



## Agenda Report

20-420

Agenda Date: 3/24/2020

### REPORT TO CITY COUNCIL

#### SUBJECT

Authorization to enter into a Memorandum of Understanding for Building Permit Review with the City of San Jose for the Property at located at the southwest corner of Coleman Avenue and Champions Way [Council Pillar: Promote and Enhance Economic and Housing Development] Continued from March 17, 2020

#### BACKGROUND

The City of Santa Clara has an established precedent of working collaboratively with the City of San Jose to administer Building Permits for projects that cross jurisdictional boundaries, including the Valley Fair shopping center and the University Villas project on Campbell Avenue. In these cases, the City of Santa Clara entered into a Memorandum of Understanding (MOU) with San Jose to grant San Jose authority to conduct the Building Permit process (Attachment 1), while maintaining authority to conduct discretionary entitlement procedures such as Planning and Public Works review. This allows for a more efficient review process for developers.

The developer of the subject property at the southwest corner of Coleman Avenue and Champions Way, Coleman Airport Partners (Developer), is currently in the process of constructing a commercial development, known as "Coleman Highline" on a property which is primarily in San Jose, but of which a portion is in Santa Clara as shown in Attachment 2, Location Map and Site Plan (Attachment 3). Approximately 1.59 acres of the 16.74-acre site are located within the municipal boundaries of the City of Santa Clara. Up until this point, the development activity has excluded the portion within Santa Clara, but the Developer has recently obtained a new Planning Permit approval ("Tranche 2") from the City of San Jose to develop additional buildings on the site, including a structure that would extend into Santa Clara.

The Developer has requested that the City of Santa Clara enter into an MOU with the City of San Jose to grant San Jose the authority to administer Building permits for the entire project, including the portion within Santa Clara. The City of San Jose staff have also communicated their support for the MOU.

The San Jose portion of the subject property, along with three adjacent parcels totaling 94.0 acres in area, are governed under a single San Jose Planned Development Zoning (Attachment 5, San Jose File PDC09-004) that allows for the development of up to 1,514,000 square feet of new industrial uses on the property along with the existing 18,000 seat stadium (i.e. Avaya Stadium) and the existing commercial development between the stadium and Newhall Street in San Jose. The San Jose Planned Development Zoning does not include the portion of the property located within Santa Clara.

The permit issued by the City of San Jose (File No. PD19-012) and related zoning (PDC19-007)

would potentially allow the construction of approximately 576,892 square feet of office; 50,000 square feet of amenities buildings; one utility enclosure structure; various site improvements; and a 645,363 square foot unenclosed parking structure, of which approximately 66% (423,743 square feet) would be located within the City of San Jose and 34% (221,620 square feet) would be located within the City of Santa Clara boundaries as shown in Attachment 3. The project includes new roadway construction that would extend through both cities, with the portion in Santa Clara developed as a private street while the portion in San Jose would be public.

## **DISCUSSION**

Concurrent with the developer's application within San Jose, the developer applied for City of Santa Clara Architectural Review approval for the portion of the parking garage, landscaping, and private infrastructure improvements, including the private roadway, that would be located in Santa Clara. The proposed use is permitted under the existing Santa Clara zoning and a rezoning application is not required. Architectural Review approval was approved for the project by the City of Santa Clara on March 5, 2020. The proposed MOU includes a requirement that City of Santa Clara staff review and verify that the San Jose Building Permit application is consistent with the Santa Clara Architectural Review approval prior to issuance of Building Permits by the City of San Jose.

As the Building Permit process requires a comprehensive structural analysis for any new buildings, it is not practical to issue a Building Permit for a portion of a building and one jurisdiction should have full responsibility for insuring compliance of the building with applicable Building Codes. While local jurisdictions generally apply the same Building Code standards, they may also apply local amendments to the Code and it would be difficult or possibly infeasible for a single building to be designed to align with different Building Code standards. Administration of two Building Permit processes for a single building would also be inefficient, require significant coordination between jurisdictions, and potentially result in mistakes due to the complexity of the process. For these reasons it is common practice for Building Permits for a building that crosses a jurisdictional boundary to be processed by the jurisdiction that contains the majority of the building.

While the City's precedent applies to the issuance of Building Permits for multijurisdictional developments, the City has historically conducted an independent planning entitlement process for such projects. Land use regulations vary between jurisdictions and the land use entitlement process is flexible so that it is possible to issue land use entitlements for a portion within Santa Clara of a larger project that spans multiple jurisdictions. Conducting a City of Santa Clara land use entitlement process will allow the City to directly oversee and address community input, the project interface with other development within Santa Clara and potential development impacts.

Under the proposed MOU, taxes and assessments for the development can be distributed proportionally between the two cities. Fees uniquely applicable within the City of Santa Clara would also be assessed to the project. While the Developer is the primary beneficiary of being able to implement an efficient project design that fully utilizes the portion of their property in Santa Clara, the City would also receive benefit as a result from the increased land values. The City will not collect Building Permit application fees for the project, but will also not need to provide the services covered by these fees.

Based on precedent and the necessity of a single Building Permit process and the project's consistency with the City of Santa Clara Architectural Review process, staff recommends that the City Council direct staff to begin preparation of an MOU for the Building Permit process and public

improvements concurrent with the City of Santa Clara's conduct of a land use entitlement process for the Santa Clara portion of the proposed development.

### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

### **FISCAL IMPACT**

There is no cost to the City other than administrative staff time and expense. The City of San Jose will act as the approval authority administering the building permit procedures and provide all inspection services for the construction phase of the Project.

This Project would generate revenues for the City of Santa Clara through the collection of taxes that are assessed on development occurring within City boundaries.

### **COORDINATION**

This report has been coordinated with the Department of Public Works, the Finance Department and the City Attorney's Office.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email [clerk@santaclaraca.gov](mailto:clerk@santaclaraca.gov) <<mailto:clerk@santaclaraca.gov>> or at the public information desk at any City of Santa Clara public library.

### **ALTERNATIVES**

1. Authorize the City Manager to enter into a Memorandum of Understanding with San Jose for San Jose to administer Building Permit and related inspection activities for the proposed commercial development at the southwest corner of Coleman Avenue and Champions Way.

2. Other direction as determined by the City Council.

### **RECOMMENDATION**

Alternative: 1.

Authorize the City Manager to enter into a Memorandum of Understanding with San Jose for San Jose to administer Building Permit and related inspection activities for the proposed commercial development at the southwest corner of Coleman Avenue and Champions Way.

Reviewed by: Andrew Crabtree, Director of Community Development

Approved by: Deanna J. Santana, City Manager

### **ATTACHMENTS**

1. Example MOU - Campbell Avenue Project
2. Coleman Highline Location Map

3. Coleman Highline Project Site Plan
4. Coleman Highline APN Map
5. City of San Jose Zoning - PDC09-004
6. CSC-CSJ Draft MOU for Building Permits for Coleman Highline Project