



**Contra
Costa
County**

To: Board of Supervisors
From: John Kopchik, Director, Conservation & Development Department
Date: January 10, 2023
Subject: Tolling Agreements with Heather Farms Homeowners Association

RECOMMENDATION(S):

RATIFY the Conservation and Development Director's execution of a tolling agreement with the Heather Farms Homeowners Association, effective December 29, 2022, to toll the limitations period for potential litigation related to the November 29, 2022 approval of the Spieker Senior Continuing Care Retirement Community project, through January 18, 2023.

FISCAL IMPACT:

None.

BACKGROUND:

On November 29, 2022, the Board of Supervisors approved the Spieker Senior Continuing Care Retirement Community project consisting of (i) an amendment to the Land Use Map of the General Plan Land Use Element to change the existing Single-Family Residential, Medium Density (SM) land use designation of the site to a Congregate Care/Senior Housing

<input checked="" type="checkbox"/> APPROVE	<input type="checkbox"/> OTHER
<input checked="" type="checkbox"/> RECOMMENDATION OF CNTY ADMINISTRATOR	<input type="checkbox"/> RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **01/10/2023** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Ken Carlson, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: January 10, 2023

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: Laura Cassell, Deputy

Contact: Sean Tully 925
655-2878

cc:

(CC) designation, (ii) rezoning of the project site from the existing General Agricultural (A-2) District to a project-specific Planned Unit (P-1) District, (iii) a Tentative Parcel Map to reconfigure the two existing parcels that comprise the site from approximately 13 and 17 acres in area to 25 and 5 acres in area with refined legal descriptions, (iv) a Preliminary and Final Development Plan to allow the demolition of an existing ranch house and outbuildings, and the construction of a self-contained CCRC and other improvements, and (v) a tree permit to allow the removal of up to 353 trees. The Board also certified an environmental impact report for the project and made related CEQA findings. On December 1, 2022, a California Environmental Quality Act (CEQA) notice of determination was filed for the project.

The Heather Farms Homeowners Association is a property owner in the vicinity of the project site and has expressed concern about environmental impacts resulting from the project. The Heather Farms Homeowners Association is engaged in discussions with the applicant and County staff to try to resolve their concerns without incurring the cost and expense of litigation. The County filed a Notice of Determination on December 1, 2022, limiting the period for filing a CEQA lawsuit against the County to January 3, 2023. The purpose of the tolling agreement

BACKGROUND: (CONT'D)

is to allow the discussions among the parties to continue. The agreement would toll the statutory limitations period through January 18, 2023.

The Conservation and Development Director executed the tolling agreement on December 29, 2022.

CONSEQUENCE OF NEGATIVE ACTION:

The Conservation and Development Director's execution of the tolling agreement would not be ratified, increasing the risk of litigation.

CHILDREN'S IMPACT STATEMENT:

The desired tolling agreement is intended to allow ongoing discussions between the parties in an effort to avoid litigation. There will be no impact on the demand for public school services in relation to the agreement.