



## Agenda Report

22-1320

Agenda Date: 12/6/2022

### REPORT TO COUNCIL

#### **SUBJECT**

Action on an Amendment to an Affordable Housing Agreement with Legend SantaClara, LLC for Condominium Housing at 1890 El Camino Real and Delegation of Authority to the City Manager to Execute Basic AHAs.

#### **BACKGROUND**

On September 27, 2016, the City Council approved land use entitlements for a 56-unit condominium housing project submitted by Legend GC, Inc., for the property located at 1890 El Camino Real. The property and entitlements were transferred to Legend SantaClara, LLC who is the developer. The City's inclusionary housing policy, at the time, required private development projects with more than 10 units to include 10 percent of new housing units as affordable. As a condition of the land use entitlements, the developer was required to enter into an Affordable Housing Agreement (AHA) to designate 10-percent of the total units (i.e. 5.6 dwelling units) as Below Market Purchase (BMP) units to be sold to qualified first-time homebuyers at an affordable price based upon the Area Median Income (AMI).

On May, 22, 2018, the Developer and the City entered into an Affordable Housing Agreement (AHA) which was recorded on June 26, 2018. The condominium sales prices in this agreement were based on the 2018 AMI levels.

A fire at the project in 2019 delayed construction for several years. Construction has since resumed and the parties wish to amend the original AHA to update the BMP unit sales prices so they align with current 2022 area median income levels. The BMP housing units will be sold at prices deemed affordable to households with incomes that do not exceed 110% of AMI. The resulting Affordable Sales Prices will be \$401,000 for two 1-bedroom, 1-bath BMP units and range from \$441,000 to \$509,000 for three 2-bedroom, 2-bath BMP units. See Attachment 1 for the developer's signed amendment to the agreement. All other terms of the Original Agreement will remain unchanged in full force and effect.

#### **DISCUSSION**

Approval of the amendment to the AHA will implement the City's General Plan inclusionary housing policy consistent with the previous land use entitlements granted for the subject property. The proposed amendments to the terms of the AHA have been reviewed by the City Attorney and found to meet the City's legal requirements for such agreements.

The Housing and Community Services Division processes several AHA's each year for both rental and ownership housing developments. Staff has developed standardized templates and AHAs have historically been heard as City Council consent items. Staff recommends delegating authority to the City Manager to execute basic AHAs and amendments ministerially without City Council approval.

AHAs that are determined to be highly unique by the Community Development Director could be referred to City Council for approval.

Basic AHAs are defined as Agreements that implement the City's standard inclusionary housing requirement per the City's Affordable Housing Requirements, SCCC Chapter 17.40. Under the current Ordinance, this would include projects with 10 units or more that have 15% of those units dedicated as affordable at an average of 100% AMI. Projects with less than 10 units or with a fractional unit requirement are required to pay a fee also set within the Ordinance. The Ordinance allows for alternative proposals to meet the City's affordability requirement. Such alternatives would continue to be brought to the City Council for consideration.

### **ENVIRONMENTAL REVIEW**

The potential environmental impacts of the project were addressed in an Environmental Impact Report/Mitigated Negative Declaration/ Negative Declaration prepared for the project and which was certified/approved on September 27, 2016.

### **FISCAL IMPACT**

In accordance with the policies of the BMP Program, the City will realize a recapture of the inclusionary subsidy value of the BMP units when resold in the future. In addition, the BMP in-lieu fee for the fractional unit will be deposited into the City Housing Fund at the time it is received from the Developer.

### **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 beginning the Thursday evening before the Tuesday 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.

### **RECOMMENDATION**

1. Approve and authorize the City Manager or designee, to execute an amendment to the Affordable Housing Agreement with Legend SantaClara, LLC to execute amendments thereto and to take any other action necessary to implement the requirement for the provision of five (5) Below Market Purchase (BMP) units and payment of the BMP in-lieu fee for a fractional unit within a 56-unit housing project at 1890 El Camino Real.
2. Delegate to the City Manager the authority to execute or amend affordable housing agreements for projects developed in accordance with the provisions of with SCCC Chapter 17.40, Citywide Affordable Housing Requirements, subject to final review and approval of such agreements by the Office of the City Attorney. All projects requiring an exception or modification to the Citywide Affordable Housing Requirements shall continue to be brought to the City Council for approval.

Reviewed by: Andrew Crabtree, Director of Community Development Department

Approved by: Rajeev Batra, City Manager

### **ATTACHMENTS**

1. Amendment No. 1 to the Affordable Housing Agreement with Legends SantaClara, LLC