



PLANNING COMMISSION

AGENDA REPORT

MEETING DATE: May 13, 2024

ITEM NUMBER: PH-2

SUBJECT: PDEV-23-0001, AMENDING CERTAIN PROVISIONS TO ONE METRO WEST DEVELOPMENT AGREEMENT (DA-20-02), ORDINANCES AND RESOLUTIONS

**FROM: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/
PLANNING DIVISION**

PRESENTATION BY: AMBER GREGG, CONTRACT PLANNER

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RECOMMENDATION:

Staff recommends the Planning Commission recommend approval to the City Council of the requested amendments as detailed in the following report, and adopt a Resolution to:

1. Find pursuant to CEQA Guidelines Section 15162 that the proposed amendments are in substantial conformance with the Final Environmental Impact Report (EIR) for the One Metro project (State Clearing House No. 2019050014), including a mitigation monitoring program and statement of overriding considerations, which was certified by the City Council on July 20, 2021, and that no further environmental review under CEQA is required; and
2. Adopt Resolution 2024-XX recommending that the City Council:
 - Introduce for first reading an ordinance amending Development Agreement DA-20-02 regarding the timing of payment for impact fees and community benefit funds;
 - Introduce for first reading an Ordinance clarifying the project's effective approval date contained in Development Agreement 20-02, Rezone 20-01 and Specific Plan 20-01; and
 - Approve modifications to City Council Resolution 2021-55 amending certain conditions of approval regarding the artwork on Building A along the I-405 Freeway.

APPLICANT OR AUTHORIZED AGENT:

The applicant and property owner is International Asset Management Holding Group, LLC. The authorized agent is Brent Stoll with Rose Equities.

BACKGROUND:

The subject property is 15.23 acres in size and is located at 1683 Sunflower Avenue. The site is bounded by Sunflower Avenue to the north, the South Coast Collection (SOCO) retail center to the east, the Interstate 405 Freeway (I-405 Freeway) to the south, and industrial and logistics uses to the west (zoned PDI, Planned Development Industrial). Regional access to the project site is provided by the I-405 Freeway, State Route 73 (SR-73), and State Route 55 (SR-55). Harbor Boulevard and Sunflower Avenue are the major roadways that provide local access to the site; Hyland Avenue and Cadillac Avenue extend perpendicularly from Sunflower Avenue to the east and west, respectively. The project site is currently occupied by office, warehouse, and manufacturing uses within an approximately 345,000-square-foot, one-story industrial building.

Exhibit 1 – One Metro West Project Vicinity Map



On July 20, 2021, the City Council approved at the subject site the “One Metro West” mixed-use development which includes 1,057 apartment units, 6,000 square feet of ground floor retail space, a 25,000 square foot office building, 1.5-acres of publicly accessible open

space, and various offsite improvements along Sunflower Avenue (e.g., new bicycle lanes and landscaped medians).

When the Council approved the final project entitlements, the project was appropriately conditioned to be subject to Article 22 of the Zoning Code, “An Ordinance to give the People of Costa Mesa Control of Their Future”, also known as “Measure Y.” The provisions of Article 22 require a public vote of Costa Mesa residents to determine major changes in allowable land use by requiring voter approval of any such proposed change and thereby ensuring maximum public participation in major land use and zoning changes proposed in Costa Mesa.

The specific project components that prompted Article 22 compliance included, the request for a General Plan Amendment (GPA), rezone, specific plan, and the determination that the project resulted in a “Significant Increase” because over 40 additional residential units were proposed (Costa Mesa Municipal Code Section 13-200.102.) In addition, the project was not subject to any of the listed exceptions to Article 22 at the time of City Council project consideration (CMMC Section 13-200.106). The development was conditionally approved by the City Council such that the project entitlements would not become effective until approved by the voters under Article 22 requirements.

Following City Council review of the project, Measure K was passed by the Costa Mesa voters. Measure K amended existing City regulations to allow for the development of housing in specific commercial and industrial areas while keeping residential neighborhoods intact and revitalizing commercial corridors. Similar to the surrounding Costa Mesa properties located north of the 405 freeway, the One Metro West project is located within a mapped area that is listed specifically for an allowed exception from Article 22 (CMMC Section 13-200.106 G). However, the project is currently conditioned to not be in effect until approval by the vote of the Costa Mesa electorate and therefore, since a vote of the electorate has not occurred, the One Metro West development entitlements are not effective.

The entitlements approved for the project include:

- **Final Environmental Impact Report** (State Clearinghouse No. 2019050014)
- **General Plan Amendment (GP-20-01):** When in effect, amending the Land Use Element to change the General Plan land use designation of the property from Industrial Park (IP) to High Density Residential (HDR) to allow residential uses and establish a site-specific maximum density of 80 dwelling units (du) per acre and site-specific maximum building height of 98 feet;
- **Rezone (R-20-01):** When in effect, changing the zone of the project site from Industrial Park (MP) to Planned Development Residential – High Density (PDR-HD) to allow for a mixed-use development with residential and complementary commercial uses;

- **Specific Plan (SP-20-01):** When in effect, establishing site-specific zoning regulations such as development standards and design guidelines which would function as the project's zoning document;
- **Master Plan (PA-19-19):** When in effect, implementing the specific plan by providing site plans and architectural details including floor plans, building elevations, landscaping, public art requirement and renderings/streetscape views;
- **Tentative Tract Map No. 19015 (T-19-01):** When in effect, subdividing the site into five parcels including establishing the right to a future airspace subdivision for condominium purposes as well as dedication of an easement to the City for public access and use of the 1.5-acre open space area; and
- **Development Agreement (DA-20-02):** When in effect, agreement between the applicant and the City pursuant to California Government Code Sections 65864 et seq. that guarantees project approvals for a period of 25 years from July 20, 2021, in exchange for several public benefits including, but not limited to, 106 affordable housing units that will remain affordable for no less than 40 years. The required project affordable households include 67 very-low income units and 39 low-income units.

DESCRIPTION:

As noted above, a number of entitlements were approved to implement the One Metro West project when in effect. The applicant, Rose Equities, has requested several modifications including amending the Development Agreement to modify certain provisions of the project entitlements. Specifically, the applicant is requesting to amend the following:

- Development Agreement: Amend the timing of payment of impact fees and community benefits funding;
- Ordinance Modifications: Modify the Ordinances to be consistent with Article 22 by reflecting the project effective date of July 20, 2021, and thereby exempting the project from the requirement for a vote of the electorate; and
- Project Condition of Modifications: Amend certain project conditions specific to the required timing of the artwork design submittal to the City and the final approval body for the proposed artwork (Conditions 9 and 66 of Resolution 2021-55).

Refer to the applicant's letter in Attachment 2 for a detailed description of the applicant's requests.

ANALYSIS:

Development Agreement Amendment

The One Metro West Development Agreement provides for a number of public benefits for the City, including but not limited to open space, a community center, affordable housing, and funding. The applicant is committed to providing these benefits; however, is requesting modifications to the timing of payment to certain required fees. Currently, the Development Agreement requires all fees (\$16,532,789) to be paid in Phase I - at the time of issuance of the first building permit. The applicant has stated the resulting upfront costs are significant and challenging, and instead proposes to pay the total amount in two installments, with interest, over a five-year period (see the below Table 1).

TABLE 1 – Approved and Proposed Development Agreement Language

APPROVED DEVELOPMENT AGREEMENT	PROPOSED DEVELOPMENT AGREEMENT
Development Impact Fees (DIF): <ul style="list-style-type: none"> All DIFs paid with issuance of the first building permit Total DIF = \$10,532,789 	Development Impact Fees (DIF) – REQUEST CHANGE: <ul style="list-style-type: none"> <u>Two Payment Installments plus 3% interest rate.</u> <u>First payment received with the issuance of the first building permit (Year 1), second and final payment received Year 5.</u> <u>Total DIF = \$11,403,652 (includes 3% interest rate)</u>
Funding for Economic Recovery and Community Enhancement: <ul style="list-style-type: none"> \$3 million for projects related to economic sustainability and recovery Paid prior to issuance of first building permit 	Funding for Economic Recovery and Community Enhancement – REQUEST CHANGE: <ul style="list-style-type: none"> <u>One Payment received in Year 5 plus 3% interest rate.</u> <u>Total = \$3,477,822 (includes 3% interest rate)</u>

The City’s Finance Department has reviewed the applicant’s requested payment modifications and determined that the requested five-year payment plan with a three-percent interest rate retains the fund’s “net present value” by recovering the potential interest and/or inflation monetary reductions that may result by the requested payment delays. The result is a total payment of \$17,881,474 at the end of the five-year term. If the proposed payment plan is approved, the resulting payments are as follows:

TABLE 2 – Proposed Fee Total

FEE TYPE	YEAR 1	YEAR 5**	TOTAL
Public Safety*	\$2,000,000	-	\$2,000,000
Comm Infrastructure*	\$1,000,000	-	\$1,000,000
Economic Recovery	-	\$3,477,822	\$3,477,822
Dev Impact	\$5,065,089	\$6,338,563	\$11,403,652
TOTAL	\$8,065,089	\$9,816,385	\$17,881,474

*Fee and timing of payment is unchanged from Original Development Agreement.

**Interest starts accruing after Year 1 so fees paid Year 5 include the 3% interest rate.

The City has adopted procedures for development agreement “requirements and considerations” pursuant to Resolution No. 88-53. Pursuant to Section 2.4 (a-e) of the Resolution, the Planning Commission shall make a recommendation to the City Council

based on certain findings. An analysis regarding the development agreement project findings is provided below in this report.

Project Effective Date - Ordinances and Resolution

The One Metro West development entitlements included two City Council Resolutions and three Ordinances that are currently not in effect. All of these documents referenced the requirement to comply with the Costa Mesa Municipal Code (CMMC) Article 22 (Measure Y), which requires that the One Metro West project entitlements include approval by a vote of the Costa Mesa electorate for the associated major change in allowable land use. However, following the project review by the City Council, the Costa Mesa electorate passed “Measure K” which modified Article 22 to allow further exceptions which include properties that are mapped in CMMC Figure 13-200-106. The mapped exception area included the One Metro West property.

The One Metro West Resolutions (Nos. 2021-54 and 2021-55) state “subject to the requirement of Measure Y” and the Ordinances (Nos. 2021-11, 2021-12, and 2021-13) all contain a version of the following language regarding the effective date: “This ordinance shall become effective following approval of the Project by the electorate at the next regular municipal election or at a special election funded by the applicant”. With the passing of Measure K, and subsequent amendments to Article 22, the applicant is now requesting that the aforementioned entitlements be revised to indicate that the project effective date is the 31st day after July 20, 2021.

Artwork Conditions of Approval

The One Metro West project includes the development of a parking structure located adjacent to the I-405 freeway. To enhance the façade of the parking structure as viewed from the freeway, the project includes a public art display. The design of the art installment was not known at the time of City Council review and therefore, the project entitlements, when effective, included conditions pertaining to the required review and approval of the art piece. There are two conditions in Resolution 2021-55 addressing the public art requirement:

- COA No. 9 – The final design of the public art display on Building A’s parking structure façade along the I-405 Freeway, which shall incorporate vertical landscaping, shall be subject to review and final approval by the Planning Commission. The Cultural Arts Committee (CAC) may first review the proposed freeway façade design and make recommendations to the Planning Commission. No public art display visible along the I-405 Freeway shall be installed without prior review by and approval from the Planning Commission.

COA No. 66 – Prior to the issuance of the first building permit for the proposed project, the owner/developer would be required to submit a Design Plan for the Building “A” parking elevation (façade) along the I-405 Freeway for review by the Planning Division and approval by the City’s Cultural Arts Committee. All architectural treatments would exclude the use of moving, flashing, or otherwise visually distracting elements or materials that are highly reflective or generate noise. [PPP-AES-1]

As conditioned, the applicant believes that requiring the submittal of the art design prior to the issuance of the “first building permit”, along with the requirement to incorporate vertical landscaping, is “restrictive and unnecessarily constrains the creative team to a shortened timeframe when the building to which the art display will be attached won’t be ready to receive the installation until many months later”. As such, the applicant is requesting the following amendments to the conditions:

1. Remove Condition No. 9. Instead, the applicant is requesting that the “final design” be subject to the Planning Divisions and the Arts Commission approval, pursuant to Condition of Approval No. 66. The applicant request would also remove the requirement to install vertical landscaping; and
2. Amend Condition of Approval No. 66 to modify the art design plan submittal date to prior to certificate of occupancy for Building “A”, instead of prior to the “first building permit”.

As indicated above, the project is currently conditioned for the art display to be reviewed by the Cultural Arts Committee with final approval by the Planning Commission (COA No. 9). However, in 2022, the City Council replaced the Cultural Arts Committee with the City Arts Commission. Therefore, staff believes it is appropriate to amend the project conditions to re-assign the project art review to the now active City Arts Commission. However, the Planning Commission should consider if the project final art design should not be reviewed by the Planning Commission, as requested by the applicant. If the Planning Commission is supportive of the Arts Commission reviewing and approving the art design, then staff recommends striking Condition of Approval No. 9.

Staff does not recommend modifying the intent of Condition of Approval No. 66 as it’s a mitigation measure and the language is taken directly from the Final EIR. Further, staff is not in support of the applicant’s request to delay the submittal of the design plan for the elevation and art to “certificate of occupancy”. Staff believes that such a request would potentially diminish a cohesive art and elevation design, as the applicant’s request would constrain a future art design to a previously constructed facade. In addition, staff believes that there will be adequate time for the applicant to work with an artist to submit both a cohesive elevation and art design prior to issuance of the structural building permit as the structural plans have yet to be submitted. Staff is supportive of replacing the language that states “Cultural Art Committee” with “Arts Commission”. To review the modified Condition please review Exhibit D of the Attached Resolution.

GENERAL PLAN AND ZONING CONFORMANCE:

The Costa Mesa General Plan establishes the long-range planning and policy direction that preserves the qualities that define the community and guides future change. The One Metro West development included a General Plan Amendment. The General Plan Amendment re-designates the land use from Industrial Park to High Density Residential in order to allow residential uses with a site-specific density and building height. To ensure consistency between the General Plan Land Use Map and the Zoning Map, the property was rezoned from Industrial Park (MP) to Planned Development Residential – High Density (PDR-HD). PDR-HD districts are intended for multi-family residential developments and complementary non-residential uses could also be included in the planned development. Since there are no changes to the approved plans the project remains in conformance with the General Plan and Zoning requirements.

JUSTIFICATIONS FOR APPROVAL:

Pursuant to Title 13, Section 13-29(g), Findings, of the Costa Mesa Municipal Code, in order to approve the project, the City Council must find that the evidence presented in the administrative record substantially meets specified findings. The requested amendments do not change the previously approved project plans. Therefore, the findings, and facts in support of those findings, contained in the previously mentioned approving Ordinances and Resolution continue to remain true and in effect. Below are the findings related to the Development Agreement Amendment (for additional details on how the project complies with the required findings please refer to the complete findings included in the attached draft Resolution under Exhibit A):

Amendment to Development Agreement 20-02

Pursuant to City Council Resolution No. 88-53, Development Agreements Procedures and Requirements, and Government Code Section 65865(c), staff recommends approval of the requested amendments, based on the following assessment of facts and findings, which are also reflected in the draft Resolution:

- *The Development Agreement between the City of Costa Mesa and Developer is:*
 - *Consistent with the objectives, policies, general land uses and programs specified in the General Plan and with the General Plan as a whole;*
 - *Compatible with the uses authorized in, and the existing land use regulations prescribed for, the zoning district in which the real property is and will be located; and*
 - *Is in conformity with and will promote public convenience, general welfare, and good land use practice.*

The proposed amendment to the Development Agreement would be consistent with the General Plan as the agreement would continue to provide several public benefits to the City, including but not limited to, a total of 106 deed-restricted affordable units at the very low and low-income levels, public access to a 1.5-acre urban open space, and improvements to Sunflower Avenue. In addition, the amendment would still require contributions of funding

(beyond the required development impact fees) for public services such as police and fire, and funding toward economic recovery.

- *The Development Agreement between the City of Costa Mesa and Developer will not:*
 - *Be detrimental to the health, safety and general welfare; and*
 - *Adversely affect the orderly development of property or the preservation of property values.*

The amendment to the Development Agreement would not be detrimental to the health, safety and general welfare of the public or adversely affect the orderly development of property. The Development Agreement reflects the development plan for the site and documents the additional public benefits of the project (such as affordable housing, public access to 1.5-acres of open space and funding to improve City infrastructure) agreed to by the applicant in exchange for the right to develop per the project approvals for the term of the Development Agreement.

ENVIRONMENTAL DETERMINATION:

Pursuant to Section 15162 of the State CEQA Guidelines, the project was reviewed and found to be consistent with the One Metro West Environmental Impact Report (EIR) (State Clearinghouse No. 2019050014), which was certified on May 4, 2021, by the City Council of the City of Costa Mesa (Resolution No. 2021-54). Pursuant to Section 15162 of the Guidelines, no subsequent environmental review is warranted for the project because there are no substantial changes to the project in that there are no modifications to the approved project plans or required mitigation measures.

ALTERNATIVES:

As an alternative to the recommended actions, the Planning Commission may:

1. *Recommend Approval of the project with modifications.* The Planning Commission may suggest changes that are necessary to alleviate specific concerns. If any of the additional requested changes are substantial, the item should be continued to a future meeting to allow the applicant and staff time to redesign or provide additional analysis. In the event of significant modifications to the proposal, staff may return with project analysis that incorporates new findings and/or conditions.
2. *Recommend denial of the project.* If the Planning Commission believes that there are insufficient facts to support the findings for approval of the very specific requested changes, the Planning Commission could recommend that the City Council deny the application, by providing facts in support of that denial recommendation, and directing staff to incorporate those findings into a Resolution recommending denial.

LEGAL REVIEW:

The draft Resolution has been approved as to form by the City Attorney's Office.

PUBLIC NOTICE:

Pursuant to CMMC Section 13-29(d) three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. Mailed notice. A public notice was mailed to all property owners and occupants within a 500-foot radius of the project site. The required notice radius is measured from the external boundaries of the property.
2. On-site posting. A public notice was posted on each street frontage of the project site.
3. Newspaper publication. A public notice was published once in the Daily Pilot newspaper.

As of the preparation of this report, no written public comments have been received. Any public comments received before the May 13, 2024, Planning Commission meeting will be provided separately.

CONCLUSION:

The proposed amendments do not modify the development plans, rather they modify the timing of implementing the project while ensuring the City receives the agreed-upon public benefits. The amendments to the Development Agreement from a single fee payment to a two-payment plan over five years with a 3% interest rate, assists the applicant in meeting the financial commitments to the City while ensuring the City retains the full value of the development fees. Lastly, the applicant proposed language modifications to the Resolutions and Ordinances would be consistent with CMMC - Article 22. Based on the above, staff recommends approval of the proposed amendments.

Attachments:

1. Draft Planning Commission Resolution
Exhibit B
2. Applicants Letters
3. City Council Agenda Report June 15, 2021, 1st Reading
4. City Council Agenda Report July 20, 2021, 2nd Reading
5. Ordinance No. 2021-11
6. Ordinance No. 2021-12
7. Ordinance No. 2021-13
8. Resolution No. 2021-55
9. Resolution No. 2021 54