

**MEMORANDUM****COUNTY OF SAN MATEO  
ENVIRONMENTAL SERVICES AGENCY  
PLANNING AND BUILDING DIVISION**

**DATE:** September 2, 2004  
**TO:** Planning Commission  
**FROM:** Marcia Raines, Director, Environmental Services Agency  
Jim Eggemeyer, Development Review Services Manager  
**SUBJECT:** Harbor Village

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At your last Planning Commission hearing, on August 25, 2004, under oral testimony, Larry De Young provided you with copies of three letters concerning the Harbor Village development located out in Princeton. Following Mr. De Young's presentation you directed staff to prepare a background memo.

**Background**

On December 12, 1989, the San Mateo County Board of Supervisors considered appeals of the County Planning Commission's decision to certify the EIR and approved a Coastal Development Permit, Use Permit, and Minor Subdivision for the subject project. The project includes an 84-room hotel with 11 apartment units; a 280-seat restaurant and 60-seat bar; an enclosed shopping mall with 15-25 retail shops; subsurface and ground level parking for 450 vehicles; and a Minor Subdivision to divide a 24.5 acre parcel into four parcels. The project is located on Capistrano Road west of its junction with Cabrillo Highway in Princeton. The original application was filed on May 12, 1988. Subsequently to the Board's decision, the project was appealed to the California Coastal Commission. On March 14, 1990, the Coastal Commission approved the Coastal Development Permit (CDP) and thus the Coastal Commission has taken jurisdiction of the CDP. Following the Coastal Commission's action, civil litigation resulted in the trial court issuing an injunction. The County, joined by the project proponents, successfully appealed the trial court's decision. The trial court lifted the injunction on June 7, 1993. The minor subdivision was recorded on November 2, 1994.

In 1994, the project owner requested that the County enter into a development agreement for the Project. On May 23, 1995, the San Mateo County Board of Supervisors considered the Planning Commission's recommendation for approval and approved a development agreement. The term of the Agreement is for 10 years and expires June 22, 2005. One of the requirements of the agreement is that construction begins within five years (i.e., June 22, 2000). As indicated below, construction commenced within the stipulated time frame. The agreement also provides that the agreement will be reviewed by the Planning Director at least once during each twelve (12) month

period after the effective date of the agreement. The purpose of the review is to determine the owner's good faith compliance with the terms of the agreement. The agreement provides a process whereby the owner may request that the Board of Supervisors review any finding by the Planning Director that the owner is not in good faith compliance with the terms of the agreement.

### **Current Status of Building Permits**

The first building permit application was submitted on October 10, 1999 (BLD1999-01211) for the retail office building. This permit was issued April 24, 2000, and construction commenced within the five-year period specified in the Agreement. Construction on this building has been substantially completed. This permit is still open, but is in an expired status. The second building permit application was submitted on April 21, 2001 (BLD2000-01630) and was issued on August 4, 2004. This permit is for the underground parking and mall shell. This permit does not allow any tenant improvements in the mall. The third building permit is for the hotel and it was submitted on August 4, 2004 (BLD2004-00911). This permit is currently under review with the permitting agencies. There has not yet been any building permit application for the restaurant portion of the project.

### **Compliance with the Agreement**

As noted above, the Development Agreement provides for a yearly review of the owner's good faith compliance with the terms of the Agreement. Due to the inactive status of the project, we did not generate written reports, as there was nothing to report. The Planning Division has reviewed compliance with the Development Agreement, and the Planning Director has concluded that, based on our review to date, the owner is in good faith compliance with the terms of the Development Agreement.

### **Role of Planning Commission**

Planning staff has consulted with County Counsel, which has advised that, pursuant to provisions of state law and governing County ordinances, the Planning Commission has no formal role in the implementation of the Development Agreement. County Counsel will be submitting a separate memorandum to address this issue.

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## COUNTY OF SAN MATEO

### INTERDEPARTMENTAL CORRESPONDENCE

**To:** Planning Commission  
**From:** County Counsel  
**Subject:** Development Agreement for Pillar Point Harbor Project  
**Date:** September 2, 2004

A request was made by Mr. Larry DeYoung, under oral communications at your meeting of August 25, 2004, that the Planning Commission assume an oversight function with respect to the development agreement entered into by and between the County of San Mateo and Fishing Village Associates in May of 1995. We have concluded that neither the regulating provisions which govern such agreements, nor the agreement itself, provide for such a regulatory role.

Government Code Section 65100 provides that the Board of Supervisors shall, by ordinance, assign the functions of the planning agency:

“to a planning department, one or more planning commissions, administrative bodies or hearing officers, the legislative body itself, or a combination thereof, as it deems appropriate and necessary. In the absence of an assignment, the legislative body shall carry out all the functions of the planning agency.”

Section 2.80.030(a) of the Ordinance Code provides that:

“The Planning Commission shall review and recommend action on the general plan and specific plan, and all proposed implementing ordinances or other regulations with regard thereto, or proposed amendments thereto, including any property [sic] amendments to the San Mateo County Local Coastal Program... The Planning Commission shall perform such other functions as are set forth in the Charter and the general law and ordinances of the Board of Supervisors”.

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Section 2.080.030 of the Ordinance Code provides that:

“All other functions of the Planning Agency are assigned to such officers and bodies as are specified [in the Zoning Regulations], in the San Mateo County Subdivision Ordinance or in other applicable sections of the San Mateo County Ordinance Code.”

The various functions of the Planning Commission are spelled out in specific provisions of the San Mateo County Zoning Regulations and Subdivision Ordinance. The County regulations pertaining to development agreements are set forth in Chapter 24.5 (Sections 6510 – 6520) of the Zoning Regulations. Both the County regulations and the development agreement itself specify roles for the Planning Director and the Board of Supervisors in the implementation of any development agreement entered into by the Board of Supervisors. While the Planning Commission has a role in making a recommendation to the Board when a development agreement or amendment to a development agreement is proposed, the procedures do not contemplate a role for the Planning Commission in the implementation of an existing agreement.

We will be available to discuss this matter in more detail at the Commission's meeting.

THOMAS E. CASEY, III, COUNTY COUNSEL

By: 

Michael H. Murphy, Chief Deputy