



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Albert Balagso

**SUBJECT:** SEE BELOW

**DATE:** 03-16-09

Approved

Date

3/24/09

**COUNCIL DISTRICT:** 2  
**SNI AREA:** N/A

**SUBJECT: APPROVAL OF THE PIERCY PARK MASTER PLAN AND TURNKEY PARKLAND AGREEMENT WITH KB HOME SOUTH BAY INC. FOR DEVELOPMENT OF THE PIERCY PARK SITE.**

## RECOMMENDATIONS

- 1) Approval of the Piercy Park Master Plan.
- 2) Approval of a Turnkey Parkland Agreement for Tentative Map No. PT07-047 with KB Home South Bay, Inc. ("Developer") to construct park improvements and dedicate approximately 0.8 acres of parkland to the City on the future Piercy Park site.
- 3) Adoption of a resolution authorizing the City Manager, or designee, to negotiate and execute a park maintenance agreement between the City and the Homeowner Association, which will be created at a later date by the Developer for the residential units identified on Tentative Map No. PT07-047, to maintain the Piercy Park Site as outlined in Planned Development Rezoning PDC06-102 and Planned Development Permit PD07-054.

## OUTCOME

Approval of the recommendations in this memorandum will allow (i) construction of turnkey park improvements on the Piercy Park site consistent with the Piercy Park Master Plan, (ii)

dedication to the City of an approximately 0.8-acre site for the future Piercy Park, and (iii) assignment of maintenance for the Piercy Park site to the homeowners' association once turnkey park improvements are completed and accepted by the City.

## **BACKGROUND**

The City's Parkland Dedication Ordinance (PDO), San José Municipal Code, Chapter 19.38, requires developers to dedicate land for neighborhood and community parks, construct park or recreational improvements, or pay a parkland fee in lieu of dedication or construction to help meet the demand for neighborhood and community parkland generated by the development of new residential subdivisions ("Parkland Dedication Obligation").

Developer's predecessor, Piercy Investment Company, LLC, received development approvals under rezoning PDC06-102 ("Rezoning"), Tentative Map PT07-047 ("Tentative Map"), and Planned Development Permit PD07-054 ("PD Permit") for a residential project located at the southeasterly corner of Piercy Road and Tennant Avenue (the "Project"). The PD Permit approved 41 single-family detached units and an approximately 0.8-acre park on a total 14.3 gross acre site. Under the terms of this proposed Turnkey Parkland Agreement, in order for the Developer to satisfy its Parkland Dedication Obligation, Developer has agreed to construct park improvements and dedicate the park site to the City within three (3) years of the execution of the Agreement. The entitlements for the Project were sold from Piercy Investment Company, LLC to the Developer.

## **ANALYSIS**

Developer is required to meet its Parkland Dedication Obligation for 41 proposed single-family detached residential housing units associated with the Project. In order for Developer to satisfy its Parkland Dedication Obligation for the Project, the parties would like to enter into a Turnkey Parkland Agreement which requires the Developer to do the following:

1. Dedicate approximately 0.8-acres of land on the Project site to the City to be used for a public park.
2. Design and fully construct the park improvements as outlined in the Piercy Park Master Plan.
3. Coordinate the execution of a park maintenance agreement between City and the future Homeowner's Association ("HOA") for maintenance of the park site prior to City's acceptance of dedication of parkland or park improvements.

The following park improvements will be constructed on the 0.8-acre park site: picnic area, seating, drinking fountain, trellises, walkways, bike racks, children's play structure, turf and other landscaping amenities. All of the park improvements will be designed and constructed in accordance with standard City specifications as shown on the attached schematic plan (Exhibit A).

As a part of the rezoning process, Developer agreed to establish a homeowner association for the residential units approved for construction to maintain the common areas of the Project and the future park site. Developer will be required to coordinate execution of a park maintenance agreement between the City and the future HOA for maintenance of the park site. This park maintenance agreement will condition the HOA to maintain the public park for the useful life of the park and in accordance with standard City maintenance practices. The HOA will be required to pay prevailing wages, as required under all similar City maintenance agreements. Under the terms of the park maintenance agreement, HOA will be responsible for ensuring that the condition of the park site remains clean, safe and attractive. This will likely include weekly mowing of turf (biweekly during the rainy season); turf maintenance; cleaning of all drains inlets, outlets and subsurface pipes on the site; trimming, pruning and cutting of shrubs, hedges and trees; weed abatement; maintenance of all site landscape; maintenance of irrigation system; graffiti removal; pest and vector control as needed; and certain maintenance and minor repairs as outlined in the park maintenance agreement. The agreement will include an inspection component that will likely require inspections every weekday morning and that potential maintenance issues and hazards be reported to City staff. Daily tasks will likely include trash removal, inspections for safety hazards and removal of hazards (such as broken glass, play equipment hazards, etc.), graffiti removal and repainting, and minor repairs as necessary. Power washing of all walkways, hardscapes, picnic tables and BBQ stoves will likely occur quarterly; weed abatement and spraying shall occur twice each year. Tree/groundcover fertilization will likely occur once per year or as needed as plant condition requires. City maintenance staff will meet with the HOA maintenance crews on a regular basis to discuss other needed tasks.

A master plan report was prepared by the Developer's landscape consultant, Van Dorn/Abed, to guide the future development of the park site. This report has been developed concurrently with the community outreach process and has addressed the community's desire for specific park amenities and activity areas. The report reviews the neighborhood context, existing site conditions, community outreach process, the master plan, storm water management plan and the environmental clearance needed for the park project. The report was presented to the Parks and Recreation Commission for approval at its October 1, 2008 meeting. At that time, the Commission recommended the report for City Council approval. A copy of the Master Plan is attached to this memorandum as Exhibit B.

### **EVALUATION AND FOLLOW-UP**

Action taken by City Council on this item will provide final authorization to oversee design development and construction of the turnkey project, and accept the park improvements after final inspections have been completed. Staff from the Department of Public Works will review and approve the project construction documents and will refine the design as necessary in order to complete the project in accordance with City construction standards.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.  
**(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although the proposal does not meet the criteria as listed above, community outreach for specific project elements was conducted for the residential project as outlined below.

The Developer advertised a community meeting in late October 2007 to gather feedback on the proposed conceptual design of the park. This park is at the back of a new development along the east Diablo foothills and is removed from existing residential areas. Previous community meetings to review the residential development permit were sparsely attended because the location and size of the project is not controversial. PRNS staff, the Developer and the Developer's landscape consultant met on November 28, 2007 for a community meeting but there were no attendees. The final master plan for the park was presented to the Parks and Recreation Commission on October 1, 2008 at which time the Commission recommended approval of the Piercy Master Plan.

This memorandum will be posted on the City's website for the April 7, 2009 City Council agenda.

### **COORDINATION**

This item has been coordinated with the Department of Public Works, Planning, Building and Code Enforcement, the City Manager's Budget Office, and the City Attorney's Office.

### **FISCAL/POLICY ALIGNMENT**

This project is consistent with the Council-approved Budget Strategy Economic Recovery section in that it will spur construction spending in our local economy.

HONORABLE MAYOR AND CITY COUNCIL

03-16-09

**Subject: Approval of Master Plan and Turnkey Parkland Agreement with KB Home South Bay Inc.**

Page 5

**COST SUMMARY/IMPLICATIONS**

PRNS estimates maintenance costs for the park to be approximately \$15,000 annually, which should have no impact on the General Fund and will be the responsibility of the future project HOA. However, longer term capital maintenance costs associated with repairs and equipment replacement will be the City's responsibility and will need to be recognized in future fiscal year funding plans.

**CEQA**

CEQA: Negative Declaration, File No. PP08-192.



ALBERT BALAGSO  
Director of Parks, Recreation  
and Neighborhood Services

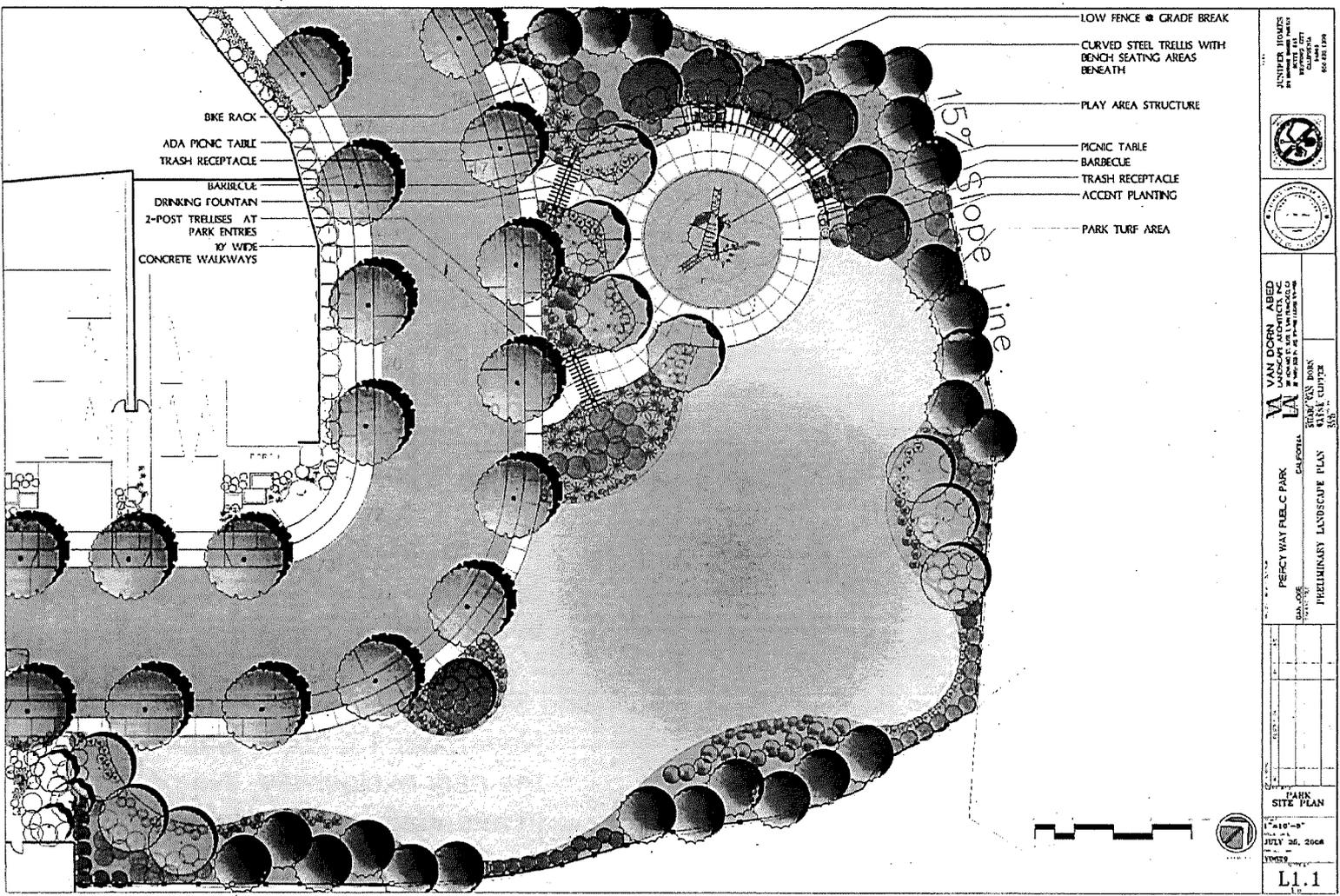
For questions, please contact MATT CANO, DIVISION MANAGER, at (408) 535-3580.

Attachments—Exhibit A: Conceptual Site Plan

Exhibit B: Master Plan

# MASTER PLAN

## EXHIBIT A PARK IMPROVEMENTS SITE PLAN



BKE RACK  
 ADA PICNIC TABLE  
 TRASH RECEPTACLE  
 BARBECUE  
 DRINKING FOUNTAIN  
 2-POST TRELISES AT  
 PARK ENTRIES  
 10' WIDE  
 CONCRETE WALKWAYS

LOW FENCE ■ GRADE BREAK  
 CURVED STEEL TRELIS WITH  
 BENCH SEATING AREAS  
 BENEATH  
 PLAY AREA STRUCTURE  
 PICNIC TABLE  
 BARBECUE  
 TRASH RECEPTACLE  
 ACCENT PLANTING  
 PARK TURF AREA

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PEPPY WAY REBEL PARK  
 CALIFORNIA  
 PRELIMINARY LANDSCAPE PLAN  
 15% SLOPE LINE

PARK  
 SITE PLAN  
 1" = 10'-0"  
 JULY 26, 2004  
 L1.1