



April 25, 2023

California Barrel Company LLC
420 23rd Street
San Francisco, CA

ATTN: Tina Chang, tc@associatecapital.com

RE: Approval of Non-Material Amendment to the Phasing Plan of the Potrero Power Station Mixed-Use Development

Dear Tina,

Thank you for the submitting a request for a non-material amendment to the Phasing Plan of the Potrero Power Station Development Agreement. Section 3.2.5 of the Potrero Power Station Development Agreement allows the Project Sponsor to request amendments to the Phasing Plan in writing to the Planning Director. On September 13, 2022, the Planning Department received your request to amend the Phasing Plan to modify the delivery timeline and subsequent disbursement of financial obligations for a Community Facility operator.

The Planning Director must approve a proposed non-material amendment to the Phasing Plan after consultation with all affected City agencies if the modified Phasing Plan meets all of the Phasing Goals. The proposed amendment to the Phasing Plan has been determined compliant with all of the Phasing Goals.

The non-material amendment to the Phasing Plan is approved as requested.

APPROVED

Richard Hillis
Planning Director
San Francisco Planning Department

DATE

April 25, 2023



MEMO TO THE PLANNING DIRECTOR

April 11, 2023

Case Number: 2017-011878PHA-09
Project Address: 420 23rd Street (Potrero Power Station Mixed-Use Development)
Zoning: PPS-MU (Potrero Power Station Mixed Use) Zoning District
65-PPS/240-PPS Height and Bulk District
Potrero Power Station Special Use District
Block/Lots: 4175/002, 017; 4232/001, 006
Project Sponsor: Enrique Landa, California Barrel Company LLC
2325 3rd Street #434
San Francisco, CA 94107
Property Owner: California Barrel Company LLC
2325 3rd Street #434
San Francisco, CA 94107
Staff Contact: Monica Giacomucci – (628) 652-7414
monica.giacomucci@sfgov.org

Recommendation: Approve the Non-Material Amendment to the Phasing Plan

Background

On October 13, 2022, Enrique Landa of California Barrel Company LLC (hereinafter "Project Sponsor") filed Application No. 2017-011878PHA-09 with the Planning Department (hereinafter "Department") to amend the Potrero Power Station Development Agreement Phasing Plan related to the provision of public benefits associated with the Project's Community Facilities Space. Section 3.2.5 of the Potrero Power Station Development Agreement allows the Project Sponsor to request amendments to the Phasing Plan in writing to the Planning Director. The Planning Director must approve proposed amendments to the Phasing Plan after consultation with all affected City agencies if the modified Phasing Plan meets all of the "Phasing Goals" (as defined in the Development Agreement).

Upon the Department's receipt of the written amendment request and rationale for such amendments, the Planning Director consulted with the City Attorney and Mayor's Office of Economic and Workforce Development. The Planning Director determined that the proposed amendment does not constitute a Material Change as defined in the Development Agreement.

This memo serves as the approval required under Section 3.2.5 and details the proposed amendment submitted to the Planning Department on October 13, 2022, and its compliance with the Phasing Goals of the Phasing Plan (which was updated through a Phasing Plan Amendment approved by the Planning Commission in October 2020).

Current Proposal

Section 3.2 of the Phasing Plan provides that the Project Sponsor (“Developer”) must deliver a “warm shell” Community Facilities Space no smaller than 25,000 gross square feet to a non-profit selected by Project Sponsor (the “Community Facilities Entity”). The Phasing Plan currently requires that this space be provided in either Phase 4 or Phase 5. Further, this section of the Phasing Plan requires that the Developer provide \$5 million (the “Community Facility Improvement Allowance”) for tenant improvements to the selected Community Facilities Entity.

The YMCA plans to operate a Community Facility from Building 49 at Crane Cove Park which will be located less than one-half mile from the Project Site.

The Project Sponsor has requested the following non-material amendment to the Phasing Plan of the Development Agreement, which does not require Planning Commission review as determined by the Planning Director:

Specifically, the Project Sponsor requests the insertion of the following italicized and underlined text into Section 3.2 of the Phasing Plan (deletions shown in ~~striketrough~~):

The Community Facilities Space Agreement shall require that Developer shall provide to the selected Community Facilities Entity an allowance of five million dollars (\$5,000,000.00) for tenant improvement costs (the “Community Facility Improvement Allowance”); provided, however, that the required amount of the Community Facility Improvement Allowance may be reduced to an amount not less than three million dollars (\$3,000,000.00) if, prior to execution of the Community Facilities Space Agreement, Developer has made a capital fund contribution to a Community Facilities Entity to support construction of a new Community Facilities Use located within one mile of the Project (an “Off-Site Community Facilities Space”). Any reduction to the required Community Facility Improvement Allowance shall be on a dollar-for-dollar basis up to two million dollars (\$2,000,000.00). For example, should Developer contribute two million dollars (\$2,000,000.00) to a Community Facilities Entity for construction of an Off-Site Community Facilities Space prior to executing a Community Facilities Space Agreement, the amount of the required Community Facility Improvement Allowance would be reduced to three million dollars (\$3,000,000.00). The Planning Director shall confirm in writing the amount of any reduction to the required Community Facility Improvement Allowance upon receipt from Developer of evidence of payment to a Community Facilities Entity for construction of an Off-Site Community Facilities Space. If such ~~tenant allowance~~ Community Facility Improvement Allowance is not paid prior to . . .

Department staff finds the proposal to be consistent with the Potrero Power Station Development Agreement.

Approval Process

Pursuant to Section 3.2.5 of the Development Agreement, the Planning Director must approve proposed non-material amendments to the Phasing Plan after consultation with all affected City agencies if the modified Phasing Plan meets all of the Phasing Goals.

Required Director's Action

In considering whether to approve a proposed non-material amendment to the Phasing Plan, the Planning Director shall only consider whether the changes are consistent with the Phasing Goals. Per Section 3.2.5, the Phasing Goals under consideration are as follows:

- A. Rational Development. Associated Community Benefits should be developed in an orderly manner and consistent with the Plan Documents. Finished portions of the Project should be generally contiguous or adjacent to a completed street.

The requested change to the Phasing Plan would allow the Project to deliver a Community Facility space in the immediate future while maintaining the Project Sponsor's obligation to construct a Community Facility in Phase 4 or 5 at the Project Site. As a result, the requested change would not alter the timing of the delivery of the Community Facility already anticipated in Phase 4 or 5, while simultaneously adding a net-new community benefit on an expedited timeline.

The Project Sponsor has diligently pursued development on the Project Site since the Development Agreement was approved in April 2020. Applications for vertical development have been submitted for review and approved by the Department for Blocks 7A, 7B, 8, and 15, while vertical applications are currently under review for Blocks 11 and 12. The Project Sponsor has likewise submitted a site permit application for review by City agencies for Block 8. Additionally, the Department has approved horizontal development applications for Power Station Park and Louisiana Paseo, and is currently reviewing a horizontal development application for the Point. Although vertical construction has not yet commenced on the site, the Project Sponsor has actively and consistently pursued required City approvals which would allow the orderly delivery of associated community benefits.

- B. Appropriate Development. Horizontal development should be timed to coordinate with the needs of vertical development. Completed Infrastructure must provide continuous reliable access and utilities to then-existing visitors, residents, and businesses.

The first buildings at Power Station are scheduled to be delivered in 2026. Completion of Phase 1 streetscape improvements in Fall of 2023 is timed to meet the needs of adjacent vertical buildings. The proposed non-material amendment as described above would not affect the Project's ability to coordinate horizontal development such that the Project provides reliable access to infrastructure to users of the site.

- C. Market Timing. The boundaries and mix of uses within the Development Phase should be designed to minimize unsold inventory of Development Parcels.

The requested change does not impact the boundaries or mix of uses within Development Phases. It would not alter the requirement that the Project provide at least 25,000 square feet of new Community Facilities Space at the Project Site. Rather, the proposal will allow the Project to provide a Community Facility on a shorter timeline at an off-site location approximately one-half mile from the Project Site while maintaining the requirement to provide the on-site 25,000 square-foot Community Facilities Space at a later Phase.

- D. Flexibility. Flexibility to respond to market conditions, cost and availability of financing and economic feasibility should be provided.

The requested change to the Phasing Plan furthers the overarching goal of the Phasing Plan by using resources the Project Sponsor has committed to various Associated Community Benefits in a manner that maximizes public benefit.

- E. Proportionality. If the change would delay the production of Associated Community Benefits or reallocate Associated Community Benefits due to a change in the proposed boundaries of development parcels, the Project should continue to meet the Proportionality Requirement.

Approval of the proposed amendment would not impact delivery of community benefits or cause reallocation of said benefits related to a change to the boundaries of any development parcels. The requested change expedites production of Associated Community Benefits by providing a nearby off-site Community Facility in the short term while maintaining the existing obligation to provide a 25,000 square foot Community Facility on-site in Phase 4 or 5.

The Planning Director's approval of this non-material amendment to the Phasing Plan will be valid for the duration of the term of the Project's Development Agreement, unless earlier terminated or the Project Sponsor requests a further amendment, in which case such amendment will supersede.

Basis For Recommendation

- The Planning Director consulted with affected City Agencies as required by Section 3.2.5 of the Development Agreement.
- The proposed amendment does not constitute a Material Change as defined in Article 1 of the Development Agreement.
- Pursuant to CEQA Guidelines Section 15162, the Planning Department hereby finds that Phase Application No. 2017-011878PHA-09 for the proposed non-material amendments is consistent with and within the scope of the Potrero Power Station Mixed-Use Project analyzed in the Final Environmental Impact Report (FEIR) certified by the Planning Commission on January 30, 2020 and for which an addendum was prepared and filed on September 9, 2020 and (1) that no substantial changes are proposed in the Potrero Power Station Mixed-Use Project and no substantial changes have occurred with respect to the circumstances under which the Potrero Power Station Mixed-Use Project will be undertaken that would require major revisions to the FEIR due to the involvement of any new significant environmental effects or a substantial increase in the severity of previously identified effects and (2) no new information that was not known and could not have been known

shows that the project will have any new significant effects not analyzed in the FEIR or a substantial increase in the severity of any effect analyzed or that new mitigation measures should be included that have not. The Department further finds that an addendum to the FEIR is not required due to any changes in the Potrero Power Station Mixed-Use Project or the Potrero Power Station Mixed-Use Project's circumstances.

Recommendation: Approve the Non-Material Amendment to the Phasing Plan

J. ABRAMS LAW, P.C.
538 Hayes Street
San Francisco, CA 94102

Jim Abrams
Jabrams@jabramslaw.com
(415) 999-4402

BY EMAIL

October 13, 2022

Mr. Richard Hillis
Director of Planning
San Francisco Planning Department
49 South Van Ness Avenue
San Francisco, CA 94103

Re: Development Agreement by and between the City and County of San Francisco (the “**City**”) and California Barrel Company LLC (“**Developer**”) dated for reference purposes only as of September 22, 2020 (the “**Development Agreement**”) for to the development known as the Potrero Power Station Mixed-Use Project (the “**Project**”) and request for a nonmaterial change to the Phasing Plan thereof

Dear Director Hillis:

This firm represents Developer. Please accept this request for a change to the Potrero Power Station Development Agreement’s Phasing Plan (Exhibit M-1) regarding the terms and timing of the tenant improvement allowance to be paid in association with the Project’s Community Facilities Space. As described below, we respectfully such that the requested Phasing Plan change is “nonmaterial” and is therefore approved administratively by the Planning Director (Development Agreement Section 3.2.5).

Requested Phasing Plan Change

Section 3.2 of the Phasing Plan provides that Developer (“**CBC**”) must deliver a “warm shell” Community Facilities Space no smaller than 25,000 gross square feet to a nonprofit selected by CBC (defined in the DA as the “Community Facilities Entity”). The Phasing Plan currently requires that the Community Facilities Space be included in either Phase 4 or Phase 5. Section 3.2 further requires that CBC pay the selected Community Facilities Entity an allowance of Five-Million Dollars (\$5,000,000.00) for tenant improvement costs (the “**Community Facility Improvement Allowance**”).

Recently, YMCA has apprised CBC of its imminent plans for operating a community center from Building 49 at Crane Cove Park (the “**Building 49 Project**”), located just blocks (approximately ½ mile) to the north of the Project site. The Building 49 Project, taken together with the Project’s

Community Facilities Space, would create a vibrant network of new community facilities in the neighborhood.

To support the creation of new community facilities both on and near the Project site and realize the completion of a community facility in a more immediate and certain timeline than under the Project, CBC respectfully requests your approval of a change to Section 3.2 to clarify that CBC may contribute up to Two Million Dollars (\$2,000,000) of the Community Facility Improvement Allowance for tenant improvements for an off-site community facility located in the neighborhood adjacent to the Project site. Such amendment would allow CBC to assist in the realization of the Building 49 Project, which is expected to be completed in the next few years.

Specifically, CBC requests the insertion of the following italicized and underlined text into Section 3.2 of the Phasing Plan:

“The Community Facilities Space Agreement shall require that Developer shall provide to the selected Community Facilities Entity an allowance of five million dollars (\$5,000,000.00) for tenant improvement costs *(the “Community Facility Improvement Allowance”)*; *provided, however, that the required amount of the Community Facility Improvement Allowance may be reduced to an amount not less than three million dollars (\$3,000,000.00) should, prior to execution of the Community Facilities Space Agreement, Developer has made a capital fund contribution to a Community Facilities Entity to support construction of a new Community Facilities Use located within one mile of the Project (an “Off-Site Community Facilities Space”). Any reduction to the required Community Facility Improvement Allowance shall be on a dollar-for-dollar basis up to two million dollars (\$2,000,000.00). For example, should Developer contribute two million dollars (\$2,000,000.00) to a Community Facilities Entity for construction of an Off-Site Community Facilities Space prior to executing a Community Facilities Space Agreement, the amount of the required Community Facility Improvement Allowance would be reduced to three million dollars (\$3,000,000.00). The Planning Director shall confirm in writing the amount of any reduction to the required Community Facility Improvement Allowance upon receipt from Developer of evidence of payment to a Community Facilities Entity for construction of an Off-Site Community Facilities Space. If such ~~tenant allowance~~ Community Facility Improvement Allowance is not paid prior to . . .*”

Again, with this requested change, CBC could support the creation of desirable new community facility space more quickly than would otherwise occur under the current provisions of the Phasing Plan. Further, the proposed change would not alter CBC’s obligation under the Phasing Plan to construct the on-site, warm-shell Community Facilities Space that is at least 25,000 square feet in size and contribute at least Three Million Dollars (\$3,000,000.00) to support build out by the Community Facilities Entity, meaning that instead of the Project helping to realize only one new community facilities space in the neighborhood, the Project will either construct or be instrumental in the creation of two new, vibrant community facilities spaces. One such space is anticipated to be delivered in the next few years, with the facility on the project site anticipated to be constructed later, in accordance with the Phasing Plan.

Process to Amend Phasing Plan

DA section 3.2.5 authorizes the Planning Director to approve nonmaterial amendments to the Project's Phasing Plan. Per the DA, the Director "shall only consider" the following in determining whether the proposed amendment is nonmaterial (we have added consistency findings in italics below each consideration):

- **Rational Development**. Associated Community Benefits should be developed in an orderly manner and consistent with the Plan Documents. Finished portions of the Project should be generally contiguous or adjacent to a completed street.

The requested change to the Phasing Plan would not change the timing of the delivery of the Community Facilities Space (an Associated Community Benefit under the Development Agreement); however, the change would enable the delivery of a new community facility space within one mile of the Project Space, thereby creating a net gain in overall community benefits. Moreover, the off-site space is expected to be delivered in the next few years--sooner than the Community Facilities Space that will ultimately be constructed on the project site.. Further, although the Building 49 Project is located off of the Project site, allowing a portion of Community Facility Improvement Allowance to support the Building 49 Project will further the overarching aim of rational development in the Project's vicinity, delivering an exciting new community facility space that is further along in the development process and will be within walking distance of residents, employees, and visitors of the Project, while leaving unchanged the Project's commitment to construct a new on-site Community Facilities Space as part of Phase 4 or 5 of the Project.

- **Appropriate Development**. Horizontal development should be timed to coordinate with the needs of vertical development. Completed Infrastructure must provide continuous reliable access and utilities to then-existing visitors, residents, and businesses.

This finding is not applicable to the requested change to the Phasing Plan.

- **Market Timing**. The boundaries and mix of uses within the Development Phase should be designed to minimize unsold inventory of Development Parcels.

This finding is not applicable to the requested change to the Phasing Plan.

- **Flexibility**. Flexibility to respond to market conditions, cost and availability of financing and economic feasibility should be provided.

This finding is not applicable to the requested change to the Phasing Plan; however, the requested change to the Phasing Plan furthers the overarching goal, by using the resources Developer has committed for various Associated Community Benefits in a manner that maximizes public benefit.

- Proportionality. If the change would delay the production of Associated Community Benefits or reallocate Associated Community Benefits due to a change in the proposed boundaries of development parcels, the Project should continue to meet the Proportionality Requirement.

The requested change to the Phasing Plan expedites rather than delays the production of Associated Community Benefits, resulting in a significant amount of Developer capital not required for Associated Community Benefits until Phase 4 or 5 of the Project being made available for public benefit at a much earlier phase of the Project.

In summary, the above goals primarily relate to the “proportionality” of the provision of the Project’s community benefits across development phases. The effect of the proposed addition to Section 3.2 would be to have CBC advance funds and commence the desirable implementation of an important Associated Community Benefit (creation of new community facility space in the Project’s neighborhood) sooner than it would otherwise have to under the current Phasing Plan. The amendment would not otherwise affect the Phasing Plan’s requirements that the Project construct and operate the variety of community improvements tied to each building (such as parks and open spaces, community facility and child care facilities, etc.).

Thank you in advance for your consideration of this requested change to the Phasing Plan. I look forward to your response and am available to address any questions or comments on the requested change that you might have.

Sincerely yours,



Jim Abrams

CC:

David Chiu, Esq.
City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Attn: Real Estate/Finance, Potrero Power Station Project

California Barrel Company LLC
2325 3rd Street #434
San Francisco, California 94107
Attn: Jamie Brown, Partner & General Counsel