



DATE: September 28, 2021

TO: Mayor and City Council

FROM: Assistant City Manager/Development Services Director

SUBJECT: Mission Crossings Development: Adopt a Resolution Approving a Request to Modify Conditions of Approval Related to Fees, Project Phasing, and Inclusionary Housing and to Add Conditions of Approval Related to Interim Site Improvements, Located at 25501 Mission Boulevard and Berry Avenue, Meritage Homes of California, Inc. (Applicant)/Meritage Homes of California, Inc. and Manchester Hotel Group (Owners)

RECOMMENDATION

That the Council approves the request from Meritage Homes of California, Inc., to modify the conditions of approval, Conditions #4 (Fees), #164 (Inclusionary Housing), and #166 (Project Phasing) and to add conditions of approval, Conditions #167 and #168 (Interim Site Improvements) by adopting the attached resolution (Attachment II and Exhibit A).

SUMMARY

The Mission Crossings site originally housed an automobile dealership and generated tax revenue to the City for a number of years. With the increased demands by auto dealers to have more visibility from freeways, many of the auto dealership sites in Hayward were abandoned. That said, there has always been a strong desire by the City to maintain commercial uses along the Mission Boulevard frontage, which is demonstrated in the adopted zoning and the identification of this project site as a catalyst retail site in the Economic Development Strategic Plan (EDSP).

The original Mission Crossings project proposed by developer, Meritage Homes of California, Inc. (Meritage), included plans for 140 townhome-style condos and a 93-room hotel along with additional retail space. As part of the original project, Meritage requested a reduction in the acreage of the commercial overlay zone to increase the number of housing units. As part of the final approved conditions of approval for the Mission Crossing project, the Council imposed a phasing condition, requiring the hotel and retail be constructed in step with the residential units, in consideration for granting the reduction in the commercial overlay zone. Ultimately, the Council supported the project because it aligned with their adopted goals for the site, by constructing a hotel and maintaining the commercial frontage along Mission Boulevard.

In July 2020, Meritage Homes and Manchester approached City staff to discuss issues associated with the Project Phasing condition (#166) in light of the COVID-19 pandemic's economic impacts on the hospitality industry. They requested that Council consider a modification to the Condition of Approval #166 (Project Phasing) that would allow them to complete and receive certificates of occupancy for the residential units for which they had already pulled building permits and hold the remaining 14 units until such time as a temporary or permanent plan for the frontage parcel could be secured. At the September 15, 2020 Council meeting, Council considered and denied the request to modify the condition of approval because of their desire and commitment to have the hotel built and/or commercial development on that frontage.

In April 2021, staff received a second application from Meritage requesting that the City amend the Project Phasing condition of approval, #166, for the Mission Crossings project by removing it altogether. Their application explains that it is impossible for hotel developers to secure financing due to the ongoing COVID-19 pandemic and its effect on the hospitality industry. The second request offered no concessions, added public benefits, or assurances that the frontage will be developed with either the entitled hotel and retail or some other commercial use in exchange for being granted relief from the Project Phasing condition.

In September 2021, Meritage amended their request again to modify the Project Phasing condition of approval by offering additional changes to the conditions of approval, including: advancing payment of all remaining fees; deed restricting 14 for-sale units at moderate income levels in addition to payment of all affordable housing in-lieu fees; implementing up to \$200,000 in aesthetic and visual improvements to the front parcel; expediting access to the community space/urban garden; and providing safe, interim pedestrian access to the site from Dollar/Torrano. These changes are reflected in amended conditions of approval 4, 164, and 166 and new conditions of approval 167 and 168. Staff is recommending approval of Meritage's updated request.

BACKGROUND

Economic Development Strategic Plan

In 2013, the Council adopted the Economic Development Strategic Plan (EDSP)¹, which covered the FY2014-2018 timeframe. The purpose of the EDSP was to lay the groundwork for targeted business attraction, branding and marketing activities, and the development of key catalyst and opportunity sites throughout the City. As part of that effort, catalyst sites were identified based on key criteria, including potential impact on associated retail areas, high visibility, status as vacant or underutilized sites, having single or few owners, and acreage. Specifically, the subject project site was identified as being part of the Central Mission Boulevard Corridor Key Retail Area and was identified specifically as a retail catalyst site.

¹ https://www.hayward-ca.gov/sites/default/files/documents/Economic_Development_Strategic_Plan.pdf

Mission Boulevard Corridor Form Based Code

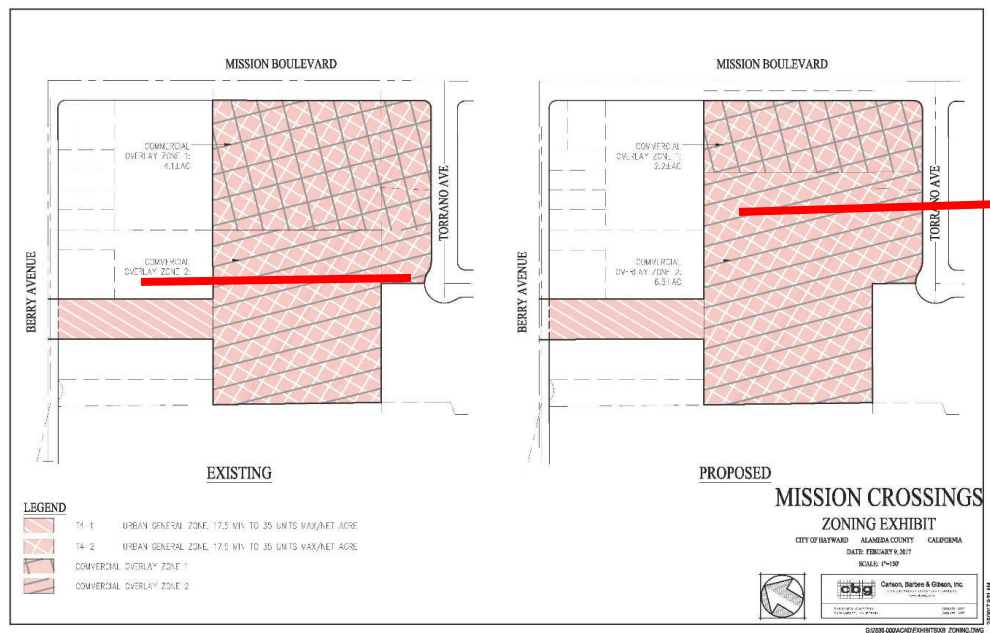
The concept of the site being designated as a catalyst site and within a key retail area, was also reflected in the zoning designation for the subject project site as adopted by Council and incorporated as then Chapter 10 Article 25 to the Hayward Municipal Code called the Mission Boulevard Corridor Form Based Code. Specifically, the site was designated T4-2 and included two separate commercial overlay zones. The front approximate 4.1 acres was included in Overlay Zone 1, which did not permit any residential uses and the rear approximate 4.6 acres was included in Overlay Zone 2, which required a Conditional Use Permit for any ground floor residential uses.

Council Economic Development Committee

On September 14, 2015, the Council Economic Development Committee (CEDC) reviewed an early design for the site by Meritage, that involved an art walk and community center along the property frontage, versus the hotel with retail space, along with 164 three-story townhome-style condos. The CEDC expressed concerns with the absence of retail and/or commercial use in the proposal consistent with the EDSP and Mission Boulevard Corridor Form Based Code and encouraged sustainable features and more parking.

Proposed Mission Crossings Project

When the Mission Crossings project was ultimately submitted to the City for consideration, the project included a proposal for developing 140 three-story townhome-style condos, a 93-room hotel and 7,225 square feet of community serving retail use, which required a rezoning of approximately 1.9 acres of the project site from the Commercial Overlay Zone 1 to Commercial Overlay Zone 2 (see graphic below) the less restrictive commercial overlay zone, allowing for more acreage to be considered for residential use subject to issuance of a Conditional Use Permit and the Council making a number of required Findings to support the request.



On May 9, 2017², the Council held a public hearing to consider the project and adopted Resolution 17-057 (Attachment IV), which incorporated a Condition of Approval, #166, related to Project Phasing. Specifically, Condition of Approval #166 (Project Phasing) states:

The hotel/retail building pad shall be rough graded prior to the issuance of a certificate of occupancy for the first residential unit; the hotel/retail building shall be in vertical construction phase before a certificate of occupancy is issued for the 100th residential unit, and be completed prior to issuance of certificate of occupancy for the last residential unit.

Following Council approval, Meritage began remediation, demolition, and site development activities on the property, including grading for the future hotel site. In December 2017, Manchester Hotels, Inc. (Manchester) acquired the hotel site from Meritage and began the task of processing construction documents and other plans for the hotel through the City's Development Services and Public Works Departments. In September 2018, Meritage broke ground on its first production homes and started construction of its model home complex. In December 2018, Meritage held a Grand Opening at Mission Crossings and began the sale of homes to the public.

Throughout 2018 and 2019, Manchester completed the design approval process, ultimately culminating in the approval of construction documents for the hotel in December 2019. Following the approval of construction drawings for the hotel, in early 2020, Manchester began securing bids from construction trades and sourcing construction financing. As Manchester was in the process of obtaining a construction loan, the onset of the COVID-19 pandemic brought an abrupt halt to their plans. Manchester has now invested over \$4 million in its effort to develop a hotel on the Mission Crossing site, and states that they are unable to move forward due to economic challenges and uncertainty facing the hotel industry.

September 15, 2020 City Council

In July 2020, Meritage Homes and Manchester approached City staff to discuss issues associated with the Project Phasing condition (#166) in light of the COVID-19 pandemic's economic impacts on the hospitality industry. They requested Council consider a modification to the Condition of Approval #166 (Project Phasing) that would allow them to complete and receive certificates of occupancy for the residential units for which they had already pulled building permits, 126 of 140 units, and hold the remaining 14 units within three buildings, Buildings 5, 9 and 13, until such time as a temporary or permanent plan for the frontage parcel could be secured. At the September 15, 2020 Council meeting, when Council considered the request, Council expressed the desire and commitment to have the hotel built and/or commercial development on that frontage and denied the request to modify the condition of approval. Council expressed that the Project Phasing condition was important leverage to realize the commercial, mixed-use vision for the site consistent with the

² <https://hayward.legistar.com/LegislationDetail.aspx?ID=3039011&GUID=19DEE31A-250B-4797-BEC6-FB8D230EB0C6&Options=&Search=>

zoning and the EDSP. Council also suggested the ownership group continue to work with staff via the CEDC to explore both interim and permanent options for the frontage.

November 2, 2020 Council Economic Development Committee

Following the Council meeting in September, Meritage and Manchester continued to coordinate with staff on both an interim plan for the frontage, as well as additional concessions that may be amenable to Council in order to modify the Project Phasing condition. At the CEDC meeting, Meritage proposed a payment of unrestricted funds, retention of improvement bonds until hotel construction commenced, and recordation of a deed restriction on the front parcel for commercial uses. The CEDC's feedback was that the proposed concessions did not provide the City with sufficient assurance that the frontage would be developed as commercial. As a result, the CEDC did not recommend supporting the proposal to the full Council.

At the same time, Meritage continued building and selling homes at Mission Crossings, and new residents have moved into the community. Meritage has pulled building permits for 126 of the total 140 homes, all of which are currently under construction or complete. The City issued only 99 certificates of occupancy based on the condition of approval. There are still 14 building permits for the last of the units that have been approved, but have not been issued.

As further context, there are two hotels currently under construction within the City and one other that is currently under entitlement review. The first hotel under construction is the Holiday Inn Express, located across the street from Mission Crossings at 25640 Mission Boulevard. The second hotel, Home 2 Suites located at 22005 Skywest near the Hayward Executive Airport, has all pre-fabricated units stacked and connected, the exterior is 95% complete. The third hotel under review, is the Hyatt Place Hotel located at 1164 West A Street. This project is currently under review and will move forward with approval once the review process is complete.

DISCUSSION

In April 2021, staff received a second application from Meritage requesting that the City amend the Project Phasing Condition of Approval, #166, for the Mission Crossings project by removing it altogether (Attachment III). Their application explains that it is impossible for the hotel developers to secure financing due to the ongoing COVID-19 pandemic and its effect on the hospitality industry. Meritage also asserted that given the housing crisis and the partially completed community that it would be in the best interest for them to complete construction of the housing units to be able to provide much needed housing and allow for the project amenities to be made available to the community. The second request offered no concessions, added public benefits or assurances that the frontage will be developed with either the entitled hotel and retail or some other commercial use in exchange for being granted relief from the Project Phasing condition.

In September 2021, Meritage amended their request again to modify the Project Phasing condition of approval by proposing to also advance payment of all remaining fees; deed

restrict 14 for-sale units at moderate income levels in addition to payment of all affordable housing in-lieu fees; implement up to \$200,000 in aesthetic and visual improvements to the front parcel; expedite access to the community space/urban garden; and provide safe, interim pedestrian access to the site from Dollar/Torrano.

In response to the updated request, staff met with Meritage to discuss the details of the proposal and the required changes to the conditions of approval. A summary of proposed changes to the conditions of approval, along with a site plan overview and table, are provided below:



Building	# Units	Current Status
1, 2, 3	12	Permits issued, slab construction only, no vertical construction
4	3	Constructed, model home complex, no occupancy permits issued
5, 9, 13	14	Permits still pending with the City
7,8	11	Constructed, but no occupancy permits issued
6, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27	100	Constructed and occupancy permits issued

Summary of Proposed Modifications and Additions to Conditions of Approval

1. Applicant/Developer will pay all outstanding permit and impact fees prior to issuance of any additional certificates of occupancy (*Modification to Condition of Approval #4, Fees*);
2. Applicant/Developer will enter into an Affordable Housing Agreement deed restricting 14 units for moderate income households, including equally dispersing the moderate

income units within Buildings 1, 2, 3, 5, 9 and 13 (*Modification to Condition of Approval #164*);

3. Applicant/Developer to begin construction of Buildings 2 and 3 next so that the community garden/urban farm can be opened for the community's use (*Modification to Condition of Approval #166*);
4. Applicant/Developer to prepare and implement a plan, with costs not to exceed \$200,000, for improving aesthetic and visual quality, including improvements to support interim of the hotel site (*Addition of New Condition of Approval #167*); and
5. Applicant/Developer shall within 30 days submit a plan for the City review, which outlines a plan for providing safe interim pedestrian access to the project site from Dollar Street/Torrano Avenue with the goal of maintaining the access throughout the balance of construction (*Addition of New Condition of Approval #168*).

Staff recommends that the Council approve the request by adopting the attached resolution, (Attachment II), which memorializes the revised request from Meritage and incorporates modifications to original conditions of approval, as well as includes the addition of new conditions of approval (Exhibit A), as summarized above.

ECONOMIC AND FISCAL IMPACT

Based on the Fiscal and Economic Impact Analysis completed for the project, the project was expected to result in an estimated annual net fiscal benefit to the City General Fund of \$672,000 per year, broken out as follows:

- The Transient Occupancy Tax from the proposed hotel would account for a large revenue source to the City in the amount of approximately \$400,000 per year.
- Given the estimated values on the construction of a multi-story hotel and residential housing units, the estimated net Property Tax to the City would be over \$185,000 per year (\$208,406 estimated minus \$23,000 existing).
- The project as currently proposed would result in an estimated annual net fiscal benefit to the City General Fund of \$672,000 per year

However, with the delay in development of the hotel, the net fiscal benefit to the City will be significantly less.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priorities of Preserve, Protect & Produce Housing and Grow The Economy as the original project involves the creation of new housing units and a hotel and retail. This item is not specifically related to a project identified in the Strategic Roadmap. Staff is bringing forth this new item at the request of the developer.

SUSTAINABILITY FEATURES

All residential units in the development are equipped with solar panels. The approved and installed Urban Farm furthers the goals of incorporating productive use of open space areas and access to local fresh food, and the bio-retention areas will further efforts to prevent stormwater pollution. The residential community includes one electric vehicle charging station as well as each garage has the capability, as was required by code, to charge electric vehicles. Bicycle racks are also provided within the development.

PUBLIC CONTACT

Staff has received a number of inquiries from the community, mainly current residents of the Mission Crossings development, who would like to have access to the common open space garden area and would like to have the secondary egress point off Torrano Avenue opened. Staff explored this about a year ago and at the time, construction was still active in the vicinity of the common open space and of the Torrano access. Staff did, however, explore a way for safe, interim pedestrian access to be provided to Torrano and shared that with Meritage, but Meritage never implemented the temporary access. Based on the community feedback, the revised conditions of approval include tying certificates of occupancy in certain buildings to the opening of the open space and interim pedestrian access.

A Notice of Public Hearing was published in *The Daily Review* on September 10 and all interested parties, as well as owners and occupants of real property within 300 feet of the project site received notification of this public hearing. As of the writing of this staff report, no additional public comments were received.

NEXT STEPS

Should the Council adopt the attached resolution approving the request to modify and supplement the conditions of approval, Meritage will work with the City to enter into the Affordable Housing Agreement to deed restrict 14 units and quickly mobilize and begin final construction of the homes. The hotel site will likely remain in its current condition, minus the minimal aesthetic and visual improvements proposed by Meritage, until such time as either the hotel and retail, as originally approved, begins construction or an alternative plan for the frontage is approved by Council.

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Recommended by: Jennifer Ott, Assistant City Manager/Development Services Director

Approved by:



Kelly McAdoo, City Manager