



Council Agenda Report

Item 6d

Department: Community Development
Cost Center: 4003
For Agenda of: 4/16/2024
Placement: Consent
Estimated Time: N/A

FROM: Timmi Tway, Community Development Director

Prepared By: John Rickenbach, Contract Planner and Callie Taylor, Associate Planner

SUBJECT: 2024 ANNUAL MONITORING FOR THE AVILA RANCH DEVELOPMENT AGREEMENT, MITIGATION MEASURES, AND PROJECT CONDITIONS

RECOMMENDATION

Receive and file the 2024 annual monitoring report for the Avila Ranch Development Agreement, mitigation measures, and required project conditions.

REPORT-IN-BRIEF

On September 19, 2017, the City Council approved the Avila Ranch project, including a vesting tentative map for Tract 3089, a Development Agreement (DA) between the City and Avila Ranch, LLC, and certified the Final Environmental Impact Report (EIR) for the project. On October 24, 2017, the City Council approved the Avila Ranch Community Facilities District (CFD) Resolution of Formation. The DA, the EIR Mitigation Monitoring and Reporting Program (MMRP), and the CFD require annual monitoring and reporting of activities, pursuant to articles 10 and 11 of the DA. The CFD annual report is typically prepared at the end of each fiscal year to coincide with Citywide annual budget and is therefore not included in this report. The CFD annual report was last completed and presented to Council August 15, 2023.

This report addresses activities that have taken place during 2023 through the end of February 2024, and whether those are in substantial compliance with the DA, applicable project conditions, and EIR mitigation measures. Substantial public improvements were made during this past year, both onsite and offsite, which prior to their installation were reviewed and approved by the City's Public Works, Engineering, and/or Utilities departments as appropriate.

Substantial private development also occurred in regard to housing and onsite development within Phase 1 of the project, the design of which was reviewed and approved by the Planning Commission in September 2021. This first phase of Tract 3089 created 179 single-family residential (R-2) lots, three lots for future multi-family (R-4) units, a lot for an interim fire station, and various lots for parks and public facilities.

At the end of February 2024, Avila Ranch had constructed 72 single family homes, an additional 56 homes were under construction, and another 16 residential permits were ready to issue in Phase 1. Collectively to date, the architectural review approved by Planning Commission would accommodate up to 543 dwelling units. The remainder of the development potential within the Avila Ranch is still subject to Planning Commission review, once applications are submitted and processed. Once completely built out, Avila Ranch would support up to 740 dwelling units, 15,000 square feet of commercial uses, and 18 acres of parks.

The approved DA is a contract authorized by California Planning and Zoning Law and the City's Municipal Code that provides certain benefits to the developer, typically in the way of certainty and assurances to the developer regarding what rules will be applied for the project, in exchange for extraordinary public benefits. The DA includes a variety of provisions related to the timing of development, construction of public infrastructure, payment of fees, and in certain instances reimbursement beyond the project's fair share for public improvements that have citywide benefits. One provision of the DA is to annually monitor whether the project is in compliance with all relevant aspects of the DA itself, as well as the EIR mitigation measures.

To the extent that it can be determined, the project is in compliance with the applicable provisions of the DA, as well as relevant EIR mitigation measures, except as noted in the discussion that follows. Since many of these also relate to project conditions, this report also evaluates compliance with these conditions, and finds that it is in compliance. For certain aspects of the DA, mitigation measures, and project conditions, it is not yet possible to determine compliance, because of the fluid nature of the phased project, and that such activities are subject to ongoing monitoring as development occurs. However, the intent of the developer is to comply with these provisions, and the development team has been working closely with the City to ensure that its actions are consistent with key requirements.

POLICY CONTEXT

The approved Avila Ranch project was found to be consistent with the General Plan at the time of its approval. This report focuses on determining whether the multi-phase project is in compliance with key provisions related to its approval, notably a Development Agreement, required mitigation measures, and project conditions. Compliance with these provisions is discussed in the body of this report. A Community Facilities District for Avila Ranch has been established to provide ongoing funding for City services and infrastructure maintenance. The CFD annual report is prepared at the end of each fiscal year to coincide with the Citywide annual budget and is therefore not included in this report.

DISCUSSION

The Avila Ranch project site is located at 175 Venture Drive. **Figure 1** shows the project area with phasing. Although in general, public and private improvements completed in 2022 and 2023 were within Phase 1 of the project area, some public improvements associated with later project phases, including Earthwood Lane, were constructed concurrently with Phase 1.

Background

On September 19, 2017, the City Council approved the Development Plan, Vesting Tentative Tract (VTTM) 3089, Final EIR, and Development Agreement (DA) between the City and Avila Ranch, LLC. Both the DA and the EIR Mitigation Monitoring and Reporting Program (MMRP) require annual monitoring and reporting of activities per Articles 10 and 11 of the DA.

The following discusses what aspects of the project were in progress or completed in 2023 through the end of February 2024. It also provides additional context, with a brief encapsulation of the activities that occurred before 2023, and highlights activities that are anticipated in 2024 and beyond.

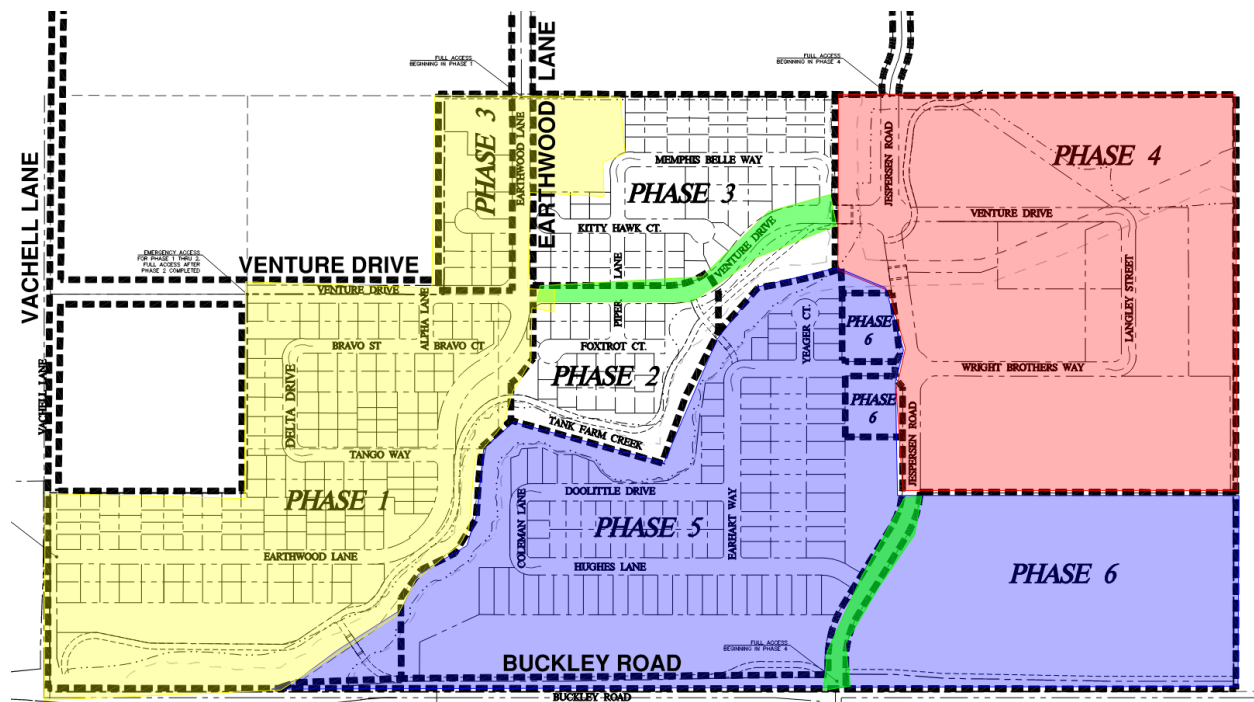


Figure 1. Avila Ranch Project Area Phasing Map

Project Activities Prior to 2023

The following project-related activities occurred prior to 2023:

- A. Phase 1 Final Map (R-2 zone). A final map was approved on December 4, 2018 for Phase 1 of development, covering a 26-acre area, and would accommodate up to 179 dwelling units in the R-2 zone. The approved Phase 1 map (tract 3089) created a total of 192 lots consisting of:
 - 179 single-family residential units (Lots 1 to 28, Lots 31 to 86, Lots 88 to 182). These are all the single-family residential units that were included in the Phase 1 tentative map.
 - Three out-of-phase lots for multi-family (Lots 185, 186, and 188). These lots were originally planned to be created and developed in Phase 3. Lot 186 was dedicated to an affordable housing developer, consistent with the DA requirements.
 - Four public park lots (Lots 30, 87, 183, 189)
 - Two lots for public open space (Lot A and Lot 184)
 - Two lots for public facilities (Lot 29 for sewer lift station & Lot 187 for interim fire station, which was dedicated to the City)
 - Two lots for future phases of the subdivision (Lots 190 and 191)
- B. Lot Line Adjustment. A lot line adjustment was proposed in April 2020 to facilitate future development in the Avila Ranch area, to be coterminous with future project phases as depicted in the approved Development Plan. The Lot Line Adjustment was subsequently approved by the City Council.
- C. Phase 1-3 Review (R-2 zone). An application for architectural review of Phases 1 through 3 of development was submitted in December 2020. This area would include up to 297 dwelling units in the R-2 zone. Based on the recommendation of the Architectural Review Commission (ARC), the Planning Commission (PC) approved the architecture for all the R-2 product in the first three phases on September 22, 2021, by Resolution PC-1046-2021.
- D. Public Onsite Improvements. Public Improvement Plans (PIPs) were submitted in 2018, and were approved on September 10, 2019, for some onsite improvements associated with VTTM 3089. This included mass grading and installation of some supporting infrastructure associated with future development in the area, as well as some required offsite improvements, including the Higuera/South Street Northbound Right-Turn Pocket Extension.

Work has been completed for the majority of the required Phase 1 public in-tract and offsite improvements. In general, the improvements consist of street construction, curb, gutter, sidewalks, Class 1 multi-use paths, pedestrian paseos, streetlights, water main and sewer main extensions, fire hydrants, reclaimed water main, storm drain and stormwater quality improvements, parkways and landscaping. Earthwood Lane was constructed providing a connection between Suburban Drive and Vachell Lane. Venture Drive was extended to intersect Earthwood Lane at a new roundabout.

- E. Public Offsite Improvements. Multiple offsite transportation improvements were required to mitigate for the increase in traffic generated by the development through the project conditions of approval, mitigation measures (MM), and the Development Agreement. The offsite improvements completed with Phase 1 prior to 2023 include:
- Extension of Earthwood Lane to Suburban Road [Condition #101]
 - Suburban Road Improvements, S. Higuera to Earthwood [Condition #102]
 - Sidewalk on portions of Vachell Lane [Condition #124]
 - Intersection improvements at South Street/Higuera Street [Conditions #112]
 - Intersection improvements at Tank Farm Road/S. Higuera Street [Condition #114/MM TRANS-7b]
 - Vachell Lane widening for Class II bike lanes [Condition #105]
 - Higuera/Suburban Road Striping Modifications
 - Installation of Class II bicycle lanes along Vachell Lane between Buckley Road and South Higuera Street [Condition #105]
- F. Offsite Improvements in the County. Offsite improvements located outside the City Limits were constructed under a County encroachment permit and will be maintained by the County. This includes the extension of Buckley Road from Vachell Lane to South Higuera Street and installation of a traffic signal at the newly created intersection with South Higuera Street [Condition #100]. The Buckley Road extension, originally a Phase 2 requirement, was completed in 2022 and allowed the inclusion of three out-of-phase multi-family lots which were included in Phase 1. These lots were created in Phase 1 consistent with the Affordable Workforce Housing Plan (Exhibit G of the Development Agreement) to provide affordable housing units as early as possible.
- G. Phases 2-6 Mass Grading Plans. An application for a mass grading permit for Phases 2-6 was submitted in November 2021.
- H. Phase 5 (R-1) Development Approval. An application for review of Phase 5 of development was recommended for approval by the Architectural Review Commission (ARC) on June 20, 2022. This area would include up to 101 dwelling units in the R-1 zone. Based on the recommendation of the ARC, the Planning Commission (PC) approved the R-1 product in Phase 5 on July 13, 2022, by Resolution PC-1065-2022.
- I. Phase 1 (Tract 3089) Development. The following development in Phase 1 occurred prior to 2023, primarily in 2022:
- 19 single-family residential (SFR) units completed and occupied
 - 39 SFR units were under construction
 - 71 SFR building permit applications were submitted and under review, but not yet issued
 - Four public parks were constructed (Parks A, B, C, and Stevenson Park). This included a reconfigured Park A, which was redesigned in response to an unanticipated drainage issue. The Community Development Director in consultation with the Parks and Recreation Director has determined that the intent of the parks programming was still met with the reconfigured plan for

Park A. Parks, B, C and Stevenson have since been accepted and are under warranty.

- Roadways and other infrastructure needed to support the above development, including utilities, lighting, landscaping, and some privately-maintained infrastructure, such as common driveways serving multiple housing units.

Development Activities in 2023 through February 2024

The following development-related activities took place since the time of the previous annual report related to the DA, MMRP, and Project Conditions, from March 2023 through February 2024:

- A. Phase 1 (Tract 3089) Development. 179 single family (R-2) lots were recorded in Phase 1 in 2018 and approved for architectural review by Planning Commission in 2021. As of March 1, 2024, this is the status of development in Phase 1:
 - 72 units complete and occupied (19 completed in 2023)
 - 56 units under construction
 - 16 permits ready to issue
- B. Phases 2 and 3 Final Map. The final map for Phases 2 and 3, which would accommodate the remaining 118 units within the R-2 zone and 145 units within the R-4 zone (with a density bonus), was approved by the City Council on January 23, 2024 ([Resolution 11472](#)). The final map has not yet been recorded, pending finalization of the Subdivision Agreement.
- C. Public Improvements. The Public Improvement Plans for Phases 2 and 3 were approved in September 2023 and are under construction. The plans were subsequently revised to include the required multi-use path bridge over Tank Farm Creek north of Buckley Road, consistent with Mitigation Measure TRANS-11. This mitigation measure also requires a new bicycle bridge over Tank Farm Creek on the south side off Buckley Road; however, this bridge has been deferred to coincide with additional roadway widening and bikeway improvements along Buckley Road in Phase 4 of the development. The change in timing of this required mitigation measure was approved by the City Council on January 23, 2024. An Addendum to the Final EIR documenting this change was approved at that time.
- D. Phase 3 Affordable Housing Agreement. The Affordable Housing Agreement for Phase 3 (addressing multi-family housing in the R-4 zone) was approved by the City Council on January 23, 2024, and will be recorded with the final map. This agreement calls for 90 affordable and 25 workforce units within the Avila ranch development, compared to the 71 affordable and 25 workforce units included in the original Development Agreement. The increase in affordable units was facilitated by a density bonus approved by the Planning Commission.

- E. Phase 3 Multi-Family (R-4) Development Approval. An application for review of the multi-family R-4 units in Phase 3 of the development was recommended for approval by the Architectural Review Commission (ARC) on October 2, 2023. This application included a density bonus request which would allow up to 145 dwelling units in the R-4 zone in two separate projects, including 59 affordable housing units. Based on the recommendation of the ARC, the Planning Commission (PC) approved the R-4 development in Phase 3, including the density bonus, on February 14, 2024, by Resolution PC-1083-2024. A second Addendum to the Final EIR was prepared to address the impacts of the density bonus, which increased the number of R-4 units from the 125 approved in the original Avila Ranch Development Plan to 145, finding no additional impacts or mitigation measures would be required.
- F. Other Mitigation Requirements and Development Components. Several issues related to various required public impacts were addressed in 2023 and early 2024, including the following:
- *Park/Basin A.* City staff and the developer have been meeting to resolve issues related to how high ground water affects drainage in the area and the ultimate design of this park. Meetings occurred on September 28, 2023, and January 11, 2024, and included these key discussion points:
 1. Maintenance plan for the drainage basin
 2. CFD maintenance costs
 3. Alternatives for addressing water in the drainage basin
 4. Stormwater control planThe developer will be addressing the City's concerns and working towards resolution. These issues need to be resolved prior to the City's acceptance of the basin, which is proposed to be maintained by the City with funding provided through the CFD.
 - *Buckley Road Widening.* Avila Ranch needs to acquire offsite property from Son Care, the property owner on the south side of Buckley Road, in order to install required bike lanes, bike bridge, and related widening of Buckley Road. City staff, County staff, Avila Ranch, and Son Care met several times in 2023 to discuss, most recently on November 15. The County has approved the Buckley Road improvement plans, which include bike lanes, but issuance of the permit is pending right-of-way acquisition. The developer is now working directly with Son Care to discuss financial compensation for the easement.
 - *Interim Fire Station.* The Avila Ranch EIR and Development Agreement require an interim fire station to be constructed at Avila Ranch by the 361st residential unit, which is estimated to be in mid-2026. City staff has been meeting with the developer since August 2023 to identify site requirements and timing for construction. The developer's team is currently working to develop a site program for City/Fire Chief review. Based on the continued growth in the southern portion of the City and the need to provide adequate coverage and staffing to meet current operating standards, the Fire Chief has determined that

the station needs to be constructed to serve a 3-person engine company, rather than a 2-person medic response station as originally proposed by the 2017 Avila Ranch Final EIR. The developer is providing concept planning to meet the City's current needs as requested, with further discussions expected regarding funding obligations. The City is also identifying staffing and equipment needs that will be associated with operation of this station, portions of which will be funded by the Avila Ranch CFD.

G. Phases 2-6 Mass Grading. The November 2021 application for a mass grading permit for Phases 2-6 was approved, the permit issued, and grading is in progress.

H. Developer's Impact Fee Protest, Tolling Agreement, and Mediation. A tolling agreement was signed prior to the annual review in 2023 to address a fee protest which the developer had submitted. City staff and the developer subsequently met with a mediator on August 10, August 24, and November 16, 2023. The City and developer have come to tentative resolution on most items. A specific fee schedule for the project has been developed based on the DA, and both parties are in the process of completing a fee reconciliation. Avila Ranch is depositing a portion of the current permit fee funds into an escrow account with issuance of each building permit per the tolling agreement. The City and developer will continue to meet with the mediator to resolve issues identified in tolling agreement, and a settlement agreement will be completed when all issues are resolved.

New Applications in 2023 for Which Activities Have Not Yet Begun

No unresolved project-related applications were received by the City in 2023 that the City has not yet taken action on. As noted above in items B, C, D, E and F, the City took action on several items, some of which were initiated in 2023, while others began prior to that time.

PROJECT COMPLIANCE

Development Agreement

Implementation of the Avila Ranch project requires substantial new infrastructure to support new development, most of which is the responsibility of the developer. The approved Development Agreement (DA) for the project describes the developer's responsibilities in that regard.

The DA is a contract authorized by California Planning and Zoning Law and the City's Municipal Code that provides certain benefits to the developer, typically in the way of certainty and assurances to the developer regarding what rules will be applied for the project, in exchange for extraordinary public benefits. For example, Tract 3089 provides more affordable housing units than required by the City's standard inclusionary housing requirements and is dedicating more parkland than ordinarily required by the City. Tract 3089 is also required to construct an interim fire station prior to the construction of the 361st unit to serve the southern portion of the City (unless a permanent facility is constructed first) and to contribute funding to reimburse the City for the recent Los Osos Valley Road (LOVR) interchange project. As of March 2024, 72 units have been built and

56 more are under construction (all in Phase 1). Collectively, up to 543 units have been approved overall in various phases.

Tract 3089 constructed offsite improvements as part of Phase 1 to mitigate for the increase in traffic generated by the development. The developer will also be paying fair share fees for projects that are not triggered solely by this development but will ultimately be needed upon build-out of the City. As described in the DA and the conditions of approval, some of the improvements being constructed with Tract 3089 are eligible for reimbursement either through impact fee credits or through payments from other developers.

Reimbursement agreements have been established for a Public Reimbursement/Credit Agreement, Private Reimbursement Agreement, and Wastewater Reimbursement Agreement. The first reimbursement payments were made in 2023 towards the Wastewater Reimbursement Agreement. No payments have been made yet under the Public or Private transportation infrastructure reimbursement agreement.

Tract 3089 is meeting the City's agricultural land preservation requirements through a combination of onsite easements and payment of in-lieu fees. Avila Ranch shall compensate for the development of onsite agricultural lands and meet the open space objectives of the General Plan by dedicating and preserving at least 50 acres of onsite or offsite open space or agricultural land. In compliance with the DA and the entitlement documents, Phase 1 has satisfied its agricultural mitigation obligations by providing in-lieu fees for purchase of dedications offsite, which have been paid in-full. Onsite agricultural conservation easements will be provided along Buckley Road with subsequent map phases.

Although the DA also addresses financing issues in great detail, compliance with these provisions will be addressed at the end of Fiscal Year 2023-2024 (end of June 2024) in a separate agenda item related to activities under the Community Facilities District (CFD) that was created pursuant to the DA.

Attachment A summarizes the project's current compliance status with respect to relevant provisions of the DA. As of the end of February 2024, the developer is in compliance with all applicable requirements of the DA with respect to project milestones. As is the case with the MMRP, compliance with provisions that are keyed to later project activities or phases cannot be determined at this time.

Protest Over Fees

The Avila Ranch Development Agreement includes provisions regarding payment of City-wide and project-specific development impact fees. Impact fees were negotiated and agreed upon with the original project developer, Avila Ranch, LLC, in 2017, and were included in both the original DA and an amendment to the DA which was executed April 16, 2019.

Per the DA, the developer is required to pay for the project's fair share of the cost to mitigate project impacts as identified in the EIR, Specific Plan, conditions of approval, or otherwise specified in the DA in effect when each final map is recorded in accordance with AB1600 analysis. The City may adjust the development impact fees not more than once a year with changes no greater than the inflation index identified upon imposition of the fee. Sewer and water impact fees shall be paid as identified in the original 2017 DA. The Los Osos Valley Road interchange impact fees shall be paid as agreed upon by the City and the developer in 2018 and memorialized in the 2019 DA amendment.

The Development Agreement was negotiated as a method to extend the life of the tentative maps to provide a 20-year project build out, provided that there is a "true up" of fees at the time each phase of the final map is recorded. This provides the developer with the time needed to build out the project while also providing the City with the fees needed to provide services and infrastructure at the time of build out. The Development Agreement is a contract and can alter and take precedent over any vested fees or expirations that are normally tied to a vested tentative map.

The current Avila Ranch developer, Wathen Castanos, has raised issue with the payment of impact fees being charged. On February 16, 2023, the City received a letter from Wathen Castanos stating that the development impact fees which are being charged with each building permit are being "paid under protest with notice to cure." As described above, the City is currently having ongoing discussions with the developer regarding the fees and payments and have met with mediator on August 10, August 24, and November 16, 2023. The City and developer have come to tentative resolution on most items. The City and developer will continue to meet with a mediator, as needed, to resolve issues identified in the tolling agreement, and a settlement agreement will be completed when all issues are resolved.

Mitigation Monitoring and Reporting Program

As part of the environmental review of a development project, the California Environmental Quality Act (CEQA) requires public lead agencies to impose feasible mitigation measures in order to substantially lessen or avoid the significant adverse effects of the project on the physical environment. All mitigation must be feasible and fully enforceable. Mitigation measures were included in the Final Environmental Impact Report (EIR) for Avila Ranch, certified by the City Council on September 19, 2017. The Mitigation Monitoring and Reporting Program (MMRP) describes the procedures for the implementation of the mitigation measures identified in the Final EIR. The MMRP specifies the entity responsible for monitoring the program and when in the process it should be accomplished.

Attachment D is the updated MMRP, showing the current status of compliance with all mitigation measures. In summary, the project is in compliance with all applicable mitigation measures required to date. In some instances, compliance is ongoing (e.g., with respect to biological and cultural resource issues) or currently in process of being completed. In other cases, compliance cannot yet be determined because the project has not progressed sufficiently to trigger the required mitigation (e.g., items that relate

to the design of commercial buildings). Attachment B is a summarized version of the MMRP for easy reference, with all mitigation measures put in sequential order of when compliance is required.

Project Conditions

Conditions of approval are imposed by the municipality as part of a land development application to be adhered to and exercised as part of a right granted to the property. Conditions of approval were adopted as part of the Avila Ranch subdivision map (vesting tentative map for Tract 3089) approved by the City Council on September 19, 2017.

Attachment C shows the current status of compliance with all relevant project conditions. In summary, the project is in compliance with all applicable project conditions required to date. Some conditions of approval have been fulfilled, while some are ongoing, and others will be addressed in later phases of development.

In an April 10, 2023 letter to the developer, City staff indicates that several items must be completed prior to acceptance of the Phase 1 in-tract improvements and start of one-year warranty period. These include:

- Punchlist items for Subdivision Phase 1 improvements, including landscaping, fog seal all new street improvements, permanent thermo striping, and other final improvement items. Resolution of Basin A is also included here, which has become a wet basin due to high ground water in the area
- Survey monuments (street monumentation and property corners)
- Stormwater Control Plan O&M Manual
- Conditions of Approval and Mitigation Measures matrices demonstrating completion and/or compliance with obligations for Phase 1

The full bond for Phase 1 in-tract improvements may be exonerated with:

- Public Works inspection approval that there are no remaining maintenance or warranty items after the one-year warranty period;
- Submittal, review, and approval of a post-construction landscape and restoration report per MM BIO-2g; and
- Submittal, review, and approval of record drawings. Record drawings must include CAD files and the record drawing submittal must incorporate field changes, RFIs, design revisions etc. from both City inspection and City engineering redline plan sets.

Community Facilities District (CFD)

A Mello-Roos Community Facilities District (CFD) was established and approved on October 24, 2017 ("Avila Ranch Community Facilities District No. 2017-1"). The CFD for Avila Ranch is a special tax assessment in the district which was established to fund both authorized services as well as authorized facilities.

The City is authorized to levy the tax through the annual property tax roll. Fiscal Year 2022-23 was the first year in which the special tax was levied against taxable parcels of the CFD. The Mello-Roos Community Facilities Act of 1982 as well as Section 10(ii) of the CFD resolution have an annual reporting requirement, similar to the requirement for annual reporting of the MMRP and DA which is included in the Development Agreement. The City's Finance Department is responsible for preparing an annual report on the CFD at the end of each fiscal year to coincide with the Citywide annual budget and is therefore not included in this report. The CFD annual report was last completed and presented to Council August 15, 2023.

Previous Council or Advisory Body Action

The following relevant City Council or Advisory Body actions have occurred relevant to the project:

- Vesting Tentative Tract Map (VTTM) Tract 3089, Avila Ranch Development Plan, and the Final EIR were approved by the City Council on September 19, 2017, by Resolution No. 10832 (2017 Series).
- The Development Agreement was adopted by the City Council on October 3, 2017, by Ordinance No. 1639 (2017 Series).
- Avila Ranch Community Facilities District (CFD) No. 2017-1 was created by Ordinance No. 1642 (2017 Series), which levies a special tax within the CFD providing a funding source for maintenance and operation of facilities within the District.
- The final map for Tract 3089 Phase 1 was approved by City Council on December 4, 2018, by Resolution No. 10968 (2018 Series).
- The Planning Commission (PC) approved the architecture for all the R-2 project in the first three phases on September 22, 2021, by Resolution PC-1046-2021.
- A Memorandum of Agreement was executed in September 2021 between the City Manager and the Avila Ranch development team to allow for the advancement of Phases 4 and 5 prior to Phases 2 and 3, provided that improvements required for Phases 2 and 3 are included as part of the development. To date, no development permits related to Phases 4 and 5 have been issued.
- An application for review of Phase 5 of development was recommended for approval by the Architectural Review Commission (ARC) on June 20, 2022. This area would include up to 101 dwelling units in the R-1 zone. Based on the recommendation of the ARC, the Planning Commission (PC) approved the R-1 product in Phase 5 on July 13, 2022, by Resolution PC-1065-2022. Building permits for this phase have not been submitted.

- The City Council adopted a resolution for partial acceptance of public improvements and certification of completion of required private improvements for Tract 3089 Phase 1 on February 21, 2023.
- The final map for phases 2 and 3, which would accommodate the remaining 118 units within the R-2 zone and 145 units within the R-4 zone, was approved by the City Council on January 23, 2024 ([Resolution 11472](#)). The final map has not yet been recorded, pending finalization of the Subdivision Agreement.
- The Public Improvement Plans for Phases 2 and 3 were approved in September 2023 and are under construction. The plans were subsequently revised to include the required multi-use path bridge over Tank Farm Creek north of Buckley Road, consistent with Mitigation Measure TRANS-11. The change in timing of this required mitigation measure was approved by the City Council on January 23, 2024. An Addendum to the Final EIR documenting this change was also approved at that time.
- The Affordable Housing Agreement for Phase 3 (addressing multi-family housing in the R-4 zone) was approved by the City Council on January 23, 2024, and will be recorded with the final map. This agreement calls for 90 affordable and 25 workforce units within the overall Avila Ranch development, compared to the 71 affordable and 25 workforce units included in the original Development Agreement.
- An application for review of the multi-family R-4 portion of Phase 3 of the development was recommended for approval by the Architectural Review Commission (ARC) on October 2, 2023. This area would include up to 145 dwelling units in the R-4 zone in two separate projects, including 59 affordable housing units. Based on the recommendation of the ARC, the Planning Commission (PC) approved the R-4 development in Phase 3 on February 14, 2024, by Resolution PC-1083-2024. A second Addendum to the Final EIR was prepared to address the impacts of a density bonus, which increased the number of units from the 125 approved in the original Avila Ranch Development Plan to 145, finding no additional impacts or mitigation measures would be required.

Public Engagement

An extensive public review process was completed with the approval of the Tentative Map and Avila Ranch Development Plan. The annual monitoring of the Avila Ranch Development Agreement and associated project mitigation measures and conditions have a “notify” level of public engagement, which has been accomplished through this agenda item and associated staff report.

CONCURRENCE

The Community Development Director, Public Works Director, Utilities Director, and Parks and Recreation Director concur with the recommended action.

ENVIRONMENTAL REVIEW

Annual monitoring of the Avila Ranch DA and MMRP is categorically exempt from California Environmental Quality Act (CEQA) according to CEQA Guidelines Section 15306 (Information Collection), which exempts “basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.” These actions also qualify for the “commonsense” exemption under Section 15061(b)(3), which covers activities “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” Annual monitoring does not change any aspect of the approved Avila Ranch project, nor does it introduce the potential for any new environmental impacts. Therefore, the proposed action is categorically exempt from further analysis under CEQA.

FISCAL IMPACT

Budgeted: Yes

Budget Year: Annually beginning 2023-24

Funding Identified: Yes

Fiscal Analysis:

Funding Sources	Total Budget Available	Current Funding Request	Remaining Balance	Annual Ongoing Cost
General Fund				
State				
Federal				
Fees				
Other:				
Total	\$0	\$0	\$0	\$0

Section 5.04.2.(i) of the Avila Ranch Development Agreement requires the developer to pay for consultant costs related to annual Mitigation Monitoring and Reporting Program evaluation and Development Agreement review. The consultant’s scope of work to prepare this year’s annual evaluation and reporting for the Avila Ranch MMRP and DA review totaled \$8,640. The consultant is contracted by the City and paid for by the Avila Ranch developer. There are no direct fiscal impacts to the City related to the MMRP and DA annual review and reporting.

Supplemental taxes are assessed and collected on the project through the Community Facilities District to pay for City services and infrastructure maintenance. The CFD annual compliance report will be a future agenda item prepared at the end of each fiscal year to coincide with the Citywide annual budget and is therefore not included in this report. The CFD annual report was last completed and presented to Council August 15, 2023.

ALTERNATIVES

1. ***Council could decide to provide direction to staff regarding the annual monitoring report for the Avila Ranch project and continue the item to a future meeting.***
2. ***Council could decide to reject the annual monitoring report for the Avila Ranch project. This is not recommended since annual monitoring is a requirement of the DA.***

ATTACHMENTS

- A – Summary of Compliance with the Avila Ranch Development Agreement
- B – Summary of Compliance with the Avila Ranch MMRP
- C – Summary of Compliance with the Avila Ranch Project Conditions
- D – Avila Ranch Mitigation Monitoring and Reporting Plan (March 2024)
- E – [Avila Ranch Development Agreement](#) (provided via hyperlink)
- F – First Administrative Amendment to Avila Ranch DA