



## Legislation Details (With Text)

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**Title:** Public Hearing: Action on Amendment No. 1 to Development Agreement with Innovation Commons Owner LLC (Previously Yahoo)

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**Attachments:** 1. Addendum to the Final Environmental Impact Report, 2. First Amendment to Development Agreement between the City of Santa Clara and Innovation Commons Owner LLC, 3. Resolution Recommending City Council Approval of the First Amendment to Development Agreement Between the City of Santa Clara and Innovation Commons Owner LLC, 4. Development Agreement Ordinance

| Date       | Ver. | Action By           | Action | Result |
|------------|------|---------------------|--------|--------|
| 10/23/2019 | 1    | Planning Commission |        |        |

## REPORT TO PLANNING COMMISSION

### SUBJECT

Public Hearing: Action on Amendment No. 1 to Development Agreement with Innovation Commons Owner LLC (Previously Yahoo)

### BACKGROUND

In 2009, the City Council approved a Planned Development (PD) rezoning of the subject property on Democracy Way from Light Industrial (ML) to Planned Development to allow Yahoo, Inc. (“Yahoo”) to construct up to 3.06 million square feet of office/R&D development. The project included a Development Agreement (DA) between the City and Yahoo to secure the development rights over a 10-year term with the vested right to develop in accordance with the permitted uses and intensity of development set forth in the approved PD. An Environmental Impact Report (EIR) was prepared and circulated in accordance with the California Environmental Quality Act (CEQA). The City Council certified the Final EIR and approved the project at a public noticed meeting in May 2010. In June 2016, Yahoo transferred all of its development rights and obligations to LeEco Real Estate Group (“LeEco”). LeEco was later acquired by the current property owner, Innovation Commons Owner LLC, which is an affiliate of Kylli, Inc., and all of the development responsibilities and obligations transferred to the current owner in June 2016. The current DA includes various performance deadlines for construction activity and is scheduled to expire in 2020 if construction has not commenced at that time. The property owner is requesting a three-year extension of each of the performance deadlines included in the DA.

In 2017, a new application that would supersede the current PD Zoning was filed to rezone the property to allow up to 6,000 residential units, 3.65 million square feet of office, 400,000 square feet of retail/community amenities, 300,000 square feet of hotel facilities and 70,000 square feet of

educational facilities. The current DA will expire in May 2020. The purpose of the requested three-year extension is to maintain the existing development rights for 3.06 million square feet of office/R&D while the pending entitlements are pursued. An action to request a three-year extension does not suggest or influence support for a final decision on the pending entitlements pursued.

## **DISCUSSION**

The primary issue for analysis is the project's consistency with the City's General Plan and Zoning.

### **Consistency with the General Plan**

The current PD Zoning and DA were approved under the prior General Plan. The current General Plan designation of the property is High Intensity Office/R&D, which is intended for high rise or campus like developments for corporate headquarters and R&D and supporting uses. Therefore, the currently entitled 3.06 million square feet of office/R&D is consistent with the current General Plan.

The existing entitlement is also consistent with the following General Plan goals:

- **5.3.5 G1**: A City that continues to be a major employment center in Silicon Valley.
- **5.3.5 G2**: Sufficient industrial land that meets the demand for local employment and retains the City's economic base.
- **5.3.5-G3**: Higher intensity employment centers located near major transit services and major transportation corridors to reduce vehicle miles traveled.

### **Consistency with the Planned Development Zoning**

A PD Zoning was needed for the project because none of the standard zoning districts would allow the office use at the density proposed. The proposed DA extension would maintain the existing development rights consistent with the approved PD Zoning for 3.06 million square feet of office/R&D development.

### **Conclusion**

The purpose of the three-year extension is to maintain the existing development rights for up to 3.06 million square feet of office/R&D development while the property owner pursues an alternative entitlement. The existing entitlement is consistent with the site's High Intensity Office/R&D GP designation. Extending the DA to 2023 will maintain development rights for a project that is consistent with the City's existing land use regulations under the current General Plan and would be considered a permitted use if proposed today with the current PD zoning in place. Extending the DA will maintain the ability to develop industrial uses on the site should the current rezoning proposal not be implemented. Limiting the term of the extension to three years will allow the City Council an opportunity to review the status of the site in the relatively near term to determine if additional extensions are warranted.

## **ENVIRONMENTAL REVIEW**

An Addendum to the 2010 Yahoo Santa Clara Campus Final Environmental Impact Report (FEIR) for the Development Agreement extension project was prepared in accordance with the CEQA. The analysis concludes that no substantive revisions are needed to the 2010 EIR, because no new significant impacts or impacts of substantially greater severity would result from the proposed DA amendment. In addition, there have been no changes in circumstances in the project area that would result in new significant environmental impacts or substantially more severe impacts. The previous Mitigation Monitoring or Reporting Program remains in effect for the project.

### **FISCAL IMPACT**

There is no additional cost to the City other than staff time and expense. As proposed, none of the terms of the DA would be modified except for the duration. The project would be subject to building permit and development fees in accordance with the City's Fee Schedule and be made payable at the time of building permit issuance.

Development of the project would increase property tax and other tax revenues for the City and provide additional construction and permanent jobs.

### **COORDINATION**

This report has been coordinated with the City Attorney's Office.

### **PUBLIC CONTACT**

On October 9, 2019, notice of the public hearing was published in the Santa Clara Weekly. On October 11, 2019, a notice of public hearing of this item was posted in three conspicuous locations within 300 feet of the project site and mailed to property owners within 1,000 feet of the project site. Notice was also mailed to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project. Planning Staff has not received public comments for this application.

### **ALTERNATIVES**

1. Approve a Resolution recommending that the Council approve the First Amendment to Development Agreement between the City of Santa Clara and Innovation Commons Owner LLC.
2. Deny a Resolution recommending that the Council deny the First Amendment to the Development Agreement between the City of Santa Clara and Innovation Commons Owner LLC.

### **RECOMMENDATION**

Alternative 1:

Approve a Resolution recommending that the Council approve the First Amendment to Development Agreement between the City of Santa Clara and Innovation Commons Owner LLC.

Reviewed by: Andrew Crabtree, Director of Community Development  
Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

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