



PLANNING COMMISSION AGENDA REPORT

U.I.I.

MEETING DATE: NOVEMBER 22, 2004

ITEM NUMBER:

SUBJECT: DA-04-05 ANNUAL REVIEW OF SAKIOKA FARMS DEVELOPMENT AGREEMENT
(DA-99-02), 14850 SUNFLOWER AVENUE

DATE: NOVEMBER 10, 2004

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

DESCRIPTION

Annual review of the development agreement between the City of Costa Mesa and Sakioka Farms and Roy K. Sakioka & Sons.

APPLICANT

Mr. George Sakioka is the authorized agent for the property owners: Sakioka Farms, RKSS, Marjack, RTS, and Iscina.

RECOMMENDATION

1. Based on the evidence in the record, recommend City Council to determine that the property owners of the Sakioka Farms property are in good faith compliance with the terms and conditions of Development Agreement DA-99-02 (Agreement).
2. Recommend City Council approval of the suggested amendments to the Periodic Review Process.


CLAIRE L. FLYNN, AICP
Associate Planner


KIMBERLY BRANDT, AICP
Acting Planning & Redev. Mgr.


R. MICHAEL ROBINSON, AICP
Asst. Dev. Svs. Director

BACKGROUND

On November 1, 1999, the Costa Mesa City Council approved Development Agreement DA-99-02 between the City and Sakioka Farms/Roy K. Sakioka & Sons (Developer). The Agreement facilitated dedication of the fee simple interest in land needed for freeway on- and off-ramps, which cross a portion of Sakioka Farms (along the south side of Anton Boulevard). The Agreement also recognized previous land dedications made by the developer for other public improvements (i.e. streets and the Metro Fire Station site). In exchange for these dedications, the Developer received vesting for a period of 20 years under current land use regulations (i.e. General Plan, Zoning Code, and the North Costa Mesa Specific Plan) for Sakioka Farms Lots 1 and 2.

On October 13, 2003, Commission found that the property owners demonstrated good faith compliance with the terms and conditions of the Agreement. On November 5, 2003, Council concurred with Commission's recommendation.

On February 17, 2004, the City approved partial assignment of the Agreement to reflect a division of the ownership within the Sakioka families (Sakioka Farms, RKSS, Marjack, RTS, and Iscina). The "Assignment and Assumption of Development Agreement for Sakioka Farms" reflects the recent ownership changes and allocate the obligations of the Developer under the Development Agreement among the current owners of the Property.

ANALYSIS

Project Site

Sakioka Farms Lot 1 (40 acres) is located east of Sakioka Drive, north of Anton Boulevard, and south of Sunflower Avenue. Sakioka Farms Lot 2 (33 acres) is located north of Interstate 405, west of Main Street and State Route 55, east of Experian Solutions, and south of Sunflower Avenue. A vicinity map is provided as Attachment 1.

Periodic Review

The purpose of the annual review is to determine if the Developer has made a good faith effort to comply with the provisions and conditions of the development agreement. Typically, this review focuses on the community benefits provided by the developer. For DA-99-02, these benefits are described in Section 2.1 of the Agreement. The following section summarizes the Developer's progress in realizing these benefits:

Obligations on Part of the Developer

Future reviews of the Development Agreement will be limited to the performance of the remaining obligations. A description of previously fulfilled obligations is provided for reference below:

1. *Dedication of Easements and Fee Interests to the City.* The Developer has executed, acknowledged, and delivered a deed dedicating to the City the

2. developer's fee interest in specified portions of the South Coast Metro property and Sakioka Farms Lot 2 needed for freeway on- and off-ramps (Ramp Deed). The Developer has also delivered a private road deed (Road Deed) granting to the City a perpetual easement on a private road. The easements were dedicated on February 2, 2000 (Avenue of the Arts) and June 6, 2000 (Anton Boulevard).
3. Dedication of Bus Turnouts to the City. The Developer has also dedicated any fee interest to the City for bus turnouts on Anton Boulevard.

Remaining Obligations

Because the Developer has not yet submitted a development proposal and the CenterLine urban rail project is still under environmental review, there are no other obligations that the Developer needs to fulfill at this time. Some remaining obligations identified in the development agreement include the following:

1. Payment of Park and Traffic Impact Fees. The Agreement includes provisions relative to the payment of park fees for subsequent residential development of Sakioka Farms Lot 1 and traffic impact fees for all development on Lots 1 and 2.
2. Dedication of Urban Rail Station Easement. The Agreement includes provisions relative to the dedication of land for a future urban rail transit station on Sakioka Farms Lot 2. When this dedication occurs, the Developer will acknowledge that the City, or other entity as directed by the City, will have jurisdiction over the future urban rail transit system. In this case, the City will direct that the Orange County Transportation Authority have jurisdiction over the passenger stations serving a future urban rail system.
3. Reservation of Urban Rail Track Line. The Agreement includes provisions relative to the City reserving its right in the future to exercise its power of eminent domain to acquire property for a future urban rail track line. The City will work with the Developer to minimize impacts on the property from the final alignment of the track line. The Developer will reserve space for a future track line when designing any future development proposal.

During the past year, City staff, OCTA, and the owner have engaged in a number of design workshops related to the CenterLine light rail project and items 2 and 3 above. This process will continue through the final design phase of the project.

Obligations on Part of the City

In accordance with Section 2.2 of the Agreement, the City has assured the Developer has vested rights to carry out and complete the project in accordance with the provisions of the Agreement and existing land use regulations, development approvals, and any future development approvals. The City Attorney and Transportation Services have also concurred that the Developer is in compliance with the terms of the Agreement.

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 (within 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 South Coast Metro Development Agreement.
- *Extend the formal "periodic review" period.* Given that development activity will not occur in the immediate short-term future, it would be more productive to conduct the formal periodic review by the Commission every two years (i.e. biennial review) instead of every year. Intervening annual reviews required by State law will be conducted at staff level.
- *Conduct separate reviews for individual parcels.* The Developer has also requested that separate reviews be conducted for individual parcels, as each parcel has separate ownership. This request will require that each property owner submit a separate planning application and processing fee.

ALTERNATIVES

If the Planning Commission finds that 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. Staff supports the requested amendments to the periodic review process related to: (1) delegation of review responsibility to Planning Commission; (2) extension of formal periodic review period to every two years; and (3) conduct reviews for individual parcels. The Planning Commission's recommendation to City Council can be made by minute order.

Attachments: 1. Vicinity Map
 2. George Sakioka letter dated October 13, 2004
 3. Jeffrey Littell letter dated September 10, 2004
 4. Development Agreement DA-99-02

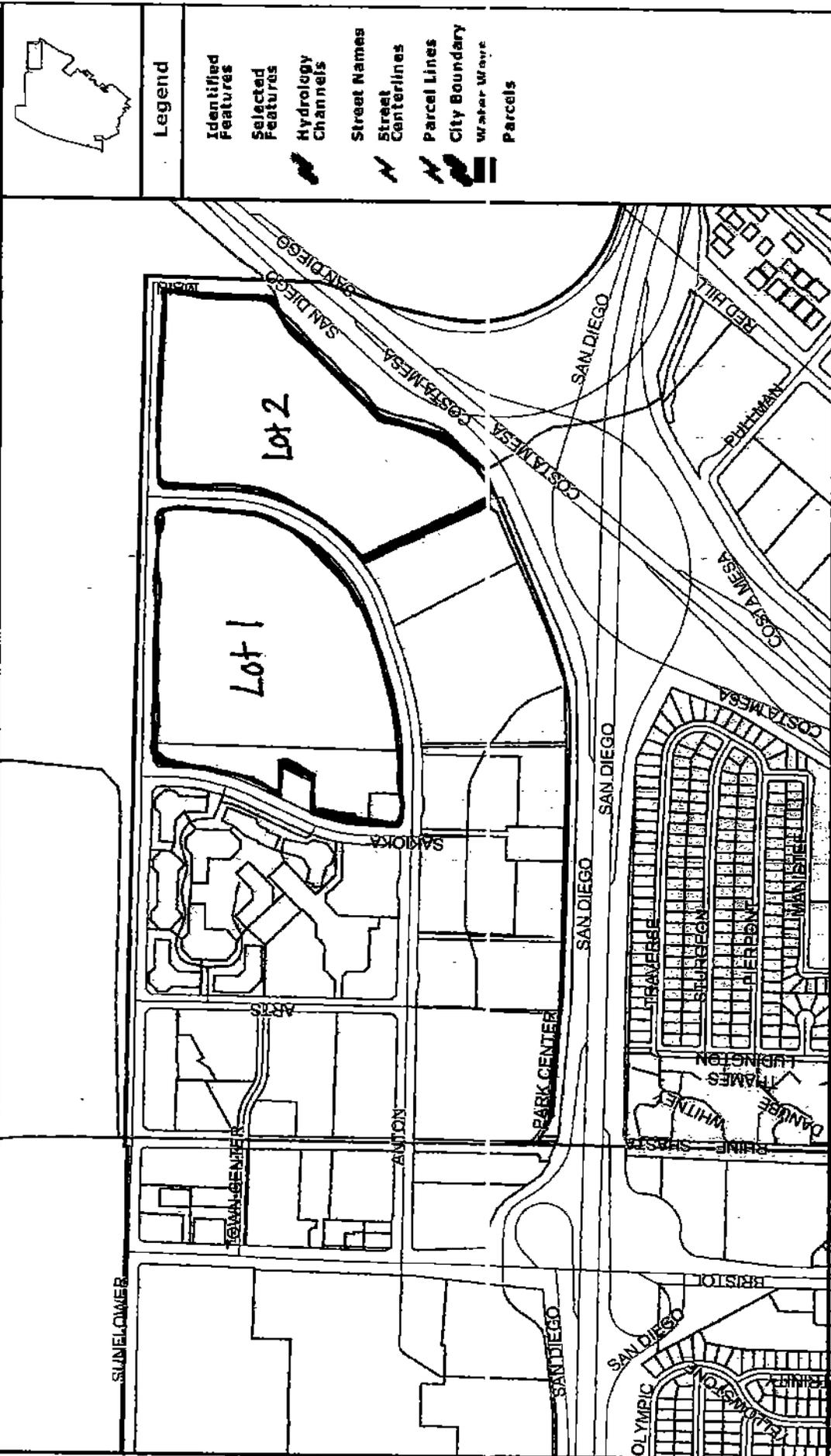
cc: Deputy City Manager - Dev. Svcs. Director
 Sr. Deputy City Attorney
 Raja Sethuraman, Associate Engineer
 Staff (4)
 File (2)

George Sakioka
Roy K. Sakioka & Sons
14850 Sunflower Avenue
Santa Ana, CA 92707

Jeffrey Littell
Chief Operating Officer
3183-A Airway Avenue, Suite 2
Costa Mesa, CA 92626

Sakioka Lots 1 & 2

Vicinity Map



Contents of this map are copyright 2002, City of Costa Mesa, and may not be reproduced without prior written

WARNING: This map does not meet national map accuracy standards and cannot be used for engineering pur

Attachment 2
George Sakioka Letter

ROY K. SAKIOKA & SONS

14850 Sunflower Avenue
Santa Ana, CA 92707
(714) 545-8611

October 13, 2004

Claire L. Flynn
City of Costa Mesa
P.O. Box 1200
77 Fair Drive
Costa Mesa, California 92628-1200

Re: *Annual Review of Development Agreement DA-99-02
For Sakioka Farms*

Dear Ms. Flynn:

Reference is hereby made to that certain Development Agreement for Sakioka Farms Development Property ("Development Agreement") between the City of Costa Mesa ("City"), Sakioka Farms, a California general partnership ("Sakioka Farms"), and Roy K. Sakioka & Sons, a California general partnership ("RKSS"; Sakioka Farms and RKSS are collectively referred to herein as, "Developer"), recorded February 3, 2000 as instrument number 20000060847. The Development Agreement covers that certain property located in the City of Costa Mesa consisting of approximately 73.34 acres ("Property"), which is more particularly described in the Development Agreement. Capitalized terms not defined herein shall have the definitions set forth in the Development Agreement. Pursuant to your letter dated September 9, 2004, this letter illustrates that the Developer has complied with the terms of the Development Agreement.

By way of explanation, in December of 2002 ownership of the Property was divided as follows: (i) RKSS is the current owner of that certain real property within the Property described as Lot 2 in the Development Agreement shown on Exhibit A attached hereto and incorporated herein by this reference, (ii) Marjack LLC, a California limited liability company ("Marjack"), RTS-Sunflower, LLC ("RTS"), and Iscina-Sunflower, LLC ("Iscina") are the current owners of all that certain real property within the Property shown on Exhibit B attached hereto and incorporated herein by this reference, and (iii) Sakioka Farms and Marjack are the current owners of all that certain real property within the Property described on Exhibit C attached hereto and incorporated herein by this reference (the properties described in Exhibits A, B and C each being referred to as an "Individual Parcel"). Sakioka Farms, RKSS, Marjack, RTS, and Iscina are all owned and controlled by certain Sakioka family members. On February 17, 2004 the City, RKSS, Sakioka Farms, Marjack, RTS and Iscina executed an Assignment and

Assumption of Development Agreement for Sakioka Farms Development Property, recorded April 2, 2004 as instrument number 2004000275186 which reflects the ownership changes described above, and allocates the obligations of the Developer under the Development Agreement among the current owners of the Individual Parcels.

The Development Agreement requires that the Developer dedicate certain easements and fee interests to the City. Specifically, the Developer is obligated to execute and deliver the Dedication Agreement, the Ramp Deed, and the Private Road Deed (collectively, "Dedication Agreements") concurrently with the execution of the Development Agreement. *Development Agreement, Section 2.1(i)-(iii)*. The Developer has delivered each of the required Dedication Agreements to the City. Additionally, section 2.1(iv) of the Development Agreement requires the Developer to dedicate to the City certain rights of way for Bus Turnouts. The Developer has dedicated the rights of way for the Bus Turnouts as requested by the City.

Pursuant to the terms of the Development Agreement, the Developer agreed, upon request from the City, to dedicate a portion of the Property for the purpose of locating a future urban rail station. *Development Agreement, Section 2.2(v)*. Moreover, the City reserved the right to exercise the power of eminent domain to acquire a portion of the Property for the urban rail track line. *Development Agreement, Section 2.2(vi)*. However, the City has not yet requested that the Developer make the dedication for the urban rail station, and the conditions precedent to the dedication have not yet occurred.

In addition to the land dedications discussed above, the Development Agreement requires the Developer to pay a park fee and a traffic impact fee. *Development Agreement, Section 2.2 (v) & (vi)*. Section 2.2(v) of the Development Agreement obligates the Developer to pay a park fee in the event that the Property is developed for residential use. However, the Property has not been developed for residential use and, therefore, the Developer is not required to pay the park fee at this time. In addition, section 2.2(vi) of the Development Agreement requires that the Developer pay a traffic impact fee during the term of the Development Agreement. As of the date hereof, no traffic impact fees have been assessed with respect to the Property.

As detailed above, the Developer has timely performed all of its obligations under the Development Agreement.

Given that some obligations under the Development Agreement have already been fulfilled, we request that future reviews of the Development Agreement be limited to outstanding obligations under the Development Agreement. We understand that this form of Development Agreement review was recently approved with respect to the Segerstrom Home Ranch Development Agreement.

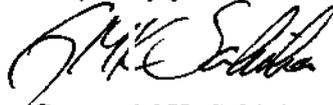
We also request that future reviews of the Development Agreement be conducted separately as to each Individual Parcel. Separate treatment of the Individual Parcels is required under section 3.9 of the Development Agreement, which provides that upon the sale of a portion of the Property, the seller "automatically shall be released from any executory obligations to City hereunder with respect to the portion of the Property so sold". Therefore, as of the date of the division of the Property as described above, the owners of the Individual Parcels were released from the periodic review process for the Individual Parcels which they do not own. However,

this year it is convenient to conduct the periodic review for all of the Individual Parcels at once, and we consent to such joint review.

We respectfully request to the City Council that future periodic reviews be conducted by the Planning Commission, and only sent to the City Council if necessary.

Please do not hesitate to contact me with any questions or comments.

Very truly yours,



George M.K. Sakioka

Exhibits A, B and C attached

cc: Amy R. Forbes
Marnie E. Lassen
Cynthia Wolcott
Jeffrey Littell

EXHIBIT A

The land situated in the City of Costa Mesa, County of Orange, State of California described as follows:

That portion of Lots 5 through 10, inclusive, of Tract No. 10950, as shown on a Map recorded September 19, 1983, in Book 518 at Pages 1 through 8, inclusive, of Miscellaneous Maps, Orange County, California, as modified pursuant to that certain Certificate of Correction recorded April 23, 1986, as Instrument No. 86-160488 in said Official Records, as further modified by that certain Lot Line Adjustment No. 90-04, recorded June 26, 1990, as Instrument No. 90-338191, in said Official Records, and as further modified by that certain Lot Line Adjustment No. 99-04 which was recorded September 7, 1999, as Instrument No. 1999-0645122 in said Official Records, and as further modified by that certain Lot Line Adjustment 99-07 which was recorded in said Official Records on December 28, 1999 as Instrument No. 19990872259 lying westerly of the easterly line of the land described in deed to Jack Toshiki Sakioka and Johnny Katsui Sakioka recorded July 27, 1956 in Book 3592 Page 553 of Official Records of said County.

EXHIBIT B

APN 410-512-02

LOT 1 OF TRACT NO. 10950, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 515, PAGES 1 TO 8 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, AS CORRECTED BY THAT CERTAIN CERTIFICATE CORRECTION RECORDED APRIL 23, 1986, AS INSTRUMENT NO. 86-160488 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

THAT PORTION OF PARCEL 2 OF LOT LINE ADJUSTMENT NO. LL-90-11, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE, STATE OF CALIFORNIA, RECORDED APRIL 16, 1991, AS INSTRUMENT NO. 91-178038 OF OFFICIAL RECORDS; LYING EASTERLY OF THE EASTERLY LINE OF THE LAND DESCRIBED IN DEED TO JACK TOSH KI SAKIOKA AND JOHNNY KATSUI SAKIOKA RECORDED JULY 27, 1956, IN BOOK 3592, PAGE 553 OF OFFICIAL RECORDS OF SAID COUNTY.

EXHIBIT C

THAT PORTION OF PARCEL TWO OF LOT LINE ADJUSTMENT
NO. LL-90-11, IN THE CITY OF COSTA MESA, COUNTY OF ORANGE,
STATE OF CALIFORNIA, RECORDED APRIL 16, 1991 AS INSTRUMENT
NO. 91-178038 OF OFFICIAL RECORDS LYING WESTERLY OF THE
EASTERLY LINE OF THE LAND DESCRIBED IN DEED TO JACK TOSHIKI
SAKIOKA AND JOHNNY KATSUI SAKIOKA RECORDED JULY 27, 1956
IN BOOK 3592 PAGE 553 OF OFFICIAL RECORDS OF SAID COUNTY.



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS REPORT
PLEASE CONTACT THE PLANNING DIVISION
AT (714) 754-5245.**