



## AGENDA SUMMARY EUREKA CITY COUNCIL

**TITLE:** Lundbar Hills Southwood Unit No. 6 Development Agreement

**DEPARTMENT:** Development Services

**PREPARED BY:** Aubrie Richardson, Associate Planner

**PRESENTED FOR:**            Action             Information only             Discussion

### **RECOMMENDATION**

Waive full reading, read by title only and introduce Bill No. 1024-C.S., "An Ordinance of the City of Eureka Adopting a Development Agreement for Lundbar Hills Southwood Unit No. 6, APN 301-031-039."

### **FISCAL IMPACT**

                  No Fiscal Impact             Included in Budget             Additional Appropriation

### **COUNCIL GOALS/STRATEGIC VISION**

- Strategic Goal: Maximize all levels of housing stock within the City limits.
- Housing Element GOAL H-1: Eureka's development regulations, permit processing procedures, and customer service standards are development-friendly and conducive to the production of housing.
- Housing Element GOAL H-2: The City government actively facilitates the creation of a range of new affordable and market rate housing units to accommodate future growth and to address the needs of all socioeconomic segments of the community.

### **DISCUSSION**

William Barnum, the agent for the landowners, is requesting to enter into a Development Agreement with the City of Eureka to prevent expiration of a Vesting Tentative Map for the Lundbar Hills Southwood Unit No. 6 Major Subdivision (SD-03-003), originally approved in 2007, which is currently set to expire February 20, 2023. The proposed Development Agreement would act as a 10-year extension, providing a vested right to approve and file the Final Map and develop the project for 10 years from the effective date of the Development Agreement, unless the agreement is extended or

terminated, as outlined in Section 4.9 and Articles Five and Six of the proposed agreement (Attachment 2).

Figure 1: Location Map

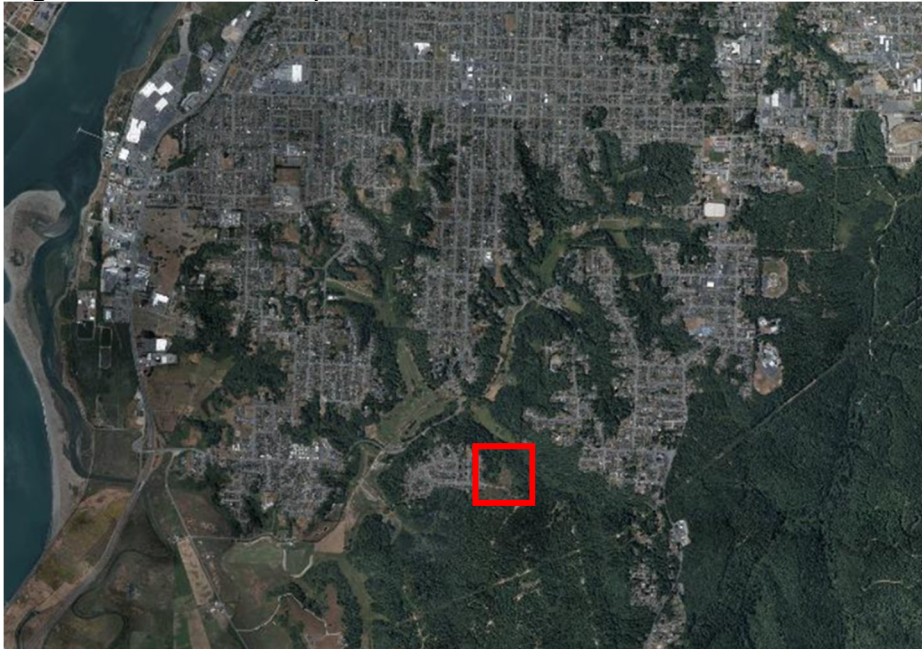


Figure 2: Site Location



## **BACKGROUND**

On January 8, 2007 the Planning Commission conditionally approved the Lundbar Hills Unit 6 Major Subdivision (SD-03-003) to create 56 new lots, ranging in size from 6,500 to 49,000 square feet (sf), with a remainder parcel retaining 8.5 acres. The original approval of the Vesting Tentative Map included 40 conditions of approval, including Condition 22, requiring compliance with the 19 mitigation measures adopted as part of the California Environmental Quality Act (CEQA) Mitigated Negative Declaration (See Attachment 4 for Planning Commission Resolution 2007-01). On February 20, 2007 the City Council endorsed the action of the Planning Commission and removed condition 29 of the conditions of approval (See Attachment 5 for the findings and conditions as approved by City Council in February 2007).

In addition to the Unit 6 Subdivision, three additional projects were approved and continue to run with subdivision extensions: (1) a variance (V-03-013) to allow a reduced lot depth for Lot 170 (from 100' to 80'), which is no longer necessary due to the recent Zoning Code update in 2019; (2) a conditional use permit (C-06-008) to allow timber harvesting of about 12 acres of previously logged land for roadway construction and building site preparation (the timber harvest has been completed); and (3) a lot line adjustment (LLA-03-003) to transfer approximately 4,650 sf from Unit 6 (APN 301-031-039) to 4829 Dickson Drive (APN 301-281-038).

Pursuant to the Subdivision Map Act [California Government Code (CGC) §66452.6(a)(1)] and Eureka Municipal Code (EMC) [§154.042(A)(1)], a vesting tentative map expires 24 months from the date of approval unless extended. The subdivision and associated projects have previously received a number of statutory and legislative<sup>1</sup> extensions that have prevented the Vesting Tentative Map from expiring. Below is a table showing the progression of the life of Lundbar Hills Unit 6 Vesting Tentative Map:

<b><u>Action</u></b>	<b><u>Expiration Date</u></b>
Map was set to expire 24 months after the February 20, 2007 approval [CGC §66452.6(a)(1)]	February 20, 2009
CGC §66452.21 added 12 months	February 20, 2010
CGC §66452.22 added 24 months	February 20, 2012
CGC §66452.23 added 24 months	February 20, 2014
CGC §66452.24 added 24 months	February 20, 2016
MOD-15-0012 added 6 years	February 20, 2022
ER1-21-0001 added 1 year	February 20, 2023

The most recent extension was a 12-month statutory extension approved by the Planning Commission in 2021 pursuant to CGC §66452.6(a)(1) and EMC §154.042(B)(3). One condition of approval was modified by the Planning Commission when this latest one-

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<sup>1</sup> As a result of the Great Recession, the California Legislature passed several bills during the time period of 2008-2013 that automatically extended the life of tentative maps subject to specific conditions.

year extension was approved (See Attachment 6 for Planning Commission Resolution No. 2021-27 which includes the modified condition no. 22 of the conditions of approval). The project is not eligible for any additional statutory or legislative extensions and the map will expire on February 20, 2023, unless the proposed Development Agreement is approved and becomes effective ahead of the February expiration date.

CGC §65864 et. seq. authorizes local governments to negotiate and enter into contracts (Development Agreements) with project proponents, expressly defining the terms and conditions of a particular project, for a specific period of time. Pursuant to CGC §65865, a Development Agreement is enforceable by any party entering the agreement, notwithstanding any change in any applicable general plan, zoning, subdivision or building regulation adopted by the city, unless such a change to local regulation is required by changes to state or federal law. Thus, a Development Agreement locks in the regulations and policies governing the property for the term of the agreement. A Development Agreement is a legislative act, approved by ordinance after public hearings by the Planning Commission and City Council, and recorded within 10 days following execution. An adopted Development Agreement can be amended or canceled, in whole or in part, by the mutual consent of the parties upon notice of intention to amend or cancel, and adoption of an ordinance amending the agreement.

The proposed Lundbar Hills Unit 6 Development Agreement grants the applicant a vested right to develop the project for an additional term of 10 years, in accordance with applicable General Plan provisions of the 2040 General Plan, the Vesting Tentative Map, the previously approved conditions and mitigation measures, the current Zoning Code, the Humboldt Low Impact Development Stormwater Manual, and the terms of the Development Agreement. Pursuant to CGC §65865.2, a Development Agreement may provide that the project or any phase thereof be completed within a specified time. The proposed Development Agreement includes a milestone requirement in which the landowner agrees to complete the following within five years of approval of the Development Agreement (Note: references to numbered conditions are to the Conditions of Approval endorsed by the City Council – see Attachment 5):

1. An engineered Grading and Drainage plan for both on-site and off-site improvements. The engineered grading and drainage plan shall be reviewed and approved by the City Engineer. (see Condition 9); and
2. An Engineered Improvement Plan. The Engineered Improvement Plan shall be reviewed and approved by the City Engineer. The plan shall include, at a minimum, sidewalks, curbs, pavements, signs, water, sewer, drainage improvements, and ADA requirements (see Condition 10); and
3. A Phasing Plan Map, subject to City approval, that indicates the timeline and order of subdivision improvements as it relates to the recordation of the Final Map and lot development (see Condition 11). The Phasing Plan Map shall be reviewed and approved by the City Engineer; and

4. A Subdivision Improvements Agreement. The Subdivision Improvements Agreement shall be reviewed and approved by the City Engineer (see Condition 16).

CGC §65865.1 requires the City to periodically review, at least every 12 months, the landowner's compliance with the terms of the Development Agreement. Staff will check in annually with the landowner to monitor progress and compliance with the agreement and permitting process. If the landowner fails to complete the four tasks listed above within five years, or otherwise fails to comply in good faith with the terms and conditions of the agreement, the City may terminate or modify the agreement.

## **ANALYSIS**

Pursuant to CGC §65867.5(b), a legislative body must find the provisions of the agreement are consistent with the general plan and any applicable specific plan. For the subject Development Agreement, there is no applicable specific plan, so the standard of review is consistency with the 2040 General Plan.

The proposed Development Agreement will extend the life of an approved 56-lot subdivision on an approximately 19.2-acre generally flat hilltop property with a Low Density Residential (LDR) land use designation under the 2040 General Plan. The LDR land use designation provides for single-family detached and attached homes, accessory dwelling units and compatible public/quasi-public uses, and is intended to be suburban in character and located in proximity to parks, schools, and public services. Consistent with the intent of the LDR designation, the proposed Development Agreement will result in the creation and development of residential lots at a suburban density, served by City water and sewer, and located in proximity to parks, including the Lundbar Hills Park, schools and other public services in urban Eureka.

Staff has reviewed the 2040 General Plan, including the 2019-2027 Housing Element, and the proposed Development Agreement does not conflict with any of the goals, policies, or implementation programs, and it supports the following goals and policies:

*GOAL LU-1 A Community that values its unique small-town charm and livability while thoughtfully advancing new prospects for growth and economic vitality.*

- *Policy LU-1.3 Beneficial Development. Support development that affords benefits to all segments of the community that:[...]*

*c. Develops underutilized or vacant parcels.*

The subject property is one of the last remaining large, vacant developable parcels within the largely built-out City; approval of the Development Agreement prevents expiration of subdivision approval, facilitating the development of this vacant parcel into 56 residential lots consistent with Policy LU-1.3.

- *Policy LU-1.21 Remove Obstacles. Monitor Eureka's development regulations (e.g., zoning and subdivision ordinance) to ensure that these regulations support the goals of the General Plan and do not create barriers to the implementation of the City's development objectives.*

Approval of the Development Agreement will facilitate the creation and development of 56 lots zoned for residential development, which will help the City meet its Regional Housing Needs Allocation (RHNA) development objective of 952 new dwellings during the 2019-2027 Housing Element cycle.

The subject project has received the full number of extensions allowed by the Eureka Municipal Code (EMC) and state law. Approval of the Development Agreement keeps the Vesting Tentative Map alive for an additional 10 years, allowing additional time to approve and file the Final Map and develop the project. Therefore, the Development Agreement releases constraints of the EMC to help the City meet housing needs, consistent with Policy LU-1.21.

*GOAL LU-5 Safe, walkable, and well-maintained neighborhoods that provide a diversity of quality housing choices.*

The proposed Development Agreement extends a vested right to develop Lundbar Hills Unit 6 as previously approved, to add 56 lots to the existing Lundbar Hills neighborhood. The proposed Development Agreement was referred to other departments and agencies with interest or jurisdiction over the project. Staff received comments from Public Works, Development Services - Building, and Humboldt Bay Fire. All three departments indicated the original conditions of approval and mitigation measures remain satisfactory for public safety. The future residential development facilitated by the Development Agreement will contribute to an overall diversity of quality housing choices within the City of Eureka, consistent with Goal LU-5.

*Goal LU-6 New growth and annexation areas that are carefully planned, efficient, and contribute positively to the community.*

- *Policy LU-6.2 Infill First. Promote development of vacant infill properties and redevelopment/reuse of economically underutilized sites and buildings to accommodate new growth and internal densification prior to considering potential annexation.*

The proposed Development Agreement extends a vested right to develop Lundbar Hills Unit 6 which promotes development of a vacant infill property within City limits prior to considering potential annexation, consistent with Policy LU-6.2.



GOAL U-2 *Sustainable and adequate wastewater collection, treatment, and disposal for existing and future development.*

- *Policy U-1.3 New Development. Require new development to demonstrate the availability of a long-term, reliable water supply (either an existing supply or provision of a new water source) and adequate infrastructure, in accordance with City standards, and to connect to the City's water system. New development in Natural Resource and Agricultural lands may not be required to connect to the City's water system if the requisite infrastructure is not reasonably available. Require new development to be responsible for constructing, dedicating, and/or paying its fair-share contribution for any water system upgrades necessary to serve the development.*

Prior to the 2007 subdivision approval, the City provided the developer with a "Will Serve" Letter indicating that the City has adequate water supply to serve the proposed subdivision. A water needs assessment was done when the subdivision was first established and projected the needs for the completion of the subdivision, including the last section, Unit 6. The assessment concluded that there is adequate water supply for 130 more dwelling units. The project has since been referred back to Public Works, who has indicated that no additional requirements are necessary.

- *Policy U-2.3 New Development. Require new development to demonstrate the availability of sufficient wastewater facilities, in accordance with City plans and standards, and to connect to the City's wastewater treatment system. New development in Natural Resource and Agricultural lands may not be required to connect to the City's wastewater system if the requisite infrastructure is not reasonably available. Require new development to be responsible for constructing, dedicating, and/or paying its fair-share contribution for any wastewater treatment and collection system upgrades necessary to serve the demands generated by the development.*

Prior to the 2007 subdivision approval, the City provided the developer with a "Will Serve" letter stating the City has adequate sewage disposal capability to serve the subdivision, and the original approval of the Vesting Tentative Map includes conditions of approval requiring an Engineered Improvement Plan including sewer lines improvements connecting to the City's wastewater collection system. The proposed Development Agreement requires compliance with these conditions of approval, and requires the landowners to complete the Engineered Improvement Plan within five years of the effective date of the agreement to the satisfaction of the City Engineer; therefore, the Development Agreement is consistent with Policy U-2.3.

*Housing Element GOAL H-1 Eureka's development regulations, permit processing procedures, and customer service standards are development-friendly and conducive to the production of housing.*

The Development Agreement will extend the previously approved tentative map, ultimately resulting in more lots available for the production of housing. The Development Agreement is development-friendly and conducive to the production of housing, consistent with Goal H-1.

*Housing Element GOAL H-2 The City government actively facilitates the creation of a range of new affordable and market rate housing units to accommodate future growth and to address the needs of all socioeconomic segments of the community.*

The proposed Development Agreement will extend the previously approved tentative map, ultimately resulting in 56 additional lots available for the production of housing. Primarily, single-family homes will be developed on the 56 lots which will help the city reach 402 new above-moderate-income units as required by the 2019-27 Housing Element RHNA. Additionally, accessory dwelling units can also be developed, possibly resulting in rent at a more affordable price point.

## **ENVIRONMENTAL ASSESSMENT**

In 2006, the City of Eureka prepared a Mitigated Negative Declaration (MND) for the project (SCH # 2006082100) and a Mitigation Monitoring Reporting Program (MMRP) in its capacity as lead agency and in compliance with CEQA. On January 8, 2007, the Planning Commission of the City of Eureka adopted the MND and MMRP. Pursuant to Public Resources Code §21166 and CEQA Guidelines §15162, no subsequent or supplemental environmental impact report shall be required by the lead agency unless substantial changes are proposed, substantial changes occur with respect to the circumstances in which the project is being undertaken, or new information is provided that was not available at the time the environmental review was completed. The proposed Development Agreement allows the project to proceed as originally approved and does not result in any substantial changes to the original project. During the processing of the Development Agreement application, no new information was provided which was not available during the initial review and approval of the Vesting Tentative Map. Substantial changes are not expected to occur upon the approval of the proposed Development Agreement, and development will be facilitated in compliance with the previously approved Subdivision Application and related environmental review. Therefore, additional environmental review is not required.

## **CONCLUSION AND STAFF RECOMMENDATION**

Based on the analysis above, the Development Agreement is consistent with the General Plan, and no additional environmental review is required under CEQA. Staff recommends the City Council hold a public hearing, and then waive full reading, read by



title only, and introduce Bill No. 1024-C.S., to approve the Development Agreement for Lundbar Hills Southwood Unit No. 6.

### **PREVIOUS ACTION**

**Planning Commission:** On December 12, 2022, the Planning Commission held a duly noticed public hearing to receive public testimony and make a recommendation to City Council on the proposed Development Agreement. At the public hearing, the applicant spoke in favor of the proposed Development Agreement and two members of the public spoke in opposition. The Planning Commission then voted three to two to recommend City Council approve the Development Agreement subject to two additional conditions of approval to:

- Require preconstruction surveys for nesting birds, sensitive plant species, and non-aquatic amphibians prior to starting work with findings to be sent to referral agencies as appropriate; and
- Work with Community Services to explore naming and adding signage at the Lundbar Hills park to better encourage the larger Eureka community to utilize the park.

### **NEXT STEPS**

If the City Council votes to introduce Bill No. 1024-C.S. (Attachment 1) at its December 20, 2022 meeting, a vote to adopt the bill will be scheduled at a subsequent meeting.

### **SUGGESTED MOTION**

**“I move the City Council waive full reading, read by title only, and introduce Bill No. 1024 C.S., ‘An Ordinance of the City of Eureka Adopting a Development Agreement for Lundbar Hills Southwood Unit No. 6, APN 301-031-039.’”**

### **DOCUMENTS ATTACHED**

- Attachment 1 – Bill No. 1024-C.S.
- Attachment 2 - Proposed Development Agreement
- Attachment 3- Planning Commission Resolution 2022-0029
- Attachment 4 - Planning Commission Resolution 2007-01
- Attachment 5 - Findings and Conditions, as Approved by City Council in February 2007
- Attachment 6 - Planning Commission Resolution 2021-27
- Attachment 7 - Approved Vesting Tentative Map
- Attachment 8 - Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program

**REVIEWED AND APPROVED BY:**

- City Attorney
- City Clerk/Information Technology
- Community Services  
Development Services
- Finance
- Fire
- Human Resources
- Police
- Public Works