreation (OS-PK); and is zoned R-1-5 and Residential Planned Development (P-D) #61. *PUBLIC HEARING*

ACTION: Continue the Planning Commission public hearing to Wednesday, September 23, 2020, at 7:00 p.m.

SUMMARY

On July 22, 2020, the Planning Commission considered a request to modify the Pre-Annexation Development Agreement for the Absolute-Bright Annexation (refer to the location map at Attachment A). Details regarding the requested changes to the Pre-Annexation Development Agreement as well as the required Findings and proposed Conditions of Approval are provided in Staff Report #20-16 at Attachment B.

On July 22, 2020, the public hearing was opened and testimony was heard from the applicant, Rick Telegan. Prior to the meeting, the Planning Commission received correspondence from John Dunn, attorney for Bright Development, stating that the proposed changes are not minor changes and need to have approval of all parties (Attachment C). At the time of the meeting, Bright Development had not agreed to the proposed changes.

At that meeting, Planning Staff and the Deputy City Attorney recommended the item be continued until an agreement could be made with Bright Development to support the proposed changes. As a result, the Planning Commission continued the item to the August 19, 2020, Planning Commission meeting. However, the Planning Commission also gave direction that they would like staff to participate in the discussions between the applicant and Bright Development to ensure that all parties were working in good faith. The draft Minutes from this meeting are provided at Attachment D.

Planning Staff participated in two phone calls regarding negotiations between the parties. Although the calls did not result in an agreement, the parties are working together and moving forward towards a solution.

Because an agreement has not been reached as of the time this staff report was prepared, staff recommends this item be continued to a future date to allow additional time for the parties to come to an agreement.

RECOMMENDATION

Staff Recommendation

Planning staff recommends the Planning Commission open the public hearing and continue this item to the Planning Commission meeting of September 23, 2020, to allow more time for the applicant and Bright Development to agree upon the proposed amendments to the Pre-Annexation Development Agreement.

Alternative Action

The City Attorney's office has indicated that the City should not take action on this item without Bright Development's concurrence with the changes as that would be a breach of contract and a violation of California Government Code Section 65868. Therefore, the only actions that should be considered would be either to continue the item or to deny it. If the Planning Commission should wish to deny the project, the Planning Commission should provide direction to staff on the reasons for denial so a Planning Commission Resolution can be prepared for adoption at a future Planning Commission meeting.

PROJECT DESCRIPTION

The requested modifications to the Pre-Annexation Development Agreement are to modify Exhibit "D" and Exhibit "G." See details in the Findings Section.

FINDINGS/CONSIDERATIONS:

Negotiations Between Parties

H) On August 3, 2020, and again on August 10, 2020, Kim Espinosa, Planning Manager, and Julie Nelson, Associate Planner participated in a call between Rick Telegan and Lee Kolligian, representing Exposition Properties and Leeco, LLC, and Mark Beisswanger and Dave Butz, representing Bright Development. During the calls the modifications to the Pre-Annexation Development Agreement were discussed as well as the possibility of a shared storm drainage facility. The talks were amicable and in good faith. All parties

seemed to want to come to a resolution on these issues to allow development to move forward. Although the issues were not resolved during these calls, it's clear the parties are moving in the right direction.

Attachments:

- A) Location Map/General Plan Designations
- B) Staff Report #20-16
- C) Letter from John Dunn
- D) Draft Minutes from Planning Commission meeting July 22, 2020

| ATTACHMENT REFERENCE TABLE | |
|--|---|
| Planning Commission Staff Report Attachment | Administrative Report Attachment |
| Attachment A | Attachment 1 |
| Attachment B | Attachment 11 |
| Attachment C | Attachment 9 |
| Attachment D | Attachment 10 |

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