



SAN FRANCISCO PLANNING DEPARTMENT

Draft Planning Commission Resolution

Development Agreement

HEARING DATE: JUNE 5, 2014

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Date: June 3, 2014
Project Name: Schlage Lock Development Project
W Case: Approve Development Agreement
Case Number: 2006.1308EMTZW
Staff Contact: Claudia Flores
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Reviewed By: Joshua Switzky
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Recommendation: **Approval with Modifications**

RESOLUTION APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND COUNTY OF SAN FRANCISCO AND VISITACION DEVELOPMENT, LLC., A CALIFORNIA LIMITED LIABILITY CORPORATION, FOR CERTAIN REAL PROPERTY LOCATED IN THE SOUTHEAST CORNER OF SAN FRANCISCO AND GENERALLY BOUNDED BY TO THE NORTH BY BLANKEN AVENUE, TO THE EAST BY TUNNEL AVENUE, TO THE WEST BY BAYSHORE BOULEVARD, AND TO THE SOUTH BY THE SAN FRANCISCO / SAN MATEO COUNTY LINE, AND THE CITY OF BRISBANE, AND COMPRISED OF ASSESSOR'S BLOCKS AND LOTS 5107-001, 5087-003A, 5100-002, 5102-009, 5087-003, 5101-006, 5100-003, 5099-014, 5101-007, AND 5100-010, ALTOGETHER CONSISTING OF APPROXIMATELY 20-ACRES AND COMMONLY KNOWN AS SCHLAGE LOCK, FOR A TERM OF THIRTY (15) YEARS AND MAKING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, GENERAL PLAN FINDINGS, AND FINDINGS PURSUANT TO PLANNING CODE SECTION 101.1(b).

The Planning Commission (hereinafter "Commission") finds as follows:

1. California Government Code Section 65864 et seq. authorizes any city, county, or city and county to enter into an agreement for the development of real property within the jurisdiction of the city, county, or city and county.
2. Chapter 56 of the San Francisco Administrative Code sets forth the procedure by which any request for a development agreement will be processed and approved in the City and County of San Francisco.
3. Visitacion Development, LLC ("Developer") owns the real property located in the City and County of San Francisco, California located on Assessor's Blocks and Lots 5107-001, 5087-003A, 5100-002, 5102-009, 5087-003, 5101-006, 5100-003, 5099-014, 5101-007, and 5100-010, altogether consisting of approximately 20 acres and commonly known as the Schlage Lock site (the "Project Site").

4. Mayor Ed Lee and Supervisor Malia Cohen introduced legislation for approval of a development agreement under Administrative Code Chapter 56. They also introduced legislation to (a) amend the City's Visitacion Valley Schlage Lock Special Use District in the Planning Code, and (b) amend Zoning Maps HT10 and ZN10. On May 8, 2014, this Planning Commission initiated amendments to the City's General Plan to change relevant maps and the Land Use index.
5. The Planning Commission (hereinafter "Commission") recommended approval of the 2009 Visitacion Valley/Schlage Lock Redevelopment Plan, Design for Development and related project documents at a regularly scheduled hearing on December 18, 2008 to the Board of Supervisors; and
6. However, the demise of Redevelopment Agency in early 2012, and the loss of public funding that accompanied it, required reopening the plans for the site. City staff, along with the project sponsor, re-initiated efforts to move transformation of Schlage forward beginning with a community meeting on October 13th 2012. The Planning Department partnered with the Mayor's Office of Economic and Workforce Development and the community to evaluate the project's feasibility, to look at tools which can help move the project forward, and to make the necessary legislative changes to foster the site's transformation. The proposed amendments to the 2009 documents and the new Development Agreement are the results of that effort.
7. The Developer is seeking to build up to 1,679 dwelling-units, up from 1,250 under the 2009 plan; and up to 46,700 square feet of new retail, which is 58,300 square feet less than under the 2009 plan. The Project also seeks to create new neighborhood-serving amenities such as a grocery store, additional retail, new streets, pedestrian improvements and infrastructure; provide new parks/open space; and incorporate sustainable and green features throughout the site. Other key changes to the 2009 approved project include an increase in heights to accommodate the additional units; a reconfiguration of the location of the parks; a change to the underlying zoning; updates to controls and design guidelines to address site changes; a process for phase and design review and modifications to the controls; and sun setting of the 2009 Redevelopment Plan. The Parties wish to ensure appropriate development of the Project Site. The Parties acknowledge that this Agreement is entered into in consideration of the respective burdens and benefits of the Parties contained in this Agreement.
8. The Office of Economic and Workforce Development ("OEWD"), in consultation with the Planning Director, has substantially negotiated a development agreement for the Project Site, a copy of which is attached as Exhibit A (the "Development Agreement").
9. While the attached Development Agreement is substantially complete, there are items that City staff and the Developer are still negotiating, which items are highlighted in the table below. The Development Agreement must also be reviewed and approved separately by the Board of the San Francisco Municipal Transportation Agency, the San Francisco Public Utilities Commission and ultimately the San Francisco Board of Supervisors. These City commissions and the Board of Supervisors may propose or recommend additional changes to the Development Agreement subsequent to this Commission reviewing and approving the attached Development Agreement.

The Commission has reviewed and is aware of the items below still under consideration and of the draft terms and agrees the Board will resolve and approve the final terms on these issues:

Issue	Document	Change under consideration
Items still in negotiation/ being completed: Cost Cap Fire Suppression System	Development Agreement	DA is substantially complete but there are items that staff and the Developer are still negotiating and finalizing, including: <ul style="list-style-type: none"> - Cost Cap Fire Suppression System – The final DA brought before the Board of Supervisors may include additional language that limits the developer’s cost obligation for an auxiliary or portable fire suppression system. SFPUC has engaged a technical consultant to study the expected cost of such a system, and SFPUC and the project sponsor expect to negotiate an appropriate cost cap based on the consultant’s findings.
Items still in negotiation/ being completed: Park Acquisition Terms (see attached memo with process and terms of acquisition)	Development Agreement	DA is substantially complete but there are items that staff and the Developer are still negotiating and finalizing, including: <ul style="list-style-type: none"> - Exhibit M – Park Acquisition – Negotiation is expected to be completed and terms finalized prior to the Board of Supervisors’ consideration of the DA. The attached memo lays out scope and structure of the acquisition process and terms.

10. Since publication of the Initiation Package a number of substantive changes and updates to the Development Agreement (DA) are necessary to be included. **The Commission’s recommended modifications would clarify various issues, fix the inclusion of parcels not intended to be part of the DA, and specify terms and obligations that were previously still under development or unclear.**

Specifically, the Commission recommends the following substantive changes and updates to the Development Agreement:

Issue	Document	Change
Phase Application review	Development Agreement	<ul style="list-style-type: none"> • Section 3.4.4. (establishes the Phase Application review process) edit to specify time for staff review of applications and for post-application meetings, which should be required not optional.

Issue	Document	Change
Permit Application review	Development Agreement	<ul style="list-style-type: none"> Section 3.8.3 (establishes other City agency review for individual permit applications) edit to specify time for Recreation and Parks Department review of applications.
City's contributions	Development Agreement	<ul style="list-style-type: none"> Section 4.1 (Costa-Hawkins Rental Housing Act) add detail consisting of a list of the City's contributions to the Project.
Publicly accessibility of parks in perpetuity	Development Agreement	<ul style="list-style-type: none"> Section 6.15 (addresses the public accessibility of the parks) add a section to establish the project sponsor's obligation to record Notices of Special Restriction on the parks to ensure they will remain publicly accessible in perpetuity.
Missing exhibits	Development Agreement	<p>Various exhibits were still incomplete in the initiation packet, these are now complete and include:</p> <ul style="list-style-type: none"> - Exhibit C – List of Community Improvements - Exhibit G – Phase Application Checklist - Exhibit I – Mitigation Measures and MMRP - Exhibit L – Infrastructure Plan - Exhibit Q - Notice of Special Restrictions for Community Use Restrictions for Old Office Building - Exhibit R - Notice of Special Restrictions for Visitacion Park - Exhibit S – Notice of Special Restrictions for Leland Greenway Park
Transportation Demand Management (TDM) Plan	Development Agreement	<ul style="list-style-type: none"> Language was added to Exhibit J (TDM Plan) to require the transit pass contribution amount to be revised in line with the Consumer Price Index.
Parcels not owned by Universal Paragon Corporation (UPC)	Development Agreement	<ul style="list-style-type: none"> Remove references to parcels not owned by UPC. Parcels not owned by UPC were erroneously included in the recitals (paragraph A) and in Exhibit A.

Issue	Document	Change
Community Participation	Development Agreement	<ul style="list-style-type: none"> Section 6.4 (addresses community participation in allocation of impact fees) - The frequency of the City-sponsored meetings shall be a minimum of twice a year for the first two years of the DA and a minimum of once a year thereafter.
Clarification of DPW Roles and Responsibilities	Development Agreement	<ul style="list-style-type: none"> Language was added to clarify the parcel mapping process, the City's responsibility with regard to temporary improvements that may be made during the early stages of development, conditions for the City's acceptance of infrastructure, and the roles of various agencies in reviewing public improvements that fall under DPW's permitting jurisdiction.

- The San Francisco Redevelopment Agency ("SFRA") Commission and this Commission certified a final environmental impact report ("FEIR") for the Visitacion Valley Redevelopment Program, Planning Department File No. 2006.1308E, on, respectively, December 16, 2008 and December 18, 2008. The project analyzed in the FEIR was for redevelopment of an approximately 46-acre project area in San Francisco's Visitacion Valley neighborhood, extending on both sides of Bayshore Boulevard roughly between Sunnydale Avenue and Blanken Avenue and along the Leland Avenue commercial corridor. The project was intended to facilitate re-use of the Project site, revitalize other properties along both (east and west) sides of Bayshore Boulevard, and help revitalize the Leland Avenue commercial corridor.
- After certification of the FEIR, both the SFRA Commission and this Commission took certain approval actions, including approving the Redevelopment Plan and amendments to the General Plan, the Planning Code, and the Zoning Maps, among other actions, and in so doing, adopted findings under the California Environmental Quality Act ("CEQA"), including findings rejecting proposed project alternatives and certain mitigation measures as infeasible and adopting a statement of overriding consideration, and adopted a mitigation monitoring and reporting program. These findings were made in SFRA Commission Resolution No. 1-2009, adopted on February 3, 2009, and Planning Commission Motion No. 17790, adopted on December 18, 2008 ("CEQA Findings"). This Commission hereby incorporates by reference as though fully set forth herein these findings, copies of which are on file with the Commission Secretary.
- When California eliminated its Redevelopment Agencies in February, 2012, the City initiated new efforts to move forward with the development of the Project Site in light of reduced public funding and jurisdictional change. Thus, the proposed project design was revised with respect to the Project Site, and these modifications were analyzed in an Addendum to the FEIR prepared by the Planning Department and are now before this Commission for approval.
- This Commission has reviewed the FEIR and the Addendum and hereby finds that since certification of the FEIR, no substantial changes have occurred in the proposed project or in the circumstances

under which the project would be implemented that would cause new significant impacts or a substantial increase in the severity of impacts previously identified and analyzed in the FEIR, and that no new information of substantial importance has emerged that would materially change the analyses or conclusions set forth in the FEIR. The Project would not necessitate implementation of additional or considerably different mitigation measures than those identified in the FEIR. Accordingly, the Addendum was properly prepared.

15. Since certification of the FEIR, the San Francisco Municipal Transportation Agency (“SFMTA”) has determined that certain mitigation measures identified in the FEIR are not feasible as proposed and that no other feasible mitigation measures are available to address certain identified significant impacts. This determination is set forth in a letter from Frank Markowitz, SFMTA, to Andrea Contreras, Planning Department, dated March 28, 2014. This document is available for review in Case File No. 2006.1308E at the Planning Department, 1650 Mission Street, Suite 400, San Francisco, and is hereby incorporated by reference. The mitigation measures the SFMTA found to be infeasible as proposed in the FEIR are: Mitigation Measure 8-1A as it applies to the intersections of Bayshore/Blanken, Bayshore/Arleta/San Bruno, and Tunnel/Blanken; Mitigation Measure 8-3 as it applies to the intersection of Bayshore/Visitation; and Mitigation Measure 8-7 as it applies to Bayshore/Sunnydale in the eastbound direction.
16. As described in Chapter 8 of the FEIR, Impact 8-1A at Bayshore/Blanken and Bayshore/Arleta/San Bruno, Impact 8-3 at Bayshore/Visitation, and Impact 8-7 at Bayshore/Sunnydale were found to be significant and unavoidable, even with implementation of Mitigation Measures 8-1A, 8-3, and 8-7 as proposed in the FEIR. For the reasons set forth in the March 28, 2014 letter, SFMTA would not implement Mitigation 8-1A at Bayshore/Blanken and Bayshore/Arleta/San Bruno, nor would it implement Measure 8-3 at the intersection of Bayshore/Visitation. No other feasible mitigation measures exist that would reduce the impacts at these intersections to less than significant levels. SFMTA additionally proposes to modify Mitigation 8-7 to remove the requirement for an additional eastbound lane at the intersection of Bayshore/Sunnydale because it has determined this requirement is not feasible. This Commission finds that, because these impacts were identified in the FEIR as significant and unavoidable, even with implementation of the mitigation measures that the SFMTA has now determined are infeasible, elimination and modification of these mitigation measures as described here and in more detail in the March 28, 2014 letter would not result in any new significant impacts or in a substantial increase in severity of the impacts as already identified in the FEIR.
17. SFMTA has additionally recommended that Mitigation Measure 8-1A at the intersection of Tunnel/Blanken be modified to include intersection monitoring. The FEIR identified the impact at this intersection as less than significant with mitigation, and implementation of Mitigation 8-1A with this proposed modification would continue to reduce that intersection impact to less than significant. Thus, this Commission finds that, modification of Mitigation Measure 8-1A as recommended by SFMTA staff would not result in any new significant impacts or in a substantial increase in severity of the impacts as already identified in the FEIR.
18. With these proposed modifications to the mitigation measures as well as the modifications previously made by the SFRA Commission and Planning Commission when they rejected certain

other mitigation measures as infeasible in their CEQA Findings, this Commission finds that the impacts of the project would be substantially the same as identified in the FEIR.

19. The Commission hereby finds, for the reasons set for in Resolution No. __ that the Development Agreement and related approval actions are, on balance, consistent with the General Plan including any area plans, and are consistent with the Planning Code Priority Policies of Planning Code Section 101.1(b).
20. The Director has scheduled and the Commission has held a public hearing as required by Administrative Code Section 56.4(c). The Planning Department gave notice as required by Planning Code Section 306.3 and mailed such notice on May 22, 2014, which is at least 10 days before the hearing to local public agencies as required by Administrative Code Section 56.8(b).
21. The Planning Department file on this matter was available for public review at least 20 days before the first public hearing on the development agreement as required by Administrative Code Section 56.10(b). The file continues to be available for review at the Planning Department at 1650 Mission Street, 4th floor, San Francisco.

IT IS HEREBY RESOLVED, that the Commission hereby adopts the Mitigation Monitoring and Reporting Program (MMRP), attached hereto as Exhibit B, which includes all proposed modifications; and be it

FURTHER RESOLVED, that the Commission *approves with modifications* the Development Agreement, in substantially the form attached hereto as Exhibit A, which includes all proposed modification; and, be it

FURTHER RESOLVED, that the Commission finds that the application, public notice, Planning Commission hearing, and Planning Director reporting requirements regarding the Development Agreement negotiations contained in Administrative Code Chapter 56 required of the Planning Commission and the Planning Director have been substantially satisfied in light of the over 14 public meetings held for the project and the two public informational hearings provided by Planning Department staff at the Planning Commission; and, be it

FURTHER RESOLVED, that the Commission authorizes the Planning Director to take such actions and make such changes as deemed necessary and appropriate to implement this Commission's recommendation of approval and to incorporate recommendations or changes from the SFMTA Board, the SFPUC and/or the Board of Supervisors, provided that such changes do not materially increase any obligations of the City or materially decrease any benefits to the City contained in the Development Agreement attached as Exhibit A; and be it

FURTHER RESOLVED, that on or before the date the Development Agreement becomes effective, and pursuant to Administrative Code Section 56.20(b), the Developer shall pay the City an amount equal to all of the City's costs in preparing and negotiating the Development Agreement, including all staff time for the Planning Department and the City Attorneys' Office, as invoiced by the Planning Director.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on _____.

RESOLUTION NO. _____
Hearing Date: June 5th, 2014

CASE NO. 2006.1308EMTZW
Schlage Lock Development Project

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: