CITY COUNCIL AGENDA REPORT

City of Anaheim
PLANNING AND BUILDING DEPARTMENT

DATE: OCTOBER 17, 2017
FROM: PLANNING AND BUILDING DEPARTMENT
SUBJECT: ANNUAL REVIEW OF DEVELOPMENT AGREEMENT NO. 99-01 BETWEEN THE CITY OF ANAHEIM AND ANAHEIM CAPITAL PARTNERS LLC, GARDENWALK HOTEL I, LLC, AND WESTGATE RESORTS ANAHEIM, LLC FOR THE ANAHEIM GARDENWALK PROJECT

ATTACHMENT (Y/N): YES ITEM # 05

RECOMMENDATION:

That the City Council, by Motion, determine on the basis of the evidence submitted by Anaheim Capital Partners LLC, GardenWalk Hotel I, LLC, and Westgate Resorts Anaheim, LLC, that the property owners have complied in good faith with the terms and conditions of each of their respective portions of Development Agreement No. 99-01, pertaining to the Anaheim GardenWalk Project, for the 2016-2017 review period.

DISCUSSION:

In June 1999, the City of Anaheim and Pointe Anaheim, LLC, executed Development Agreement No. 99-01 (the “Development Agreement”), which governs the development of the approximate 20.3-acre Anaheim GardenWalk (formerly Pointe Anaheim) Project located between Katella Avenue and Disney Way at Clementine Street. The City Council approved subsequent amendments to the Development Agreement in February 2002, December 2004, January 2006, April 2006, March 2010, July 2011, August 2011, and June 2013. In general terms, the amendments include modifications to the scope of development based on market realities and extended performance dates to reflect anticipated construction timetables. A Development Agreement is a contract between the City and property owner that provides certainty to the developer that the approved project will be exempt from future changes to zoning laws and requires the developer to provide benefits to the City in exchange for that certainty. The public benefit provided by the Development Agreement includes Resort area traffic improvements and a Police Substation within the Project.

The Anaheim GardenWalk Project is a festive, themed specialty retail and entertainment center and mixed-use development. It consists of up to 590,265 square feet of retail, dining and entertainment uses; up to 1,628 hotel rooms; up to 278,817 square feet of hotel accessory uses; a transportation center; and, a 4,800-space parking structure. The Development Agreement contemplates construction of two hotels and allows up to 500 of the 1,628 permitted hotel rooms to be part of a timeshare resort. The attached Map Exhibit identifies the project area and each component of the project.
Following the execution of the Development Agreement, the original developer, Pointe Anaheim, LLC, subsequently assigned the Development Agreement to other responsible parties. Anaheim Capital Partners is responsible for the retail, dining and entertainment center, the transportation facility, and the parking structure. GardenWalk Hotel I, LLC is responsible for the two hotels. Westgate Resorts Anaheim, LLC is responsible for the timeshare resort component of the project. These parties are each the property owner for their respective component of the Anaheim GardenWalk Project.

Pursuant to the Development Agreement, the City Council is required to determine annually if the property owners have complied in good faith with the terms and conditions of the Development Agreement. Demonstration of good faith compliance includes conformance with all terms and timing schedules set forth in the Development Agreement. If the Council finds that the property owner has demonstrated good faith compliance, the review for that period is complete. City staff has received the attached Annual Review Letters, which summarize each property owner’s status or activities undertaken to maintain good faith compliance with the obligations of the Development Agreement for the 2016-2017 review period.

Anaheim Capital Partners LLC is responsible for the retail, dining and entertainment center, the transportation center, and the parking structure components of the Anaheim GardenWalk project. Due to the poor economic conditions that accompanied the opening of the center in 2008, the City Council subsequently approved an amendment to the retail, dining and entertainment center component of the Development Agreement in August 2011. This amendment allowed the owner to “reposition” Anaheim GardenWalk by increasing the amount of the center’s space allocated towards dining and entertainment and reducing the amount allocated for retail. This amendment did not result in any new Development Agreement obligations for Anaheim Capital Partners, LLC. The repositioning allowed new dining and entertainment tenants to open in Anaheim GardenWalk, including the House of Blues, Rumba Room and Grasslands Meat Market.

GardenWalk Hotel I, LLC is responsible for the development of the two hotels within the Anaheim GardenWalk Project. The Development Agreement requires construction of at least one of the hotels to commence by May 25, 2015 and open for business no later than November 26, 2017. However, on May 8, 2014, Orange County Communities Organized for Responsible Development (OCCORD) filed a lawsuit challenging the Economic Assistance Agreement for the project. The lawsuit was resolved on October 26, 2016. The Development Agreement includes provisions to extend the performance times by the duration of litigation, plus 180 days; therefore extending the commencement of construction date to May 11, 2018 and the open for business date to November 12, 2020. The first hotel to be constructed will be the 466-room JW Marriott. The Planning Commission approved a Final Site Plan for this project in January 2016. The developer has subsequently submitted construction drawings to the Building Division for permitting. The developer anticipates construction commencing by the end of 2017, in advance of the date required by the Development Agreement. Based on the provisions in the Development Agreement that allow the extension of performance dates due to litigation, no specific milestone dates were required to be met this year.
Westgate Resorts Anaheim, LLC is responsible for the development of the 399-unit timeshare resort component of the Anaheim GardenWalk Project. The Development Agreement requires construction of the timeshare resort to commence no later than March 23, 2019 and project completion within two years. Construction plans for the timeshare resort are currently under review by the Building Division. The developer anticipates construction commencing prior to the date required by the Development Agreement. There were no specific milestone dates required to be met this year.

Staff has carefully reviewed the Development Agreement and subsequent amendments and has found the property owners to be in full compliance with its terms. Since the retail, dining and entertainment center and parking structure are complete and have been in operation for several years, Anaheim Capital Partners no longer has any obligations under the Development Agreement. Both GardenWalk Hotel I, LLC and Westgate Resorts Anaheim, LLC are making significant progress toward the development of their respective projects and, at this time, are in compliance with the deadlines required by the Development Agreement. Staff recommends that the City Council determine that the property owners have complied in good faith with the terms and conditions of the Agreement for this review period.

**IMPACT ON BUDGET:**

There is no budgetary impact. The cost of this annual review is being paid by the property owners.

Respectfully submitted,

David Belmer
Planning and Building Director

**Attachments:**
1. Annual Review Letters
2. Map Exhibit
3. Development Agreement No. 99-01 and Amendments