



## Legislation Text

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**File #:** 23-036, **Version:** 1

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*Report Prepared by: Julie Nelson, Senior Planner, Development Services Department.*

**SUBJECT:** Approval of the Release of Agreements Affecting the Property Approved for the Future Construction of the Devonwood Village Apartments as Requested by the Property Owner, Devonwood 64, LP., Generally Located on the South Side of Devonwood Drive, Between Loughborough Drive and Austin Avenue

### REPORT IN BRIEF

The property owner, Devonwood 64, LP is seeking the release of five agreements to allow the site to be sold to a developer of the approved apartment complex. The five agreements include four Developer Agreements and one Subdivision Agreement. The City Council's action would also include authorizing the City Manager or Deputy City Manager to execute the necessary documents to release the agreements.

### RECOMMENDATION

**City Council** - Adopt a motion:

- A. Approving the release of three agreements between the City of Merced and the Bianchi Land Company dated September 25, 1992, August 8, 1994, and July 21, 1999, and the release of a Developer Agreement between the City of Merced and PPC Highland Park, LLC dated November 6, 2006, and a Subdivision Agreement between the City of Merced and PPC Highland Park, LLC dated February 20, 2007; and,
- B. Authorizing the City Manager or Deputy City Manager to execute the necessary documents.

### ALTERNATIVES

- 1. Approve, as recommended by staff; or,
- 2. Approve subject to other than recommended by staff (identify specific findings and or conditions amended to be addressed by City Council motion); or,
- 3. Deny; or,
- 4. Refer back to staff for reconsideration of specific items (specific items to be addresses in the motion); or
- 5. Continue to a future meeting (date and time to be specified in the motion).

### AUTHORITY

Merced City Charter, Section 200.

### CITY COUNCIL PRIORITIES

Not applicable.

## DISCUSSION

Devonwood 64, LP is currently the owner of 5.94 acres of land generally located on the south side of Devonwood Drive between Loughborough Drive and Austin Avenue (Attachment 1). Devonwood 64, LP is in the process of selling the property a new developer to construct a 161-unit affordable housing project on the site. Through the escrow process, several “exceptions” were identified in the Title Report. Five of the exceptions are related to various agreements entered into between the City and previous property owners. The buyer has requested these agreements be removed from the Title Report. Therefore, Devonwood 64, LP has requested the City release the agreements listed below and shown in the Title Report as “Exceptions” #8, #9, #10, #13, and #14 on pages 4,5, and 6 of the Title Report at Attachment 2. These agreements along with the associated applications are listed in the table below.

Item No.	Type of Agreement	Associated Applications	Parties	Date of Agreement	Recording Information
8	Agreement (Developer Agreement)	General Plan Amendment #92-06 & Site Utilization Plan (SUP) Revision #11 to Planned Development (P-D) #16	Bianchi Land Co. & City of Merced	9/25/1992	Doc. No. 1992-036536 Vol. 3042 Pg. 850
8 (cont'd)	First Amendment to Agreement	General Plan Amendment #92-06 & Site Utilization Plan (SUP) Revision #11 to Planned Development (P-D) #16 & CUP #849	Bianchi Land Co. & City of Merced	12/8/1992	Doc. No. 1992-044504 Vol. 3060 Pg. 908
9	Agreement (Developer Agreement)	Site Utilization Plan (SUP) Revision #13 to Planned Development (P-D) #16	Bianchi Land Co. & City of Merced	8/8/1994	Doc. No. 1994-034325 Vol. 3271 Pg. 273
10	Agreement (Developer Agreement)	Site Utilization Plan (SUP) Revision #17 to Planned Development (P-D) #16	Bianchi Land Co. & City of Merced	7/21/1999	1999-028459 Vol 3900 Pg. 522

13	Developer Agreement	Site Utilization Plan (SUP) Revision #22 to Planned Development (P-D) #16	PPC Highland Park, LLC & City of Merced	11/6/2006	Doc. No. 2006-087327
14	Subdivision Agreement	Final Map #5346 for Highland Park Subdivision	PPC Highland Park, LLC & City	2/20/2007	Doc. No. 2007-036658

At one time, the subject property was part of a larger area owned by the Bianchi Land Company. Through the years, the property has been subdivided and now consists of the area where the Merced Marketplace Shopping Center, the Wal Mart Shopping Center, and the Devonwood Village Subdivision are located. All the agreements run with the land but are not removed from title if the land is subdivided. The agreements with the Bianchi Land Company were Developer Agreements required by Site Utilization Plan Revisions requested by the Bianchi Land Company. The conditions contained within these agreements have been satisfied with the development of the Merced Market Place and Wal Mart Shopping Centers.

The Developer Agreement with PPC Highland Park, LLC was required when the land use designation for the subject site and the area now developed as the Devonwood Village Subdivision was changed from commercial to residential to allow the development of the Highland Park subdivision (now Devonwood Village). All conditions of approval contained in this agreement have been satisfied.

The Subdivision Agreement between PPC Highland Park, LLC and the City was for the improvements required with the Highland Park Subdivision. Although the developer did not complete all the improvements, the City called the bonds to complete the required infrastructure improvements. Therefore, the requirements of this agreement have been satisfied.

The property owners, Devonwood 64, LP, is seeking approval from the City to remove these agreements in order to close escrow with the buyer. In order to have those removed the City must consider approving releases. The releases would specifically include the following:

- Release of an Agreement (Developer Agreement) with Bianchi Land Company dated September 25, 1992; and,
- Release of an Agreement (Developer Agreement) with Bianchi Land Company dated August 8, 1994; and,
- Release of an Agreement (Developer Agreement) with Bianchi Land Company dated July 21, 1999; and,
- Release of an Agreement (Developer Agreement) with PPC Highland park, LLC, dated November 6, 2006; and,
- Release of Subdivision Agreement with PPC Highland Park, LLC, dated February 20, 2007.

City Staff has reviewed these items and determined that it is appropriate to remove them. The items have in some cases been satisfied or the condition applied to a larger area or prior project entitlement which is not specific to the school site location.

## **IMPACT ON CITY RESOURCES**

None.

## **ATTACHMENTS**

1. Location Map
2. Preliminary Title Report
3. Release of an Agreement (Developer Agreement) with Bianchi Land Company dated September 25, 1992
4. Release of an Agreement (Developer Agreement) with Bianchi Land Company dated August 8, 1994
5. Release of an Agreement (Developer Agreement) with Bianchi Land Company dated July 21, 1999
6. Release of an Agreement (Developer Agreement) with PPC Highland park, LLC, dated November 6, 2006
7. Release of Subdivision Agreement with PPC Highland Park, LLC, dated February 20, 2007