

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: December 15, 2008

Reviewed by: BP

**SUBJECT:** Resolution # 08-76, Procedures for Consideration of Development Agreements

**REPORT BY:** Ann Chaney, Community Development Director  
Jeff Bond, Planning and Building Manager

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**PLANNING AND ZONING COMMISSION RECOMMENDATION**

That Council adopt Resolution #08-76 Procedures for Consideration of Development Agreements.

**BACKGROUND**

At their meeting of November 25, 2008, the Planning and Zoning Commission reviewed the draft procedures and approved on a 4-0 vote a recommendation that the City Council adopt the attached Procedures for Consideration of Development Agreements. In their review, the Commission added language clarifying procedures for public noticing and procedures for amendment or cancellation of previously approved Development Agreements.

**DISCUSSION & ANALYSIS**

A Development Agreement is a detailed contract between a property owner and a local agency that spells out the rules of development for a particular project in very specific terms. The California Government Code authorizes municipalities to enter into development agreements in order to provide a property owner substantial assurance that a project can be completed in accordance with existing policies, rules, regulations, and conditions of approval.

Development agreements are adopted as a result of voluntary negotiation between the City and a property owner, and thus are not subject to state law and municipal code restrictions on the amount of required dedications of property and imposition of development fees. As a result, in consideration of providing property owner assurances that a project can be implemented without a change in regulations, the property owner may provide greater public amenities or dedications.

The merits of entering into a development agreement vary from one project to the next. In general, staff would be hesitant to recommend a development agreement unless there was substantial benefit to the City. The downside of a development agreement is that future policy initiatives may not be applied to projects with a development agreement. For example, if a project in Albany had been approved a few years ago with a development agreement, the project might not be subject to public art and green building program requirements.

The Development Agreement Procedures are being brought forth at this time so that procedures are in place as some larger projects move through the City's planning process. There is not any pending use of the procedures at this time, nor has there been any discussion with any specific applicant regarding a potential development agreement. Having the procedures in place will assist the City should the need arise.

With respect to the Albany waterfront, Measure C, approved in 1989, requires voter approval of any development agreement that is associated with a change in use. Measure C also requires voter approval of any waterfront-related rezoning, general plan amendment, specific plan, or master plan.

### **SUSTAINABILITY IMPACT**

Adoption of Development Agreement Procedures will not have any affect on the City's ability to achieve its sustainability goals.

### **FINANCIAL IMPACT**

The cost of staff time and consultant services associated with negotiation of a development agreement would be reimbursed by the applicant.

#### **Attachments:**

1. Resolution # 08-76
2. Excerpt from Guide to California Planning
3. Excerpt from Draft Planning and Zoning Commission minutes of November 25, 2008 meeting