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TO: Board of Supervisors Agenda of: October 29, 2013

FROM: Gina Paolini, Senior Planner
Scott Wilson, Department Analyst II

DATE: October 16, 2013

RE: **Bass Lake Hills Specific Plan Public Facilities Financing Plan**

A proposal to revise the Bass Lake Hills Specific Plan (Specific Plan) Public Facilities Financing Plan (PFFP) was presented to the Board on August 27, 2013 and was continued to allow staff additional time to provide further information and options for consideration. Exhibit A provides an in depth analysis of information requested by the Board. The applicant has provided a proposed implementation report to explain how the 2013 PFFP would be implemented (Exhibit B). Staff has agreed to a majority of the proposed changes to the PFFP, but there are policy issues for the Board to consider.

1. The Board must decide whether changes to the PFFP require a Specific Plan Amendment to ensure that the PFFP and Specific Plan are consistent. Some of the changes contained within the proposed 2013 PFFP revision are not consistent with the Specific Plan and Bass Lake Road Study Area Program Environmental Impact Report (Program EIR) and Program EIR Addendum (Addendum) for the Specific Plan.
 - a. The Specific Plan requires very specific improvements to the Bass Lake Road Interchange with Highway 50, but the 2013 PFFP eliminates those improvements, providing for an interim improvement of a signal at the east bound off-ramp and providing \$250,000 for a Project Study Report (PSR). The PSR, with the interim improvements may be a good idea, since the Program EIR was completed in 1992, with an Addendum in 1995. The PSR would identify the exact improvements necessary to improve the interchange, as required by the Program EIR and Addendum. Conducting a PSR will take time and would be funded by the developer, but would not be completed for another year or more, and would be subject to the California Environmental Quality Act (CEQA).
 - b. The Specific Plan requires park land requirements that are inconsistent with the El Dorado Hills Community Service District (EDH CSD) Recreation Facilities Master Plan and their fee program. The EDH CSD supports collection of fees

only for facilities; however, this would likely require a Specific Plan Amendment to ensure consistency.

- c. Developer requested alternative sewer infrastructure (off site, serving the south western portion of the Plan area) would require site specific CEQA analysis, funding, and likely an amendment to the Specific Plan.
 - d. Clarification of the ultimate width of Bass Lake Road based on Mitigation Measures and Specific Plan exhibits (four lanes or six lanes).
- 2. If no Specific Plan amendment is required, then what, if any CEQA analysis needs to be completed for the 2013 PFFP.
 - 3. The Board must decide whether less than unanimous consent from all Development Agreement holders is an acceptable risk for changes to the 2004 PFFP.
 - 4. The Board must decide whether changes to the phasing of improvements would be acceptable.
 - 5. Board must decide whether to amend the Traffic Impact Mitigation (TIM) fee Reimbursement Policy for Zone 8.

Discussion on Policy Issues:

Policy Issue 1: Specific Plan Amendment

As proposed, the 2013 PFFP would likely require Specific Plan amendments. The Board must decide whether to direct staff to amend the Specific Plan to address:

- a. Bass Lake Road/Highway 50 Interchange Improvements;
- b. El Dorado Hills Community Service District (EDH CSD) Recreation Facilities Master Plan and their fee program;
- c. Sewer Infrastructure; and,
- d. Clarification of the ultimate road width of Bass Lake Road.

Discussion: The amendments to the Specific Plan should be made first to ensure proper planning, to allow coordination between agencies, provide public comment, and provide CEQA analysis, as necessary. Amending the Specific Plan would provide clarity to a number of issues that would be problematic with future Tentative Maps and any revisions to existing approved Tentative Maps. The amendments would take some time to process, including public hearings with Planning Commission and Board of Supervisors. Timing may be an issue for land owners.

Policy Issue 2: California Environmental Quality Act (CEQA)

If a Specific Plan Amendment is not required, then what, if any CEQA analysis should be completed for the 2013 PFFP?

Discussion: The 2004 PFFP was determined to “not be a project” and therefore not subject to additional CEQA review. However, the 2013 PFFP revision without a Specific Plan Amendment (either previously adopted or concurrently adopted with CEQA) may need some level of CEQA analysis. An analysis has not been conducted of the proposed changes within the revised 2013 PFFP. The applicant has submitted a letter dated October 4, 2013, from Michael H. Zischke, in which he states that he believes no further CEQA is required (Exhibit E). This is not as clear perhaps as in 2004, since the Program EIR was prepared in 1992 with the Addendum in 1995. Newer traffic studies, two General Plans, new development, and changes to growth projections all indicate that previous CEQA analysis may not be suitable for current actions on the revised 2013 PFFP. Should the revised 2013 PFFP be limited to funding programs clearly identified in the Specific Plan, then the revised 2013 PFFP could be found to be “not a project” and not subject to further CEQA review. However, should the revised 2013 PFFP contain funding for infrastructure not consistent with the Specific Plan (off site sewer, revised park land planning) then some order of CEQA review should be provided. Depending upon what is included in the 2013 PFFP, CEQA should be reviewed carefully.

Policy Issue 3: Bass Lake Hills Specific Plan Development Agreements

The Board must decide whether less than unanimous consent from all Development Agreement holders is an acceptable risk for changes to the PFFP.

Discussion: There has been general direction from the Board that prior to any amendments to the Specific Plan, Development Agreements, or PFFP, that all Development Agreement holders demonstrate approval of the proposed changes. The Board did hear from many of the supporters at the August 27, 2013 Board public hearing. The developer does recognize that not all 50 DA holders support the change and is willing to indemnify the County in the event of a legal challenge. Staff has sent a letter to the outstanding DA holders to inquire their position. Staff will provide a status report as soon as it is available. The Board must be aware that revising the 2004 PFFP contains some legal and financial risk. This report addresses various issues with revising the 2004 PFFP, but does not address the potential for litigation.

Policy Issue 4: Phasing of Improvements

The Board must decide whether changes to the phasing of improvements are acceptable.

Discussion: The proposed 2013 PFFP changes the phasing of improvements. The 2004 PFFP required Phases 1 and 1A improvements by the first 300-units. Pulte constructed the first 99 units and financed improvements to Bass Lake Road, from Hollow Oak Road to the northern boundary of the Specific Plan. A combination of approved Tentative Maps, Bell Ranch, Bell Woods and Hawk View, would generally make up Phase 1A. The revised 2013 PFFP proposes to fund the remaining improvements to Bass Lake Road with the Bass Lake Hills Public Facilities Fee (BLH PFF) fund, allowing the County to improve the road. The problem with this

scenario is that there may not be enough money collected to complete the required improvements in a timely manner. Additionally, the proposed revision only requires developers to construct primary and secondary Non-TIM Fee funded roadway improvements that are contiguous to their project's boundaries, or alternatively to make a payment to the BLH PFF fund, or construct a section in accordance with Conditions of Approval for individual projects. This could potentially require the County to construct segments of roadways with the money in the BLH PFF fund (if there were sufficient funds available) to connect partial roadways that were constructed by developers to serve their development only. Complete details regarding the Phasing changes are provided in the August 27, 2013 Staff Report and Exhibit A.

Policy Issue 5: TIM Fees & Zone 8 TIM Fee Reimbursement Policy

The Board must decide whether to amend the TIM fee Reimbursement Policy for Zone 8.

Discussion: The Board approved Zone 8 Reimbursement Policy provides for developers that construct required public infrastructure to receive reimbursement from the County's TIM fees over a period of 10 years, beginning after the completion and County acceptance of the facility. Under the current policy, a developer would finance and construct the required public infrastructure and pay the required TIM fees upon issuance of building permits, and would be reimbursed over time for the improvements based on the terms in the reimbursement agreement with the County. The developer for the revised 2013 PFFP is proposing that the prepayment of the development's related TIM fees be paid through the use of a Mello-Roos or other Assessment District and that the County construct Bass Lake Road (or use the funds elsewhere in Zone 8), and that the individual projects receive an immediate credit for the prepayment against building permits, which would be considered an immediate reimbursement for financing the improvements. This practice would be inconsistent with current Board Policy.

Recommendation and Next Steps:

Staff recommends that the Board discuss the proposed 2013 PFFP and:

1. Determine Policy on five issues described in the staff report.
 - a. Specific Plan Amendment Requirement: (Required prior to PFFP change or not)
 - b. CEQA (Required on PFFP changes or not)
 - c. DA (Require unanimous endorsement of PFFP changes or not)
 - d. Phasing of improvements (Proposed PFFP changes acceptable or not)
 - e. TIM fee Credits/Reimbursement (Change TIM reimbursement policy for Zone 8 or not)
2. Conceptually endorse the proposed 2013 PFFP and direct staff to amend the Bass Lake Hills Specific Plan to clarify:
 - a. Bass Lake Road/Highway 50 Interchange Improvements;

- b. El Dorado Hills Community Service District (EDH CSD) Recreation Facilities Master Plan and their fee program;
- c. Sewer Infrastructure; and,
- d. Clarification of the ultimate road width of Bass Lake Road.

Note: The Specific Plan amendment may be concurrently processed with amendments to the PFFP, amendments to the approved Tentative Maps, an amendment to the Board's Reimbursement Policy, and include any appropriate CEQA analysis based on the proposed changes.

As an Alternative Recommendation:

- 3. The Board may determine that amendments to the Specific Plan and revisions to the 2004 PFFP are not necessary.

Note: This does not preclude the developer(s) from requesting Tentative Map revisions, including revisions to the Conditions of Approval that may allow for flexibility in meeting the project objectives.

ATTACHMENTS

Exhibit A	BLHSP Proposed 2013 PFFP Clarification Report
Exhibit B	Developer Implementation Report- 9/27/2013
Exhibit C	Michael H. Zischhe CEQA letter- 10/4/2013
Exhibit D	Priority Matrix-Table 7
Exhibit E	Possible Map Conditioning-Table 3