



# PLANNING COMMISSION AGENDA REPORT

III-1.

MEETING DATE: NOVEMBER 8, 2004

ITEM NUMBER:

SUBJECT: DA-04-03 ANNUAL REVIEW OF TWO TOWN CENTER DEVELOPMENT AGREEMENT  
(DA-00-04)  
655 ANTON BOULEVARD

DATE: OCTOBER 25, 2004

FOR FURTHER INFORMATION CONTACT: CLAIRE L. FLYNN, AICP, ASSOCIATE PLANNER  
(714) 754-5278

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## DESCRIPTION

Annual review of the development agreement between the City of Costa Mesa and FSP Two Town Center, LLP.

## APPLICANT

Mr. John Krappman is the authorized agent for FSP Two Town Center, LLP.

## RECOMMENDATION

1. Recommend that City Council determine and find FSP Two Town Center, LLP in good faith compliance with the terms and conditions of Development Agreement DA-00-04.
2. Recommend that City Council delegate future periodic reviews to Planning Commission and allow periodic review to be conducted every two years.

  
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CLAIRE L. FLYNN, AICP  
Associate Planner

  
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KIMBERLY BRANDT, AICP  
Senior Planner

  
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R. MICHAEL ROBINSON, AICP  
Planning & Redevelopment Manager

## **BACKGROUND**

On July 16, 2001, City Council approved Development Agreement DA-00-04 (Agreement) between the City and FSP Two Town Center/Fifth Street Properties. The Agreement was approved in conjunction with a preliminary master plan for South Coast Plaza Town Center and Final Environmental Impact Report No. 1047. In October, 2002, Council approved the Two Town Center Master Plan, which allowed the construction of an 18-story high-rise (400,000 sq. ft.) and five-level parking structure (770 new spaces) in addition to the demolition of the South Coast Cinema Building (12,000 sq.ft.) and two-level parking structure.

On October 13, 2003, Commission found that FSP Two Town Center, LLP demonstrated good faith compliance with the terms and conditions of the Agreement. On November 5, 2003, Council concurred with Commission's recommendation.

## **ANALYSIS**

### ***Project Location***

Two Town Center is a 6.26-acre subarea of South Coast Plaza Town Center and is bounded by Anton Boulevard (north), Interstate 405 (south), Bristol Street (west), and Avenue of the Arts (east). (Vicinity Map, Attachment 1). In the future, Two Town Center will be referred to as "**Pacific Arts Plaza.**"

### ***Development Agreement DA-00-04***

The Agreement provides assurances to the Developer that they may proceed with development, in conformance with existing land use regulations for a period of 20 years. In exchange for these assurances, the City realizes public benefits in the form of the creation/enhancement of a world-class "mixed-use" or "urban" arts district within a cohesive and pedestrian-friendly mixed-use environment as well as additional public revenues.

Section 3.5, Periodic Review, of the Agreement requires periodic review of the Developer's performance of its obligations under the Agreement. The purpose of the periodic review is to determine whether or not the Developer has demonstrated "good faith" compliance with the Agreement's terms. This is the second review of the Agreement.

The following section summarizes the Developer's progress in meeting its obligations:

***Obligations on Part of the Developer***

1. *Preservation of Noguchi California Scenario.* The Developer has provided for the preservation, maintenance, public accessibility and validated parking for visitors of the Noguchi California Scenario. A Land Use Restriction related to these provisions will be in effect until 2050.
2. *Creation and Implementation of the TAD Plan.* The Developer submitted a Draft Theater and Arts District (TAD) Plan in March, 2003. The TAD Plan was approved by City Council in February, 2004. The TAD Plan provides consistency of theme and excellence of design for prominent aspects of the public and outdoor private spaces in the South Coast Plaza Town Center and Pacific Arts Plaza.
3. *Provision of Excess Parking Capacity in TAD Plan.* The Developer has proposed parking provisions in the TAD Plan which would allow for the equitable use of excess parking capacity in the Pacific Arts Plaza. As required by the Agreement, parking charges to the patrons of performing arts venues shall not exceed prevailing parking charges for venue event parking at other comparable facilities in Orange County. In addition, the applicant is currently providing a 50 percent discount on venue parking charges to Costa Mesa residents.
4. *Provision of Traffic Improvements.* Environmental Impact Report No. 1047 required traffic improvements at Bristol Street/Sunflower Avenue and Fairview Road/South Coast Drive. These improvements were implemented in 2002. The Bristol Street/Sunflower improvement involved the conversion of a third northbound through lane to a shared through/right turn lane. At Fairview Road/South Coast Drive, a second eastbound through lane was converted to a shared through/right turn lane. Other traffic improvements are to be implemented when final building permits for the Pacific Arts Plaza Master Plan development are issued.
5. *Fulfillment of additional public benefits.* FSP has fulfilled an additional public benefit described in Exhibit "H" of the Agreement. FSP donated land for the Avenue of the Arts Freeway off-ramp. This land was appraised at more than \$1,100,000 and provided significant traffic mitigation benefits and improved access to Town Center and the surrounding area.
6. *Final Master Plan approval.* Approval of the Two Town Center Final Master Plan occurred in October, 2002. The Final Master Plan involved the development of an 18-story, 400,000 sq.ft. office building, four-level

parking structure, and demolition of the cinema building and existing two-level structure.

Because the Developer has not yet submitted building plans for construction, there are no other obligations that need to be fulfilled at this time. When the building plans are submitted for plan check, some remaining obligations identified in the Agreement include the following:

1. *Provision of Bristol and Paularino Traffic Improvement*. On a fair share basis, the Developer will provide for the addition of a second northbound left-turn lane and a second westbound left-turn lane at Bristol and Paularino. This traffic improvement is estimated to be implemented by Year 2015.
2. *Provision of Park Center and Sunflower Traffic Improvement*. On a fair share basis, the Developer will provide for the following traffic improvements: (1) conversion of a northbound through lane to a shared left/through lane, (2) conversion of a southbound left-turn lane to a shared left/through lane, (3) conversion of southbound through lane to a right-turn lane, and (4) implementation of split phasing for north/south direction. This traffic improvement is estimated to be implemented by Year 2015.
3. *Payment of Fire Protection Impact Fee*. The Developer will be responsible for payment of a fire protection impact fee for new development. This fee is due prior to issuance of an occupancy permit for new development.
4. *Financing for the TAD Plan*. The Developer will develop a method for financing all public improvements that may be required by the TAD Plan, including, but not limited to design, construction, installation, and maintenance of such improvements.

#### ***Amendments to Periodic Review Process***

The applicant has made the following requests to amend the periodic review process. Since the applicant does not anticipate development to occur in the immediate short-term future (without 2-5 years), annual review of the development agreement may not be necessary. Staff supports the following requests:

- *Delegate periodic review to the Planning Commission*. City Council may delegate this responsibility to the Planning Commission, as it has done for the Automobile Club Development Agreement.
- *Extend the "periodic review" period*. Given that development activity will not occur in the immediate short-term future, it would be more productive to conduct the periodic review every two years (i.e. biennial review) instead of every year.

- Waive the public notice requirement. To date, written correspondence or verbal testimony had not been submitted for the previous annual review. As a consent calendar item and not a public hearing item, it may not be necessary to complete the required public noticing (e.g. mailing to property owners within 500-feet of property) for the periodic review. The applicant is requesting that this noticing requirement be waived. However, staff does not support this request.

### ***Obligations on Part of the City***

In accordance with Section 2.2 of the Agreement, the City has assured that the Developer has vested rights to carry out and complete the Two Town Center Master Plan.

The City Attorney and Transportation Services have also reviewed the development agreement and concur that the Developer is in compliance with the terms of the Agreement.

### **ALTERNATIVES**

If the Planning Commission finds the Developer is not in compliance with the Agreement's terms, evidence supporting that determination would be required.

### **CONCLUSION**

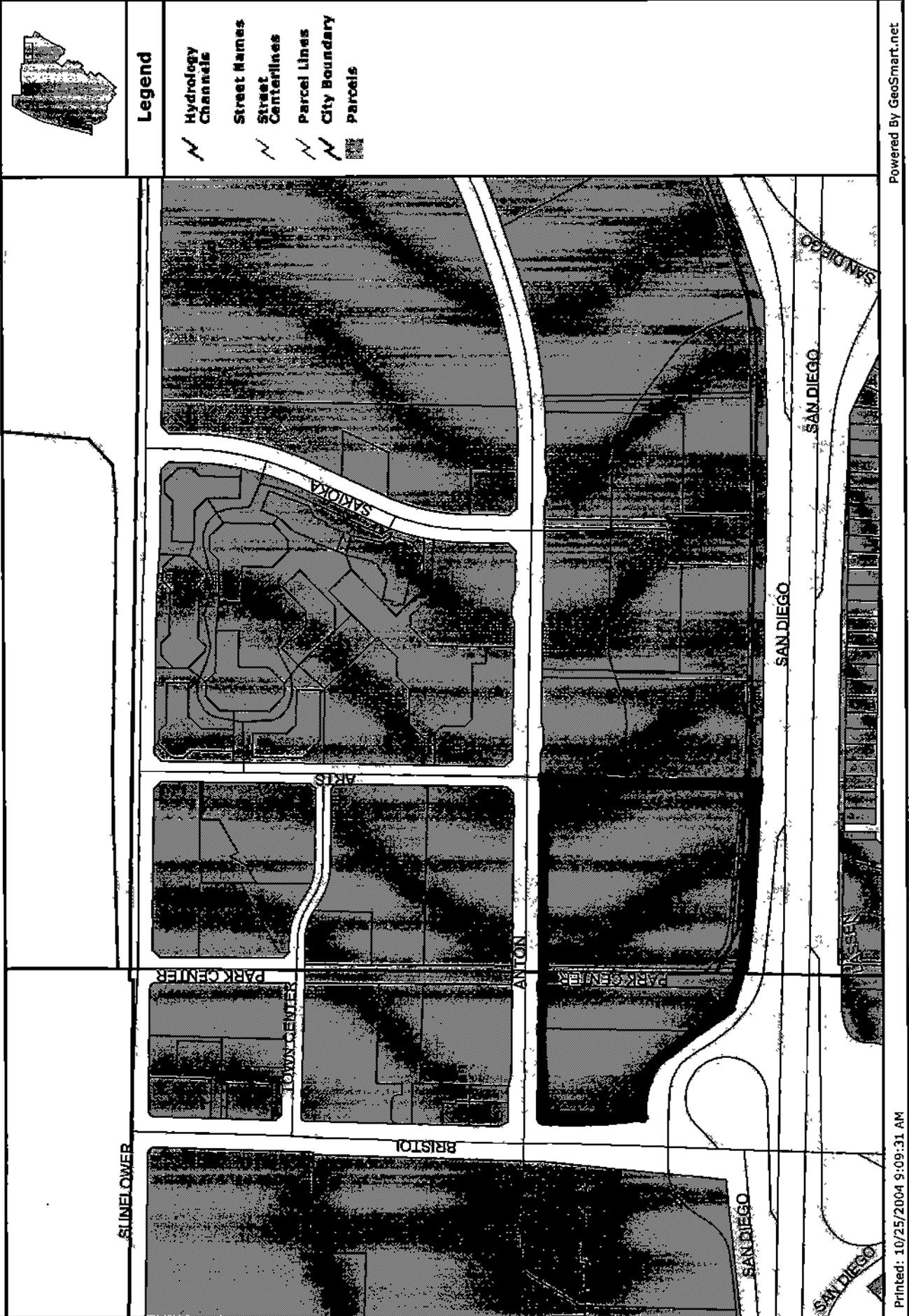
Staff has reviewed the Agreement's terms and conditions and believes the Developer is in compliance. With exception to the public notice requirement, staff is also agreeable to the applicant's request to amend the period review process. The Planning Commission's recommendation to City Council may be made by minute order.

Attachments:        1. Vicinity Map  
                           2. Applicant's letter  
                           3. Development Agreement DA-00-04

Distribution:        Deputy City Manager - Dev. Svcs.  
                           Senior Deputy City Attorney  
                           Raja Sethurmana, Associate Engineer  
                           Staff (4)  
                           File (2)

John Krappman  
 FSP Two Town Center, LLC  
 633 West Fifth Street, 72<sup>nd</sup> Floor  
 Los Angeles, CA 90071

# Two Town Center (Pacific Arts Plaza)



# COMMONWEALTH PARTNERS, LLC

RECEIVED  
CITY OF COSTA MESA  
DEVELOPMENT SERVICES DEPARTMENT  
OCT 06 2004

September 27, 2004

Ms. Claire Flynn  
Associate Planner  
City of Costa Mesa  
77 Fair Drive, P.O. Box 1200  
Costa Mesa, CA 92628-1200

Dear Claire:

Pursuant to paragraph 3.5 of our Development Agreement (DA-00-04) with the City of Costa Mesa and in accordance with City Council Resolution 88-53, Commonwealth Capital Management, LLC on behalf of FSP Two Town Center, LLC ("Applicant") is requesting the city's review of DA-00-04. Enclosed please find a check for the requested fixed fee amount of \$1,455.00 for the processing of this application.

As per the Development Agreement, the applicant, in accordance with its with it sound business judgment, has worked toward the development of the Project in accordance with the Existing Land Use Regulations, the Existing Development Approvals, its obligations regarding the TAD Plan and the Future Development Approvals.

- The Applicant completed the dedications of land to the City to accommodate the construction of the Avenue of the Arts off ramp.
- In January of 2002, the Applicant and its Lender executed the Subordination Agreement as required under Section 2.1.1(1) of the Development Agreement
- In October of 2002, the Applicant received Final Master Plan Approval from the City Council for its development of a 400,000 square foot office building.
- In March of 2003, the Applicant submitted it's first draft of the Theatre and Arts District (TAD) plan as required under the Development Agreement.
- In February of 2004, the Applicant received City Council approval of the Theatre and Arts District (TAD) plan as required under the Development Agreement.

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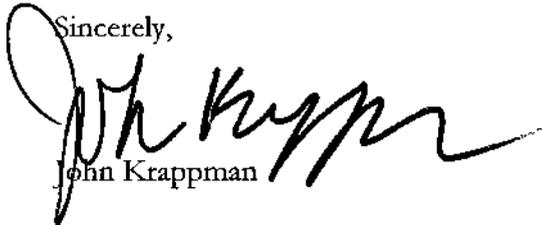
**ATTACHMENT 2**

Given the nature and period (20 years) of our Development Agreement and planning staff's recent efforts toward streamlining the City's review process for development agreements, we respectfully request consideration of the following modifications to Resolution 88-53:

- Delegate the periodic review of development agreements to the Planning Commission. It is within the scope of the Planning Commission's duties to determine whether both parties to a development agreement are in compliance with the terms of the agreement. In fact, the City Council has already delegated periodic review of the Automobile Club Development Agreement to the Planning Commission.
- Extend the "periodic review" (as used in DA-00-04) period from "annual" (as used in Resolution 88-53) to "biennial."
- Waive the public notice requirement for development agreement reviews. The review process is a documentary review for compliance only. Any specific planning applications submitted under the Development Agreement are already subject to their own public notice and hearing requirements.

It is our understanding that the Planning Commission will hear the City's review of DA-00-04 on October 25, 2005. Please contact us with any questions and/or changes in the Planning Commission hearing date.

Sincerely,



John Krappman

CommonWealth Capital Management, LLC  
FSP Two Town Center, LLC  
Fifth Street Properties DS, LLC