

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: David A. Bobardt, Community Development Director
Prepared By: Joseph Vacca, Principal Planner 

DATE: December 5, 2012 (CC Meeting of 12/19/2012)

SUBJECT: Consider Second One-Year Extension for Residential Planned Development No. 1998-02 (Vistas at Moorpark Project – Formerly SunCal), Located East of Walnut Canyon Road, and North of Wicks Road, on the Application of Armed Forces Bank, N.A.

BACKGROUND

On October 23, 2012, Michael Van Epp, on behalf of Armed Forces Bank, N.A., requested a second one-year extension for Residential Planned Development Permit No. 1998-02, which was to expire on December 17, 2012. Since staff has already been analyzing this extension request, the expiration date is set in abeyance pending action by the City Council.

DISCUSSION

On December 17, 2003, the City Council adopted Resolution No. 2003-2150, which approved Vesting Tentative Tract Map (VTTM) No. 5130 and Residential Planned Development (RPD) Permit No. 1998-02 for 110 homes on 72 acres east of Walnut Canyon Road and north of Wicks Road for the Vistas at Moorpark project, formerly SunCal.

Special Condition Number 20 for VTTM No. 5130 required that certain improvements to Walnut Canyon Road be made prior to the issuance of a Certificate of Occupancy for the first home. On March 29, 2006, Permit Adjustment No. 1 was approved on the application of SunCal, and this amended the timing for the Walnut Canyon Road improvements to be completed by the earlier of occupancy of the 50th home or November 8, 2008, whichever came first. This Permit Adjustment expired after one year.

On November 19, 2008, the City Council approved a request for this modification, adopting Resolution No. 2008-2767 to this condition to allow for the improvements to be completed by the earlier of occupancy of the 50th home or April 15, 2011. This approval included an extension to the Residential Planned Development Permit, to continue its validity from December 17, 2008 to December 17, 2011.

On April 6, 2011, City Council adopted Resolution No. 2011-3012 approving Modification No. 2 to VTTM No. 5130. The second modification approval further amended timing of Condition No. 20, to allow for the improvements to Walnut Canyon Road and overlaying of the pavement on Wicks Road to be completed by the earlier of occupancy of the first dwelling unit or April 11, 2013, whichever comes first. The timing modification was requested because the applicant felt that economic conditions remained poor for project construction. At this time, a permit to complete improvements on Walnut Canyon Road has not been issued by CalTrans, and while the applicant is not currently in breach of this condition, staff does not believe the applicant will meet this deadline.

On December 8, 2011, a one year time extension of the Residential Planned Development permit was granted by the Community Development Director, extending the expiration of the permit to December 17, 2012.

The life of Tentative Tract Map No. 5130 is tied to Section 0.1. of the approved Development Agreement which states that the term of the tentative map for the Property, shall expire ten (10) years after its approval or conditional approval or upon the expiration or earlier termination of the Development Agreement, whichever occurs first; ten years from approval of the VTTM No. 5130 is December 17, 2013.

The Development Agreement, was approved by Ordinance No. 299 on January 21, 2004, took effect thirty days later on February 20, 2005. Section 5.4 of the Development Agreement that addresses the term of subsequent approvals, such as RPD approvals, is provided as follows:

“The term of any Subsequent Approval, except a tentative map or subdivision improvement or other agreements relating to the Project, shall be one year; provided that the term may be extended by the decision maker for two (2) additional one (1) year periods upon application of the Developer holding the Subsequent Approval filed with City's Department of Community Development prior to the expiration of that Approval. Each such Subsequent Approval shall be deemed inaugurated, and no extension shall be necessary, if a building permit was issued and the foundation received final inspection by City's Building Inspector prior to the expiration of that Approval.”

CURRENT REQUEST

In the past year, the development was transferred back to the underlying bank ownership and is currently owned by Armed Forces Bank, N.A., The current owner is requesting approval of a second one-year time extension to the approvals of the RPD, which would have expired on December 17, 2012 if the request was not submitted. Armed Forces Bank, N.A. representative, Michael Van Epp, provided a letter (Attachment 1), containing a list of activities that have been undertaken in the past year in the effort to move forward with inauguration of the project.

While the activities outlined in the applicant's letter demonstrate continued efforts on the implementation of the project entitlement to possibly warrant a one-year extension of time on the Residential Planned Development Permit, it seems clear that completion of the improvements to Walnut Canyon Road by April 11, 2013 will not occur. Therefore, compliance with the amended condition number 20 as shown above will not be met, and staff recommends that the request be denied.

STAFF RECOMMENDATION

Direct the Community Development Director to issue a letter denying a second one-year extension of Residential Planned Development No. 1998-02 (Vistas at Moorpark project).

ATTACHMENT:

1. Narrative by Michael Van Epp, on Behalf of Armed Forces Bank, N.A.

 **Armed Forces Bank**

Tuesday, October 23, 2012

VIA E-MAIL & REGULAR MAIL

Joeseeph Vacca, AICP
Principal Planner
City of Moorpark
Community Development Department
799 Moorpark Avenue
Moorpark, California 93021

Re: TTM 5130 - Residential Planned Development Permit

Mr. Vacca:

This letter hereby requests the administrative staff approval of the 2nd of two (2) allowable one-year extensions to RPD 1998-02 based on the year-to-date activities on the project and the good faith efforts made by all parties to move forward with development of the project known as Vista Serrano (aka "Vistas at Moorpark") in Moorpark, CA.

As way of background, Armed Forces Bank, N.A (as successor by Merger to Bank Midwest) became owner by default of the above mentioned property at a foreclosure auction held in Ventura County on July 11, 2012. The Bank is not in the business of land development. However, since taking ownership of the property, the Bank has expeditiously reviewed the property and moved towards finding a potential suitor for the development. As of today, the Bank believes it has a potential suitor under contract who will be in the position to aptly continue with development of the project.

In review of the project, there is an important entitlement expiring in December 2012. This entitlement will affect the ability for anyone to continue to work with the City of Moorpark for the development of the project. As the City is aware, Modification No. 1 to Tentative Tract Map 5130 and RPD 1998-02 was approved on November 19, 2008 by the City Council with adoption of RESOLUTION NO. 2008-2767. This approval changed Standard Condition No. 3 for Residential Planned Development Permit No. 1998-02 which was amended in its entirety to read as follows:

"3. Unless the Residential Development Permit is inaugurated (first building foundation slab in place and substantial work in progress) not later than December 17, 2011, this permit will automatically expire on that date. The Community Development Director may, at his/her discretion, grant up to two (2) one (1) year extensions for project inauguration if there have been no changes in the adjacent areas and if Applicant can document that he/she has diligently worked towards inauguration of the project and has concurrently requested a time extension to the tentative tract map (if necessary). The request for extension of this entitlement must be made at least thirty (30) days prior to the expiration date of the permit."

On December 8, 2011, the Community Development Director granted a one-year time extension to the Residential Development Permit (RPD). This letter requests the 2nd of two allowable extensions.

CC ATTACHMENT 1

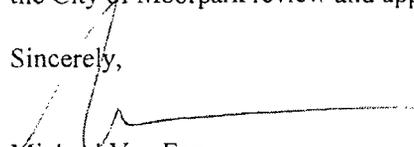
To best of its knowledge, the Bank can report the following activities have been undertaken in the past year in the effort to move forward with inauguration of the project:

- In April 2012, the Bank commissioned Fulcrum to complete a thorough due diligence review of the project. This study was completed in June 2012 and detailed unresolved/incomplete items to resolve prior to continuation with the contemplated development.
- The Improvement Plans and Final Map have been completed and have incorporated the latest plan check comments from the City. The Bank and/or its representatives have followed up with the design consultant to obtain copies of the CAD files and status of the development drawings.
- The Conceptual Landscape Plans for the west side of Walnut Canyon Road were prepared and reviewed by the City. The Final Landscape Plans have been completed and are ready for review. The Bank and/or its representatives have followed up with the design consultant to obtain copies of the CAD files and the status of the landscaping drawings.
- The California State Fish and Game Department issued an extension of the existing Streambed Alteration Permit in December 2011.
- The slope at the end of Valley Road has been stabilized via hydroseed and landscaping binder. The property continues to be reviewed and monitored for adverse changes by the property owner.
- The property continues to be maintained for fire abatement. The site appears to still be in conformance today with regard to vegetation and weed height.
- CalTrans has been contacted regarding the status of the Offsite Improvement Plan approval. Through initial conversations, it appears the Walnut Canyon Improvement Plans will be required to be submitted for full review again.
- The Bank and/or its representatives continue to speak with the City of Moorpark Redevelopment Agency regarding the affordable housing conditions on the property. To this point, there has not been significant headway with the Agency to confirm the required amounts for fee in lieu of mitigation.

As stated above, the Bank is not in the business of land development. The Bank looks to continue to work with a buyer for a speedy transfer of the asset and to continue to progress with the development of this project. The granting of this 2nd extension to the RPD Permit is an important step to continue this fruitful progress.

In consideration of the above request, a check in the amount of \$1300 accompanies this letter to satisfy the City of Moorpark review and application fee. We look forward to your approval of the above request.

Sincerely,



Michael Van Epp
Vice President

Attachment;

CC: David Bobardt, City of Moorpark Community Development
Doug Neeb, Armed Forces Bank, N.A.
David Frances, Armed Forces Bank, N.A.