



Staff Reports

File #: 2066-2019, **Version:** 1

To: Honorable Mayor and Members of City Council

From: Vincent Smith, Community Development Director

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TITLE:

SB 235 Agreement for Reporting Affordable Housing Production on the Napa Pipe Property

RECOMMENDED ACTION:

Adopt a resolution authorizing the City Manager to execute an Agreement with Napa County Regarding Annual Reporting of Affordable Housing Production to the California Department of Housing and Community Development for affordable housing units constructed in the City's jurisdiction on the Napa Pipe Property, pursuant to SB 235 (California Government Code Section 65584.08); and determining that the potential environmental effects were adequately analyzed by a previous CEQA action.

DISCUSSION:

RECENT BACKGROUND

On June 19, 2018, December 4, 2018, June 18, 2019, and September 3, 2019, City staff provided updates to City Council regarding the status and progress of revised development proposals for the Napa Pipe Project. At the meeting on September 3, 2019, Staff presented the Council with terms of a draft agreement between the City and Napa County to implement a then pending California Senate Bill (SB 235) which would authorize the County to receive "credit" for the reporting of affordable housing production (entitlements, building permits, and certificates of occupancy) at the Napa Pipe Project, even after the Napa Pipe Property was annexed into the City limits. At the time, County staff had expressed that they could not commit to the proposed terms without further input from the Board of Supervisors.

On August 6, 2019, the Council adopted a resolution authorizing the application to the Local Agency Formation Commission of Napa County (LAFCO), to authorize the annexation to the City limits of the remaining 45 acres of the Napa Pipe Property. On October 7, 2019, the LAFCO Board considered the proposed annexation. At the meeting, Napa County staff asked the LAFCO Board to continue the item to allow time for SB 235 to be signed by the Governor, and for the City and County to negotiate and execute an SB 235 agreement. LAFCO continued the item to November 18, 2019.

Following the Council meeting on September 3, 2019, City staff presented County staff with a draft agreement, in anticipation of approval of SB 235 in October. On October 13, 2019, Governor

Newsom signed SB 235 (Chapter 844).

The key benefit to the City of the SB 235 legislation is that it provides a way for the City to agree to share with the County credit for housing construction at the Napa Pipe Project (even after the Napa Pipe Property is annexed into the City limits); and, in return, the County will agree to support the City's application for early annexation of the remaining 45 acres of the Napa Pipe site. Early annexation of the remaining 45 acres will streamline the Napa Pipe Developer's proposal to revise the Napa Pipe Project, by allowing the Project entitlements to be reviewed by one governmental agency (the City), which is anticipated to facilitate construction of the Project beginning in 2020. Without the early annexation, the proposed Project changes would be required to undergo simultaneous comprehensive review by City and County staff and to be reviewed and acted upon by the Council and the Board of Supervisors.

SB 235 allows the City and County to reach a mutually acceptable agreement (an "SB 235 Agreement") to allow the County to include affordable housing production (completed entitlements, building permits, and certificates of occupancy) from the Napa Pipe Project in its annual housing production report to the California Department of Housing and Community Development ("HCD") in accordance with Government Code Section 65400. The City and County are each required to hold a public hearing to solicit public comment on the proposed SB 235 Agreement and to make specified written findings based on substantial evidence before approving the Agreement.

The focus of the proposed SB 235 Agreement is allowing the County to receive credit for construction of very low- and low-income homes constructed in the City after annexation of the remainder of the Napa Pipe Property. The Napa Pipe Project is required to dedicate land to facilitate construction of up to 140 apartments affordable to very low- and low- income households. These housing units are critical to the County because the County's adopted Housing Element relies on the Napa Pipe site to satisfy the County's Regional Housing Needs Allocation (RHNA) and did not anticipate project changes that would place the first phase of new residential development into the area of the site that is already within the City's jurisdiction. The following are the key topics addressed in the SB 235 Agreement:

- 1) All housing impact fees for nonresidential development within the Napa Pipe Project would be utilized toward the affordable apartment projects, consistent with the existing Development Agreement.
- 2) The \$1M "workforce proximity housing contribution" paid by the Developer under the Development Agreement would be used to assist moderate income homebuyers that work in Napa County to purchase deed-restricted moderate-income housing units in Napa Pipe.
- 3) The County would commit to using a significant portion of the County's Affordable Housing Fund to facilitate production of 140 affordable apartments.
- 4) The City and County would agree on a methodology and collaborative process for reporting housing units to HCD.
- 5) The County would be authorized to report to HCD 100% of the low- and very low-income housing units constructed in the first phase of development (Site 23 on the draft revised Development Plan) regardless of when construction is initiated or completed, subject to sharing some reporting credit

with the City if the City provides funding for such units (see Item 9 below).

6) The County would be authorized to report to HCD 100% of the low- and very low-income housing units constructed in the second phase of development (Site 1 on the draft revised Development Plan), if building permits are issued before December 31, 2022, subject to sharing some reporting credit with the City if the City provides funding for such units (see Item 9 below).

7) The County would be authorized to report to HCD 90% of the low- and very-low income housing units constructed in the second phase of development (Site 1 on the draft revised Development Plan), if building permits are issued on or after January 1, 2023, subject to sharing some reporting credit with the City if the City provides funding for such units (see Item 9 below).

8) The City would be authorized to report to HCD all deed restricted moderate-income units and all market rate units constructed with the development. The project is anticipated to yield up to 50 moderate income units and up to 755 market rate units.

9) If the City provides funding or vouchers to assist in the construction of the very low- and low-income apartments, the City would be authorized to report to HCD for a portion of the units proportionate to the City's contribution.

ANALYSIS

The proposed agreement is intended to satisfy the County's interest in receiving credit for issuing building permits for low- and very low-income housing in Napa Pipe so that the County will consent to early annexation of the remaining 45 acres of the site. Annexation will allow the revised project and agreements to be scheduled for a Planning Commission public hearing in December 2019 and for the Council to consider the project in January 2020. The developer has indicated that construction would begin in 2020 and that they are already developing construction plans.

Because the City's current Housing Element does not count on the Napa Pipe site to achieve the City's RHNA, and the County's housing element heavily relies on the Napa Pipe site to achieve the County's RHNA for low- and very low-income housing units, City staff feels that the proposal to allow the County to receive credit for some or all of the 140 affordable apartments is reasonable. The proposed SB 235 Agreement is structured so that the County would receive full credit for all building permits issued for Site 23, regardless of when the permits are issued, and 100% credit for the units on Site 1 if the building permits are issued prior to December 31, 2022, and 90% credit for the units on Site 1 if the building permits are issued on or after January 1, 2023. After December 31, 2022, when the City and County will be embarking on the next housing cycle, the City would be able to receive credit for any building permits issued for affordable units in the remainder of the development.

The SB 235 Agreement further allows the City to share credit with the County if the City contributes funding (including vouchers) toward the 140 apartment units. While City staff understands that the County will endeavor to fund the housing using the development's nonresidential housing impact fees and other sources, staff contemplated a scenario where the City may be asked to provide gap funding. The provisions that address shared credit were developed to provide incentives for funding collaboration.

The latest draft of the SB 235 Agreement, dated October 24, 2019, is still being discussed with County staff in preparation for the November 5 City Council meeting and a November 12 Board of Supervisors meeting where the agreement will be presented. At this time, County staff have expressed several remaining concerns, including an interest in ensuring that the Napa Pipe project is required to achieve a minimum density of 20 units per acre and that the developer be required to guarantee that 140 very low- and low- income housing units be constructed. City staff is working with County staff to try to address these issues. It is important to note that minimum density is addressed both in the approved entitlements for the Napa Pipe project and associated agreements, and is proposed to be addressed similarly in the revised project and associated agreements. City staff is confident that the two sites proposed for dedication to the City for affordable housing development are of sufficient size to achieve 140 apartments.

SB 235 requires that the draft agreement be made available to the public and that the City and the County hold a public hearing to consider the agreement. The latest draft was published with this report and any minor changes will be shared with the Council at the meeting. Staff recommends that the Council consider approving the agreement and authorizing the City Manager to sign the final version.

TENTATIVE SCHEDULE

November 5 and November 12, 2019: City Council and Board of Supervisors consider adoption of the SB 235 agreement.

November 18, 2019: LAFCO holds annexation hearing.

December 5, 2019: City of Napa Planning Commission holds a public hearing on the proposed General Plan Amendment, Rezoning, and associated development permits and makes a recommendation to the Council.

December 18, 2019: County Airport Land Use Commission meeting to review project.

January 2020: City Council considers the Napa Pipe project and amended Development Agreement and sub-agreements.

HISTORY

On August 4, 2015, the Council adopted Ordinance 02015-009 establishing the Napa Pipe Master Plan zoning district for the approximately 154-acre unincorporated property located at 1025 Kaiser Road. The Napa Pipe Development Plan (approved by Napa County in December 2014) and Design Guidelines (approved by the County in February 2015) include up to 945 residential units, 150 senior housing units, a 150-room hotel, approximately 385,000 square feet of nonresidential uses, and parks and open space. In addition to approving the zoning district, the Council authorized the City Manager to execute a series of agreements with the Developer (Napa Redevelopment Partners, LLC) and the County, and authorized submittal of an application to Napa County LAFCO to expand the City's Sphere of Influence (SOI) to include the property within the City's SOI and to extend municipal services to the property. The Council also authorized the phased annexation of the property.

On September 22, 2015, Napa LAFCO approved the SOI amendment and outside service

agreement for the entire 154-acre site, and approved a phased annexation of the project area. 111 acres were annexed in September 2016 including land east of the railroad tracks and the future office/industrial and hotel blocks in the south portion of the site (the "Reverse L"). Forty-five (45) acres, generally located in the middle of the site on the west side of the railroad tracks remain in the unincorporated County. The basis for retaining the 45 acres in unincorporated County was because Napa County wanted to issue residential building permits, particularly associated with affordable housing development. However, after project approvals, the Developer informed the County and the City that the development was not cost effective, and changes to the plan were necessary to include spreading some of the residential development over more land east of the railroad tracks.

In 2016 the Developer partnered with Catellus, a national leader in mixed use development, to manage the site remediation activities, which were recently completed, and further evaluate project feasibility. With Catellus' assistance, the Developer began to identify changes to the approved land plan, and a revised phasing plan, that would allow the project to proceed to construction.

On June 19, 2018, Staff presented a series of proposed changes to the approved development project. Most of the site (111 acres) is within City limits after the 2016 annexation. Forty-five (45) acres along the Napa River, where all 945 housing units are currently approved, are still located in the unincorporated County and would remain in the County's land use jurisdiction until December 2022 unless early annexation is approved.

On December 4, 2018, Staff briefed the Council on a series of discussions between City and County staff about how to move the proposed modifications forward. City and County staff concluded that State law in effect at that time did not allow the County to report housing production to HCD for building permits issued on property within the City limits. Staff shared the potential for special legislation to allow the City to share credit with the County, the Council expressed general support for the concept, and the County expressed a willingness to accept early annexation of the remaining 45 acres to allow the development modifications to proceed more efficiently.

On June 18, 2019, Staff briefed the Council on the progress associated with the Napa Pipe project. At that time, it was anticipated that SB 235 might be finalized by August 2019. Staff shared that the developer filed applications for a revised Development Agreement and other development applications with the City on June 7, 2019, and initiated the annexation application with Napa LAFCO. Staff shared that the development review process had commenced, and that City and County staff met on June 17, 2019 to coordinate a schedule and approach to the SB 235 agreement that would implement the legislation. It was anticipated that County staff would draft the agreement and that City and County staff would work collectively to develop draft terms for the agreement to bring to respective local legislative bodies in August for adoption.

On August 6, 2019, the Council adopted a resolution authorizing the annexation of the remaining unincorporated acreage. Once the property is annexed, all proposed plan changes would be reviewed by one review authority (City) which will expedite the review process. County, City, and LAFCO staff discussed that the annexation would not be scheduled for consideration until the City's and County's SB 235 agreement is approved by both bodies and the Governor signs SB 235 into law.

On September 3, 2019, the Council received a preview of the draft agreement terms for implementation of SB 235.

On October 7, 2019, Napa LAFCO considered the proposed annexation of the remaining 45 acres. At the meeting, County of Napa staff asked for LAFCO to continue the item to allow time for the bill to be signed and for the City and County to implement the law through an SB 235 agreement. LAFCO continued the item to November 18, 2019.

On October 13, 2019, Governor Newsom signed SB 235.

FINANCIAL IMPACTS:

There are no immediate financial impacts resulting from the recommendations of this Agenda Report. The Developer is paying for staff and consultant costs associated with project review.

CEQA:

Potential environmental effects were adequately analyzed by: (1) the Environmental Impact Report for the Napa Pipe Project (Napa Pipe EIR), certified January 14, 2013 by the Board of Supervisors of the County of Napa; and (2) the Initial Study / Addendum to the Napa Pipe EIR, adopted July 22, 2014 by the City of Napa pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15164.

DOCUMENTS ATTACHED:

ATCH 1 - Resolution

EX A - Napa Pipe SB 235 Working Draft Agreement

ATCH 3 - Napa Pipe Land Use Plan (Proposed)

NOTIFICATION:

Napa County and LAFCO were notified of this agenda item.