

**Agenda Sheet for City Council Meeting of:**11/15/2021
29

Date Rec'd	10/28/2021
Clerk's File #	RES 2021-0097
Renews #	
Cross Ref #	OPR 2016-0987
Project #	
Bid #	
Requisition #	

Submitting Dept	DSC, CODE ENFORCEMENT & PARKING SERVICES
Contact Name/Phone	ELDON BROWN 6305
Contact E-Mail	EBROWN@SPOKANECITY.ORG
Agenda Item Type	Resolutions
Agenda Item Name	4700 - 0650 BEACON HILL DEVELOPMENT AGREEMENT

Agenda Wording

Resolution approving a development agreement between the City and Beacon Hill Spokane INC

Summary (Background)

On December 14, 2005 the City of Spokane Hearing Examiner granted preliminary approval of a plat and planned unit development (PUD) in order to allow subdivision of certain property into 35 lots for multi-family development. The property is located east of Havana Street and North of Longfellow Ave, formerly known as "the Camel Farm". The project is known as Vistas at Beacon Hill and the preliminary approval was granted a one-year time extension, extending expiration of the preliminary...

Lease? NO	Grant related? NO	Public Works? NO
Fiscal Impact		Budget Account

Neutral	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

Approvals		Council Notifications	
Dept Head	BECKER, KRIS	Study Session\Other	PIES 10/25/21
Division Director	MACDONALD, STEVEN	Council Sponsor	CM Michael Cathcart
Finance	ORLOB, KIMBERLY	Distribution List	
Legal	RICHMAN, JAMES		kbecker@spokanecity.org
For the Mayor	ORMSBY, MICHAEL		mcathcart@spokanecity.org
Additional Approvals			ebrown@spokanecity.org
Purchasing			dscadmin@spokanecity.org
			jrichman@spokanecity.org

APPROVED BY
SPOKANE CITY COUNCIL:

November 29, 2021

[Signature]
CITY CLERK

Briefing Paper

Public Infrastructure, Environment, and Sustainability

Division & Department:	Developer Services
Subject:	Extension of a developer agreement regarding the preliminary plat and planned unit development referred to as The Vistas At Beacon Hill.
Date:	10/25/21
Contact (email & phone):	jsaywers@spokanecity.org
City Council Sponsor:	Cathcart
Executive Sponsor:	Kris Becker
Committee(s) Impacted:	PIES
Type of Agenda item:	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
Alignment: (link agenda item to guiding document – i.e., Master Plan, Budget, Comp Plan, Policy, Charter, Strategic Plan)	
Strategic Initiative:	Innovative Infrastructure
Deadline:	December 14, 2021
Outcome: (deliverables, delivery duties, milestones to meet)	Approved extension will grant an additional five-year extension of the Development Agreement to extend the time to file a final plat.
<p>A. Background/History: The Vistas at Beacon Hill Findings, Conclusions, and Decision dated December 14, 2005, File No. Z2005-68-PP/PUD, the City of Spokane Hearing Examiner granted preliminary approval of a plat and planned unit development (PUD) in order to allow subdivision of the Property into 35 lots for multi-family development (the "Project" or "Preliminary Approval"). The Project is known as Vistas at Beacon Hill and the preliminary approval has been granted a one-year time extension, extending expiration of the preliminary approval until December 14, 2016.</p> <p>On December 12, 2016 pursuant to resolution 2016-0101, the City Council approved a Developer Agreement extending the expiration of the preliminary approval until December 14, 2021</p>	
<p>Executive Summary:</p> <ul style="list-style-type: none"> • <i>The Owners of the Vistas at Beacon Hill have requested an amendment to the existing Development Agreement granting an additional five-year extension of the Development Agreement in order to extend the time to file a final plat.</i> • <i>The amendment of the Development Agreement shall be extended and shall remain in effect until amended in writing by the Parties or until December 14, 2026.</i> • <i>The Owners must submit a final plat and PUD meeting all of the requirements of the Preliminary Approval of the Project is extended until December 14, 2026.</i> 	
<p>Budget Impact:</p> <p>Approved in current year budget? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p> <p>Annual/Reoccurring expenditure? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p> <p>If new, specify funding source:</p> <p>Other budget impacts: (revenue generating, match requirements, etc.)</p>	
<p>Operations Impact:</p> <p>Consistent with current operations/policy? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p> <p>Requires change in current operations/policy? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A</p> <p>Specify changes required:</p> <p>Known challenges/barriers:</p>	

RESOLUTION NO. 2021-0097

A RESOLUTION APPROVING AN EXTENSION OF A DEVELOPMENT AGREEMENT REGARDING THE PRELIMINARY PLAT AND PLANNED UNIT DEVELOPMENT REFERRED TO AS THE VISTAS AT BEACON HILL

- A. WHEREAS, Nationwide owns Spokane County Parcel No. 35022.0114; and
- B. WHEREAS, Howard owns Spokane County Parcel No. 35022.0115; and
- C. WHEREAS, collectively the Owners own that certain real property which is located in the Beacon Hill area of Spokane, generally located east of Havana Street, north of Longfellow Avenue, and south of Valley Springs Road, which property is further described in Exhibit "A," attached hereto and incorporated by reference herein (hereafter the "Property");
- D. WHEREAS, pursuant to Findings, Conclusions, and Decision dated December 14, 2005, File No. Z2005-68-PP/PUD, the City of Spokane Hearing Examiner granted preliminary approval of a plat and planned unit development (PUD) in order to allow subdivision of the Property into 35 lots for multi-family development (the "Project" or "Preliminary Approval"). The Project is known as Vistas at Beacon Hill and the preliminary approval has been granted a one-year time extension, extending expiration of the preliminary approval until December 14, 2016;
- E. WHEREAS, on or about December 12, 2016, pursuant to Resolution 2016-0101, the City Council approved a Development Agreement extending the expiration of the preliminary approval until December 14, 2021 (the "Development Agreement");
- F. WHEREAS, the Owners have requested an additional three-year extension of the Development Agreement in order to extend the time to file a final plat as set forth herein;
- G. WHEREAS, the City is a Washington Municipal Corporation with land use planning and permitting authority over all land within its corporate limits and has the authority to enter into Development Agreements pursuant to RCW 36.70B.170(1);
- H. WHEREAS, The City has promulgated regulations for Development Agreements in Section 17A.060 of the Spokane Municipal Code (SMC) and the Development Agreement was prepared in accordance with those provisions; and
- I. Pursuant to RCW 36.70B.200, the City held a public hearing with respect to consideration and approval of this Extension of the Development Agreement.

NOW, THEREFORE - - it is hereby resolved by the Spokane City Council;

1. The foregoing recitals and the contents of the attached 1st Amendment of Development Agreement are hereby adopted as the Council's findings in support of this Resolution.

2. The 1st Amendment of Development Agreement, which provides for an additional 3-year extension of the preliminary approval, is hereby approved and the Mayor is hereby authorized to execute it on behalf of the City.

ADOPTED by the Spokane City Council this 29th day of November,
2021.

DocuSigned by:

Lisa M. Harte

City Clerk

Approved as to form:

DocuSigned by:

James Richman

Assistant City Attorney

DS



Exhibit 1

Development Agreement

When recorded return to:

City of Spokane
Attn: Planning Services Department
808 W Spokane Falls Blvd
Spokane, WA 99201

1st AMENDMENT OF DEVELOPMENT AGREEMENT

This 1st Amendment of Development Agreement ("Agreement") is entered into this 26th day of November, 2021 (the "Effective Date") by and between the CITY OF SPOKANE, a Washington Municipal Corporation (the "City"), Nationwide Capital Investments, LLC, a Washington limited liability company (as "Nationwide") and Howard Capital Group, LLC, a Washington limited liability company (as "Howard"). Nationwide and Howard are collectively referred to herein as the "Owners." The Owners and the City are collectively referred to herein as the "Parties."

RECITALS

- A. WHEREAS, Nationwide owns Spokane County Parcel No. 35022.0114; and
- B. WHEREAS, Howard owns Spokane County Parcel No. 35022.0115; and
- C. WHEREAS, collectively the Owners own that certain real property which is located in the Beacon Hill area of Spokane, generally located east of Havana Street, north of Longfellow Avenue, and south of Valley Springs Road, which property is further described in Exhibit "A," attached hereto and incorporated by reference herein (hereafter the "Property");
- D. WHEREAS, pursuant to Findings, Conclusions, and Decision dated December 14, 2005, File No. Z2005-68-PP/PUD, the City of Spokane Hearing Examiner granted preliminary approval of a plat and planned unit development (PUD) in order to allow subdivision of the Property into 35 lots for multi-family development (the "Project" or "Preliminary Approval"). The Project is known as Vistas at Beacon Hill and the preliminary approval has been granted a one-year time extension, extending expiration of the preliminary approval until December 14, 2016;
- E. WHEREAS, on or about December 12, 2016, pursuant to Resolution 2016-0101, the City Council approved a Development Agreement extending the expiration of the preliminary approval until December 14, 2021 (the "Development Agreement");

F. WHEREAS, the Owners have requested an additional three-year extension of the Development Agreement in order to extend the time to file a final plat as set forth herein;

G. WHEREAS, in support of their request for an additional extension, Owners have represented that all new streets within and serving the Project will be public streets built to the City's current public street standards, and that they will dedicate land or cause the same to be dedicated for a park and ride facility in close proximity to the project that will accommodate approximately 50 cars;

H. WHEREAS, the City is a Washington Municipal Corporation with land use planning and permitting authority over all land within its corporate limits and has the authority to enter into Development Agreements pursuant to RCW 36.70B.170(1);

I. WHEREAS, The City has promulgated regulations for Development Agreements in Section 17A.060 of the Spokane Municipal Code (SMC) and the Development Agreement was prepared in accordance with those provisions; and

NOW, THEREFORE, based on the foregoing Recitals, the Parties agree as follows:

TERMS

1. Development Agreement. The Development Agreement approved by the City Council pursuant to Resolution 2016-0101 is incorporated by reference into this document as though written in full and shall, together with the Preliminary Approval, remain in full force and effect except as provided herein.
2. Extension of Time. Unless terminated earlier as provided herein, the duration of the Development Agreement shall be extended and shall remain in effect until amended in writing by the Parties or until December 14, 2024 (hereinafter, "Term"). Unless the Development Agreement is terminated earlier as provided therein, the expiration date (or the time by which the Owners must submit a final plat and PUD meeting all of the requirements of the Preliminary Approval) of the Project is extended until December 14, 2024. Provided, pursuant to RCW 36.70B.170, the city reserves the right to impose new or different regulations to the extent required by a serious threat to public health and safety.
3. Public Streets. The Preliminary Approval is hereby modified to require all new streets and roads within and serving the Project to be public streets built to the City's current public road standards. The Project shall no longer include any private streets.
4. Park and Ride. The Preliminary Approval is further modified as follows: Prior to, and as a condition of the approval and recording of a final plat, the Owners/applicants, or the Owners'/applicant's successors or assigns, shall dedicate land no further than one half mile from the final plat to the Spokane Transit Authority for a park and ride

facility that will accommodate approximately fifty (50) cars, or shall have entered into a binding agreement with a third party providing for the same, acceptable to the City, which approval shall not be unreasonably withheld.

5. Recordation of Agreement. The Owners shall cause this Agreement and any amendment(s) or termination to it to be recorded with the Spokane County Auditor.
5. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and shall constitute one and the same instrument. All Exhibits hereto are hereby incorporated by specific reference into this Agreement, and their terms are made a part of this Agreement as though fully recited herein.
6. Termination. This Agreement shall be deemed terminated and of no further effect upon the entry of a final judgment (and the exhaustion of all appeals setting aside such final judgment), voiding this Agreement, if appealed, or on December 14, 2024, whichever occurs first. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder.
7. Appeal. Without limiting any appeal rights, and subject to SMC 17G.060.210, a person with standing, as defined in Washington land use case law, may appeal to the hearing examiner a project permit or project permits issued pursuant to this Agreement by filing with the permit application department a written appeal within fourteen days of the date of the written decision on the project permit.



CITY OF SPOKANE, WASHINGTON

By: _____

Title: Johnnie Perkins, City
Administrator

Attest: _____

Clerk

Approved as to form: _____

Assistant City Attorney

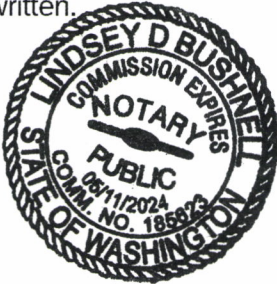
NATIONWIDE CAPITAL INVESTMENTS, LLC

By: _____

STATE OF WASHINGTON :
 : SS.
County of Spokane :

I hereby certify that I know or have satisfactory evidence that, on this 26th day of NOVEMBER, 2021, RYAN BOTH signed this instrument,
 (Print name)
 on oath state that (she/he/they) is are authorized to execute the instrument as a MEMBER of HOWARD CAPITAL GROUP, LLC
 (Position/Title) (Name of entity)
 and acknowledge it to be (her/his/their) free and voluntary act of such party for uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

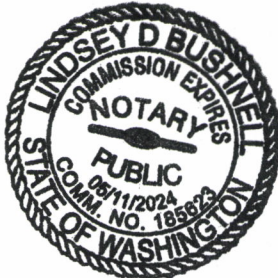


Lindsey Bushnell
 Notary Public in and for the State of
 Washington, residing at Spokane
 My commission expires: 05/11/2024

STATE OF WASHINGTON :
 : SS.
 County of Spokane :

I hereby certify that I know or have satisfactory evidence that, on this 26th day of NOVEMBER, 2021, RYAN BOTH signed this instrument,
 (Print name)
 on oath state that (she/he/they) is are authorized to execute the instrument as a MEMBER of NATIONWIDE CAPITAL INVESTMENTS, LLC
 (Position/Title) (Name of entity)
 and acknowledge it to be (her/his/their) free and voluntary act of such party for uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



Lindsey Bushnell
 Notary Public in and for the State of
 Washington, residing at Spokane
 My commission expires: 05/11/2024