

STAFF REPORT

PROJECT DATA:

Application: Development Agreement Regarding Approved TSM 14-91 (Sunnyside Estates Project)
Public Hearing: April 25, 2017
Applicant/Owner: John Brigantino, San Benito Realty Inc.
Location: North and west of the intersections of Southside Road and Hospital Road, San Benito County, CA
APN: 020-280-022, 020-280-041, 020-280-043, and 020-320-007
Zoning: Single-Family Residential (R-1)
General Plan: Residential Mixed (RM)

BACKGROUND:

On January 20, 2016, the San Benito County Planning Commission (“Planning Commission”) conducted a duly-noticed public hearing to consider the proposed 200-unit Sunnyside Estates project (“Project”). After conducting the hearing, taking testimony, considering the information provided, and closing the public hearing on this matter, the Planning Commission recommended that the San Benito County Board of Supervisors (“Board”) certify the Project’s Environmental Impact Report (“EIR”); adopt the requisite California Environmental Quality Act (“CEQA”) findings, mitigation measures, Mitigation Monitoring and Reporting Program (“MMRP”), and a Statement of Overriding Considerations; and adopt an Ordinance to approve a Zone Change (ZC 14-181) changing the zoning of the project site from Agricultural Productive (AP) to Single-Family Residential (R1).

On March 8, 2016, the Board conducted a public hearing to consider the proposed Project and took the following actions on the requested discretionary entitlements:

- Certified the EIR, which evaluated the impacts of developing the Project, after concluding that the EIR had been prepared pursuant to the CEQA statute (Pub. Res. Act § 21000 *et seq.*), the CEQA Guidelines (14 Cal. Code Regs. §§ 15000-15387), and the County’s local CEQA implementing procedures. The Board also adopted the findings required by CEQA; adopted the identified mitigation measures to reduce any significant environmental impacts where feasible, as recommended in the EIR; adopted the MMRP; and adopted a Statement of Overriding Considerations; and
- Adopted an Ordinance to change the zoning for the Project site from Agricultural Productive (AP) to Single-Family Residential (R1) to ensure consistency between the County Code and the Project.

Shortly thereafter, in May 2016, the Planning Commission approved the Project applicant’s request for a Vesting Tentative Subdivision Map (TSM) No. 14-91 for the Project, which established the lot layout and related engineering details necessary to facilitate the physical

development of the Project site (including its subdivision into 200 single family lots and related improvements) in conformance with the discretionary entitlements referenced above.

The Project applicant now seeks County approval of a Development Agreement, which would vest rights to develop the Project as envisioned by the above-referenced entitlements and would otherwise specify certain rights and obligations of the parties thereto. As detailed more fully therein, the Development Agreement would obligate the Owners (as that term is defined in the Development Agreement) to provide specified public benefits to the County beyond those that could otherwise be imposed on the Project as mitigation of the Project's impacts and/or other conditions of approval, in consideration for the vesting of specified rights in connection with development of the Project. It also further clarifies certain of the Owners' obligations initially set forth in the Conditions of Approval, which would facilitate the effective enforcement of said conditions and the efficient implementation of Project approvals. An Addendum to the previously certified EIR was prepared, along with appropriate findings under CEQA and State Planning Law pertaining to development agreements.

On March 15, 2017, the Planning Commission conducted a duly noticed public hearing during its regularly scheduled meeting, and considered and adopted Planning Commission Resolution No. 2017-010 recommending that the Board take the following actions regarding the Development Agreement:

- 1. Adopt an Addendum to the previously certified Environmental Impact Report ("EIR") for the Sunnyside Estates Project, prepared pursuant to the California Environmental Quality Act (CEQA) (Pub. Res. Act § 21000 *et seq.*) and the CEQA Guidelines (14 Cal. Code Regs. §§ 15000-15387);**
- 2. Adopt findings required by CEQA, State Planning and Zoning law and County code provisions; and**
- 3. Adopt an Ordinance, approving the Development Agreement for the Sunnyside Estates project, based on the findings and conditions of approval.**

PROJECT DESCRIPTION:

The Project site is located approximately one-half mile south of the City of Hollister (outside the City's sphere of influence), approximately one-half mile west of State Route (SR) 25, and approximately 2.25 miles south of SR 156. The approximately 44.4-acre Project site is located near the east bank of the San Benito River and is bounded by Hospital Road on the south, Southside Road on the east, and existing orchards on the northeast and north. A dirt access road forms the northern Project site boundary. (See Vicinity Map, Exhibit A to Board of Supervisors Resolution No. 2017-____.)

The Project site is currently comprised of agricultural uses (hay production and walnut orchards) and one single-family residence and related garage, located in the northeast corner of the site. Specifically, the Project site was historically used for homesteading land uses from approximately 1939 to 1959. Prior to 2006, orchard agricultural uses were present on-site. Currently, approximately 32.8 acres (in the southern portion of the site) are used for the

production of hay; approximately 12.4 acres (in the northern portion of the site) are comprised of fallow walnut orchards; approximately 5.0 acres (along the southwestern site boundary) contain remnant coyote bush scrub or grassland habitat; and approximately 0.1 acre (in the northeast corner of the site near the corner of Southside Road and Enterprise Road) contains an existing single-family home and garage.

The Project (as described more fully in the approved TSM 14-91 and related Conditions of Approval as well as the EIR) involves the establishment of 200 individual lots, which would facilitate the development of 200 single-family residential units. In addition, the Project includes approximately 5.3 acres of parks and open space (of which approximately 0.4 acre would be a retention/detention basin; approximately 2.0 acres of open space would be within the 100-year flood plain; and the remaining 2.9 acres would be dedicated and developed pursuant to the County Code requirements for parklands as a park open to the public); and other on- and off-site improvements necessary to serve the Project. The proposed residential lots would range in size between approximately 5,000 square feet (sf) and approximately 13,824 sf, with the average lot size being approximately 5,800 sf. The proposed density would be 4.50 dwellings per gross acre. (See Site Plan, Exhibit B to Board of Supervisors Resolution No. 2017-____.)

The key on-site improvements facilitated by TSM 14-91, include the following:

- Establishment of 200 individual lots for the construction of single-family homes, and one (1) lot for recreation and open space within the Project Site;
- On-site grading;
- On-site roadway, utility, lighting and landscaping improvements;
- Drainage system improvements, including stormwater conveyance, detention, retention, and treatment;
- Wastewater treatment improvements; and
- Domestic water service improvements.

The Development Agreement, if approved, would facilitate development of the Project as envisioned by the above-referenced discretionary entitlements that were previously approved by the Board and the Planning Commission. To that end, it would not modify any key features of the Project (e.g., maximum unit count, density, site plan, other applicable development standards, design guidelines, etc.). However, it would vest rights in the Owners (for a period of 15 years, consistent with the County's local Development Agreement ordinance) to construct the Project as envisioned. The Development Agreement also contains provisions to ensure the anticipated Project Infrastructure (as that term is defined therein) is built; to obtain additional project benefits in a commitment to the development of Community Park Improvements and dedication of common area open space near the San Benito River in excess of current requirements and a commitment to the provision of

affordable housing through payment of an affordable housing fee; to obtain the requisite funding for same (including, without limitation, the formation of a Community Facilities District to ensure a perpetual funding source for purposes of Revenue Neutrality (as that term is defined therein)); and the necessary impact fees and other monies due are express obligations of the Owners and enforceable by the County.

RECOMMENDATION:

Staff and the Planning Commission recommend that the Board of Supervisors approve the proposed Development Agreement based on the analysis and the required findings set forth herein and elsewhere in the administrative record for the Project, by taking the following actions:

- 1. Adopt Resolution No. 2017-___, Adopting An Addendum To The Environmental Impact Report (“EIR”) For The Sunnyside Estates Project And Adopting Findings Under The California Environmental Quality Act (CEQA) And State Planning Law Regarding The Approval Of A Development Agreement For The Project;**
- 2. Adopt Ordinance No. ___, Approving A Development Agreement For The Sunnyside Estates Project; and**
- 3. Authorize the Chair to sign the Resolution and Ordinance.**

STAFF ANALYSIS:

General Plan and Zoning Consistency

As noted above, in March 2016, the Board adopted Zone Change Petition No. 14-181. This amendment to the County Zoning Map established a zoning designation of Single-Family Residential (R1) on the Project site, which is consistent with the 2035 General Plan Land Use Designation of RM (Residential Mixed). The Project’s Vesting Tentative Tract Map (TSM 14-91), approved by the Planning Commission in May 2016, is also consistent with the RM General Plan land use designation and the R1 zoning designation. The proposed Development Agreement vests certain rights to develop the Project in accordance with these land use and zoning designations and the TSM 14-91. For further information regarding the Project’s consistency with relevant General Plan policies and zoning, see Section 4.10 (Land Use) of the EIR, and see section III.E.2 and Exhibit F to Planning Commission Resolution No. 2016-01, regarding approval of the Zone Change and VTM, and Exhibit B to Ordinance No. 944, amending the San Benito County Zoning Map and approving Zone Change Petition No. 14-181 to change the zoning designation of the project site from Agricultural Productive (AP) to Single-Family Residential (R-1), with which the Development Agreement is consistent.

Development Agreement Provisions

Chapter 19.11 of the San Benito County Code sets forth the County's requirements for the preparation and adoption of a development agreement. In accordance with Section 19.11.011(B) and state law (Gov't Code § 65864 *et seq.*), the purpose of a development agreement is to strengthen the public planning process; to encourage private participation in comprehensive, long range planning; and to reduce the economic costs of development by enabling the County and a developer seeking County approval of a development project to enter into a development agreement which vests certain development rights and which requires a developer to provide additional public benefits beyond the mitigation of project impacts.

The proposed Development Agreement, which can be found as Exhibit B to proposed Ordinance No. ____, and as Exhibit C to Planning Commission Resolution No. 2017-010, complies with the above-referenced requirements. If approved, it would facilitate development of the Project as envisioned by the discretionary entitlements that were previously approved by the Board and the Planning Commission. As explained above, the Development Agreement would not modify any key features of the Project (e.g., maximum unit count, density, site plan, other applicable development standards, design guidelines, etc.). However, it would vest rights in the Owners for a period of 15 years (consistent with the County's local Development Agreement ordinance) to construct the Project as envisioned. The Development Agreement also contains provisions to ensure the anticipated Project Infrastructure is built; to obtain additional project benefits in a commitment to the development of Community Park Improvements and dedication of common area open space near the San Benito River in excess of current requirements and a commitment to the provision of affordable housing through payment of an affordable housing fee; to obtain the requisite funding for same (including, without limitation, the formation of a Community Facilities District to ensure a perpetual funding source for purposes of Revenue Neutrality; and the necessary impact fees and other monies due are express obligations of the Owners and enforceable by the County. It also further clarifies certain of the Owners' obligations initially set forth in the Conditions of Approval, which would facilitate the effective enforcement of said conditions and the efficient implementation of Project approvals.

Financial Considerations

The County of San Benito 2035 General Plan has acknowledged that the development of new communities provide an opportunity for the County to accommodate future growth in areas that help to minimize both agricultural and other environmental impacts. In addition, the County of San Benito 2035 General Plan acknowledges that future development and occupancy of these new communities (including, among others, the Project site) could have a negative fiscal impact on the County, and therefore the General Plan contains policies requiring an analysis of proposed development's fiscal impact and assurances that specific development proposals will have a fiscally neutral or positive impact on the County. Specifically, Land Use Policy LU-1.1 of the 2035 San Benito County General Plan Land Use Element requires that new projects demonstrate "a fiscally neutral or positive impact on the County and any special districts that provide services to the project."

In connection with several other projects, the County has previously implemented this policy of revenue neutrality by requiring (via a development agreement and/or conditions of approval) site-specific fiscal impact studies and imposing project-specific obligations to form a Community Facilities District (or similar financing mechanism) and/or to make special fee payments or other arrangements to fully offset the County's recurring costs for providing services to these new communities.

For purposes of the Project, in order to ensure consistency with the above-referenced General Plan policy, a condition was imposed on TSM 14-91 that requires the applicant: (1) to fund the completion of a fiscal impact study that determines whether the Project will be fiscally neutral or positive (and if not, the amount of deficit that would incur without additional funding by the applicant/Project); and (2) to comply with related conditions requiring the formation of the requisite special financing district(s), payment of fees, and/or other similar financial mechanism(s) that would ensure the Project would be "revenue neutral". The proposed Development Agreement highlights the importance of revenue neutrality by including a provision that expressly imposes and further clarifies this obligation.

Environmental Review

As noted above, an EIR for the project was prepared, circulated and ultimately certified as adequate by the Board in March 2016. The EIR, expressly considered the development contemplated by TSM 14-91, which would be vested under the proposed Development Agreement. Feasible mitigation measures were identified in the EIR, which have been incorporated into the adopted MMRP and the Conditions of Approval that were imposed via TSM 14-91. The Development Agreement reiterates these obligations by expressly obligating compliance with all applicable Conditions of Approval (including, without limitation, the mitigation measures identified in the Project's MMRP).

The Project's Environmental Impact Report (both the Draft and Final EIRs) are too voluminous to produce within the Board of Supervisors' Agenda packet, but they are available for review on the County's website (<http://www.cosb.us>) and are available for review during regular business hours, 8:00 through 5:00, Mondays through Fridays, at the County of San Benito Resource Management Agency, Building and Planning Division, located at 2301 Technology Parkway, Hollister, CA, and 8:00 through 5:00 Mondays through Fridays, at the County of San Benito Administrative Offices, located at 481 Fourth Street, Hollister, CA.

Staff and the Planning Commission evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines Section 15162, and determined that the proposed Development Agreement is consistent with the other Project entitlements, the impacts of which were fully and adequately evaluated in the EIR, and that: 1) there are no substantial changes proposed in the Development Agreement that would require major revisions of the EIR due to the involvement of significant environmental effects or a substantial increase in the severity of previously identified significant effects; 2) there are no substantial changes in the circumstances under which the Project is proposed to be

undertaken that would require major revisions to the EIR due to the involvement of significant environmental effects or a substantial increase in the severity of previously identified significant effects; and 3) there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing: a) the Development Agreement would have one or more significant effects not discussed in the EIR; b) significant effects previously examined in the EIR would be substantially more severe than shown in the EIR; c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the project proponent declined to adopt the mitigation measure or alternative; or d) mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the project proponent declined to adopt the mitigation measure or alternative. Accordingly, as documented more fully in the Addendum to the EIR attached as Exhibit C to Planning Commission Resolution No. 2017-010 and as Exhibit B to the proposed Board of Supervisors Resolution No. 2017-___, the EIR is adequate to serve as CEQA compliance for the proposed Development Agreement and no further environmental review is warranted.

Affordable Housing Considerations

The San Benito County Planning Commission and Board of Supervisors have expressed concern regarding the lack of affordable housing being developed within the unincorporated portions of the County. To that end, County staff has developed and the Board has approved a mandatory affordable housing policy, although this policy was not in place at the time the County approved TSM 19-41.

Given the County's concern regarding affordable housing, the Project applicant previously agreed (in connection with the TSM 19-41 approval process) to contribute in-lieu fee payments to the County on a per-unit basis to help facilitate the future development of affordable housing within the County. This agreement was initially reflected in the Project's Conditions of Approval, and has also been included and further clarified in the proposed Development Agreement as an express obligation.

On- and Off-Site Improvements

In connection with the approval of TSM 19-41, certain Conditions of Approval were imposed on the Project to ensure the applicant constructed and/or funded the necessary on- and off-site infrastructure and improvements to serve the Project (including, among other things, street, utility, and landscaping improvements as well as park and recreational features and open space). The proposed Development Agreement contains provisions that expressly obligate the Owners to comply with all Conditions of Approval. In addition, certain of those obligations have been further clarified to ensure effective enforcement and the efficient implementation of Project approvals.

In addition, with respect to certain off-site traffic improvements at Highway 25 (Airline)/Union Road, the Owners have agreed to a provision in the proposed Development Agreement that would obligate them to pay to the County the amount of \$265,164, which

reflects the estimated cost to install the right turn lane and modified traffic signal at Highway 25 (Airline)/Union Road, and to receive only a partial TIF fee credit of \$67,280. As further consideration, prior to the issuance of each building permit, Owners would also agree to pay to the County \$1,000 per residential unit in addition to the then-applicable Regional TIF fee for use, in the County's discretion, to implement TIF-identified improvements.

FINDINGS:

CEQA Findings:

Finding 1: That an Environmental Impact Report ("EIR") regarding the proposed project was prepared, circulated and certified as adequate by the Board of Supervisors.

Evidence: An EIR was prepared, circulated and ultimately certified as adequate by the Board in March 2016 for the Project, which expressly contemplated the development contemplated by TSM 14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in connection with the approved TSM 19-41, with this obligation being further expressly incorporated into the proposed Development Agreement. The Planning Commission and Board of Supervisors each evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Sections 15162 and 15163, and have determined that the proposed Development Agreement is consistent with the related Project entitlements, the impacts of which were fully and adequately evaluated in the EIR.

Finding 2: That there are no substantial changes proposed in the Development Agreement that would require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

Evidence: An EIR was prepared, circulated and ultimately certified as adequate by the Board in March 2016 for the Project, which expressly contemplated the development contemplated by TSM 14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in connection with the approved TSM 19-41, with this obligation being further expressly incorporated into the proposed Development Agreement. The Planning Commission and Board of Supervisors each evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and have determined that the proposed Development Agreement is consistent with the related Project entitlements, the impacts of which were fully and adequately evaluated in the EIR; that in the intervening approximately twelve months since the EIR was certified, there has not been a substantial increase in any significant environmental effects or a substantial increase in the severity of the significant effects identified in the EIR, and that therefore, there are no substantial changes proposed in the Development Agreement due to the involvement of significant environmental effects or a substantial increase in the severity of the significant effects identified in the EIR.

Finding 3: That there are no substantial changes in the circumstances under which the Project is proposed to be undertaken that would require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

Evidence: An EIR was prepared, circulated and ultimately certified as adequate by the Board in March 2016 for the Project, which expressly contemplated the development contemplated by TSM 14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in connection with the approved TSM 19-41, with this obligation being further expressly incorporated into the proposed Development Agreement. The Planning Commission and Board of Supervisors each evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and have determined that the proposed Development Agreement is consistent with the related Project entitlements, the impacts of which were fully and adequately evaluated in the EIR; that in the intervening approximately twelve months since the EIR was certified, there has not been an involvement of significant environmental effects or a substantial increase in the severity of the significant effects identified in the EIR, and that therefore, there are no substantial changes in circumstances under which the proposed Development Agreement is proposed to be undertaken that would require major revisions to the EIR.

Finding 4: That there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing the Development Agreement would have one or more significant effects not discussed in the EIR.

Evidence: An EIR was prepared, circulated and ultimately certified as adequate by the Board in March 2016 for the Project, which expressly contemplated the development contemplated by TSM 14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in connection with the approved TSM 19-41, with this obligation being further expressly incorporated into the proposed Development Agreement. The Planning Commission and Board of Supervisors each evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and have determined that the proposed Development Agreement is consistent with the related Project entitlements, the impacts of which were fully and adequately evaluated in the EIR; that in the intervening approximately twelve months since the EIR was certified, there has not been any discovery of any new information of substantial importance, which was not known and/or could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing that the Development Agreement would have one or more significant effects not discussed in the EIR.

Finding 5: That there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing significant effects previously examined in the EIR would be substantially more severe than shown in the EIR.

Evidence: An EIR was prepared, circulated and ultimately certified as adequate by the Board in March 2016 for the Project, which expressly contemplated the development contemplated by TSM 14-91 and which would be vested under the proposed Development

Agreement. Feasible mitigation measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in connection with the approved TSM 19-41, with this obligation being further expressly incorporated into the proposed Development Agreement. The Planning Commission and Board of Supervisors each evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and have determined that the proposed Development Agreement is consistent with the related Project entitlements, the impacts of which were fully and adequately evaluated in the EIR; that in the intervening approximately twelve months since the EIR was certified, there has not been any discovery of any new information of substantial importance, which was not known and/or could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing that significant effects previously examined in the EIR would be substantially more severe than shown in the EIR.

Finding 6: That there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the Project proponents declined to adopt the mitigation measure or alternative.

Evidence: An EIR was prepared, circulated and ultimately certified as adequate by the Board in March 2016 for the Project, which expressly contemplated the development contemplated by TSM 14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in connection with the approved TSM 19-41, with this obligation being further expressly incorporated into the proposed Development Agreement. The Planning Commission and Board of Supervisors each evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and have determined that the proposed Development Agreement is consistent with the related Project entitlements, the impacts of which were fully and adequately evaluated in the EIR; that in the intervening approximately twelve months since the EIR was certified, there has not been any discovery of any new information of substantial importance, which was not known and/or could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing that mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the Project proponent declined to adopt the mitigation measure or alternative.

Finding 7: That there is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the Project proponents declined to adopt the mitigation measure or alternative.

Evidence: An EIR was prepared, circulated and ultimately certified as adequate by the Board in March 2016 for the Project, which expressly contemplated the development contemplated by TSM 14-91 and which would be vested under the proposed Development Agreement. Feasible mitigation measures were identified in the EIR, and were incorporated into the Conditions of Approval imposed in connection with the approved TSM 19-41, with this obligation being further expressly incorporated into the proposed Development

Agreement. The Planning Commission and Board of Supervisors each evaluated the Project in light of the criteria set forth in Public Resources Code Section 21166 and CEQA Guidelines (14 California Code of Regulations) Section 15162, and have determined that the proposed Development Agreement is consistent with the related Project entitlements, the impacts of which were fully and adequately evaluated in the EIR; that in the intervening approximately twelve months since the EIR was certified, there has not been any discovery of any new information of substantial importance, which was not known and/or could not have been known with the exercise of reasonable diligence at the time the EIR was certified, showing that mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects on the environment, but the Project proponents declined to adopt the mitigation measure or alternative.

Finding 8: None of the conditions described in CEQA Guidelines Section 15162 require the preparation of a supplemental EIR.

No supplemental EIR is required because there are no impacts, significant or otherwise, of the Project beyond those already identified in the EIR. As explained above, there are not substantial changes to the Project involving new or more severe significant impacts. To the contrary, the Project now includes a Development Agreement for the purpose of confirming the Owners' vested rights to develop the Project as well as confirming the Owners' obligations to the County in connection therewith including, without limitation, those relating to specified public benefits. The Project, as vested under the proposed Development Agreement, contemplates the same land uses originally analyzed in the EIR, and also includes the same number of residential units in the same configuration and at the same density, with the same related improvements (e.g., utilities, street layout, lighting, landscaping, etc.) and amenities (e.g., parks, open space). In addition, all conditions of approval, including, without limitation, those imposed in connection with the Vesting Tentative Tract Map as well as the EIR mitigation measures, as set forth in the adopted MMRP, remain obligations of the Project, and are expressly provided for in the Development Agreement. In addition, there are no substantial changes in the conditions under which the Project is undertaken involving new or more severe significant impacts. The Project's EIR was certified by the Board only approximately twelve months ago. The approval of such a Development Agreement for the Project does not involve substantial changes to the Project involving new or more severe significant impacts. No new or revised mitigation measures would be required to reduce the environmental impacts of the Project. Accordingly, no further environmental review may be required under this trigger (d).

Development Agreement Findings:

For the reasons described herein, the EIR, and in the other information in the administrative record for the Project, the proposed Development Agreement satisfies the following required findings:

- (1) The adoption of an Ordinance approving the Development Agreement complies with all applicable state and local laws and regulations;

(2) The Development Agreement has been processed in accordance with the Development Agreement Statute (Government Code section 65864 *et seq.*), the County Development Agreement Procedures (San Benito County Code, Title 19, Chapter 19.11), and the subject development project. The Owner has a legal interest in the Property, which is the subject of the Development Agreement, which makes it an eligible party to said agreement under Government Code section 65865 and County Code sections 19.11.002 and 19.11.004. The Development Agreement is limited to a term of years not to exceed 15 years unless extended in accordance with the County Development Agreement Procedures. As set forth more fully in the Development Agreement, it addresses, among other things, the duration of the Development Agreement; the permitted uses of the Property; the density and intensity of uses; provisions for reservation or dedication of land for public purposes; conditions, terms, restrictions and requirements for subsequent discretionary actions; provisions for the timing of construction; terms and conditions relating to applicant financing of the necessary public facilities and subsequent reimbursement and/or credits over time; standard contract clauses including those for organizational, introductory, and implementation purposes; an indemnification clause; specification of the elements of the development project that are intended to vest; an assignability clause; and any limitations on the applicability of the Development Agreement with regard to future discretionary review. The Development Agreement application was filed with the Resource Management Agency Director, in accordance with County Code section 19.11.007. The application included all the required content under County Code section 19.11.007(B), including, without limitation, the proposed agreement; sufficient documentation to facilitate CEQA review and consistency with the San Benito County General Plan and Chapter 19.11; and a fee deposit to facilitate review by San Benito County. The application is on file at the San Benito County Resource Management Agency, Building and Planning Division, 2031 Technology Parkway, Hollister, CA 95023.

(3) The Development Agreement is consistent with the 2035 San Benito County General Plan, and any applicable specific and/or area plans, the San Benito County Code, and other applicable Rules, Regulations and Official Policies, for the reasons set forth in section III.E.2 and Exhibit F to Planning Commission Resolution No. 2016-01, regarding approval of the Zone Change and VTM, and in Exhibit B to Ordinance No. 944 (General Plan Consistency findings), amending the San Benito County Zoning Map and approving Zone Change Petition No. 14-181 to change the zoning designation of the project site from Agricultural Productive (AP) to Single-Family Residential (R-1), with which the Development Agreement is consistent. There are no specific or area plans applicable to the subject property.

(4) The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the applicable zoning of the Property. The Development Agreement is consistent with the project, including the Zone Change previously approved by the Board.

(5) The Development Agreement is consistent with and best serves the public health, safety and general welfare of the County's citizens and good land use practice because, among other things, it provides for public benefits beyond those benefits that would be forthcoming through conditions of approval as set forth more fully herein. With regard to

good land use practice, the Project, which is subject to the proposed Development Agreement, directs anticipated growth to certain areas in San Benito County near the City of Hollister, determined appropriate and able to provide adequate facilities and infrastructure to serve that increased growth, which, in turn, serves to protect and preserve more environmentally sensitive areas and more productive agricultural lands. In addition, the Project includes: a commitment to the development of Community Park Improvements and dedication of common area open space near the San Benito River in excess of current requirements; a commitment to the provision of affordable housing through payment of an affordable housing fee; and the formation of a Community Facilities District (CFD) or other financing district(s)/mechanisms to provide funding to County to be used to fund various public safety infrastructure, facilities, improvements and services at an urban level of service, as well as maintenance and operation of the Community Park, in order to ensure revenue neutrality of the project.

(6) The Development Agreement will not adversely affect the orderly development of the surrounding community. In approving the Project, which is the subject of the Development Agreement, it is anticipated that the Board of Supervisors will determine that development of the Property with the Project would direct anticipated growth to certain areas in San Benito County near the City of Hollister, determined appropriate and able to provide adequate facilities and infrastructure to serve that increased growth, as described more fully in the EIR.

(7) It is fair, just and reasonable based on, among other things: the Project provides a comprehensively planned vision for the Property that has been designated for increased urban growth near the incorporated City of Hollister; the Development Agreement provides assurances that all public benefits for which the Owner is obligated to provide are fulfilled as required thereunder; the development of a project will be designed cohesively, with a focus on sustainability; full environmental review of the Project was carried out under CEQA, and this process identified mitigation to reduce environmental impacts on the community to a less-than-significant level, where feasible, that the County and/or owner must implement; the Project was studied after a lengthy public process that involved a public comment period and multiple public hearings that were duly noticed; the Project and conditions of approval express a wide variety of interests and are intended to accomplish a diversity of goals; and the County will receive numerous benefits associated with the Project, while the Owners will receive certainty in terms of their investment and development of the Project.

(8) The development project associated with the Development Agreement should be encouraged in order to meet important economic, social, environmental and planning goals of the County. With regard to planning goals, the Project, which is subject to the Development Agreement, directs anticipated growth to certain areas in San Benito County near the City of Hollister that are determined appropriate and able to provide adequate facilities and infrastructure to serve that increased growth, which, in turn, protects and preserve other areas in the County that are more environmentally sensitive or productive agricultural land. With regard to economic and social goals, the Development Agreement also would facilitate the development of Community Park Improvements and dedication of

common area open space near the San Benito River in excess of current requirements; a commitment to the provision of affordable housing through payment of an affordable housing fee; and the formation of a Community Facilities District (CFD) or other financing district(s)/mechanisms to provide funding to County to be used to fund various public safety infrastructure, facilities, improvements and services at an urban level of service, as well as maintenance and operation of the Community Park, in order to ensure revenue neutrality of the project.