

Master Development Agreement Summary FAQ
Middle Green Valley Specific Plan
July 27, 2010

What is a Development Agreement?

A development agreement (DA) is a negotiated agreement authorized by state law (Government Code Section 65864 *et seq.*) between a local government, like Solano County, and a property owner (or owners) related to the use of property for a defined period of time.

Who can be parties to a Development Agreement?

Local jurisdictions - like cities and counties and anyone with a legal or equitable interest in real property within that jurisdiction. An equitable interest can be, for example, someone under contract to purchase property.

For Middle Green Valley (MGV), the County would contract with the following "participating landowners" which represent over 83% (1,584 of 1,905 acres) of the land and 97.5% (390 of 400) of new primary residential units within the Specific Plan Area:

Mason, Lawton Trust, Ragsdales, B&L Property, Maher, Engell, Hager, Parenti, James Siebe, Jean Siebe, Volkhardt, Wiley and Wirth.

What is the purpose of a Development Agreement?

The purpose of a DA is to vest (or guarantee) to local jurisdictions and property owners the rules and regulations applicable to the development of the property for an agreed period of time. For example, freezing the General Plan policies and zoning regulations applicable to property, regardless of any changes adopted after the effective date of the DA. This certainty allows property owners to plan and budget without the uncertainty of changes for sufficient time to allow development to proceed and provides the jurisdiction certainty with respect to the development of the property.

For MGV, the DA would vest the General Plan, Specific Plan and land use regulations for a period of 25 years. The CAC specifically requested that the DA provide certainty about the development of the Specific Plan, and so supports a 25 year term. Section 3.15 of the DA reserves all appropriate rights for the County to respond to state and federal requirements and to protect the public health and safety.

What are the terms of a Development Agreement?

As a negotiated contract, the DA can range from relatively simple - vesting the land use entitlements for the property for a period of time - to quite complex - establishing detailed exactions, fees and a wide variety of potential other terms and conditions agreeable to the parties to the agreement.

For MGV, the DA includes the following basic business terms:

- Each landowner, by becoming party to DA, vests (or guarantees) the landowner's rights to uses, densities and intensities of use, locations, and maximum height and size of buildings, and other development and design standards as described in Specific Plan for a period of 25 years.
- While the DA vests these important rights, the DA reserves the County's right to modify and apply: (1) regulations governing construction standards, including building code, plumbing codes,

mechanical code, electrical code, fire code, grading code and other uniform construction codes applicable at time of permit application; (2) any procedural rules that are uniformly applied on a County-wide basis to all substantially similar types of development projects and properties (e.g., regarding hearing bodies, petitions, applications, notices, appeals and any other matter of procedure); (3) new county laws necessary to protect persons or property from dangerous or hazardous conditions.

- No landowner is obligated to build, and each landowner has the right to determine the order, rate and timing of development during term of the DA.
- The DA provides a mechanism for the potential formation (at no cost to the County) of a community facilities district (or similar financing district) and county services area to finance and/or own/operate future public infrastructure and a mechanism for other benefitted landowners to reimburse any landowner who must construct oversized public infrastructure in order to develop their property.
- Landowners agree to participate in the TDR Program, whereby the development of new primary residential units has been allowed to be clustered on the most appropriate development areas in exchange for recordation of conservation easements and certain monetary payments in the Sales Participation Agreement (SPA). The SPA will be executed and recorded separately against the participating "sending" and "receiving" properties. The SPA provides a mechanism for clustering in appropriate development areas and the preservation of the rural and open space character and agricultural viability of other areas of Middle Green Valley.
- Landowners agree to form and participate in the Master Property Owners Association and the Conservancy as described in the Specific Plan. Section 4.5 of the MDA provides that the County Counsel's office will review and approve all the formation documents for the Conservancy prior to the issuance of the first final map to ensure that the Conservancy has been appropriately formed and meets the requirements of the Specific Plan, MDA and the other project approvals.
- The amount of specified development impact fees will be equal to: (1) during the first ten years, the levels current as of the beginning of the Agreement plus an amount reflecting increases in inflation through time of payment; and (2) during the second ten years, at the fee levels current at the tenth anniversary plus an amount reflecting increases in inflation through time of payment; (3) during the final five years, at the then-current fee levels.
- The County's costs to prepare, adopt and implement the Specific Plan, EIR and MDA (Initial County Costs) will be reimbursed, if development later proceeds, as a pro rata cost attached to issuance of each new residential building permit.

How does the Development Agreement relate to the MGV Specific Plan?

The Specific Plan establishes the zoning - the goals, policies, allowed uses, building areas, density, development standards, design guidelines and process for all future development within the Specific Plan area.

The MDA will ensure that, for the term of the DA, the County cannot change the Specific Plan without the agreement of the property owners and no landowner can request a change to the Specific Plan without the approval of the other participating landowners and the County.

The DA simply incorporates the Specific Plan by reference to establish the land uses allowed and development standards for the plan area and provides mechanisms for implementation.

How are existing uses and structures affected by the Development Agreement?

Under the County's zoning code, any existing legally authorized uses - even if not consistent with the Specific Plan - will be "grandfathered" or allowed to continue - including normal maintenance and repair

and replacement in the event of involuntary damage (such as earthquake or fire). The DA will not affect this right but will guarantee it for the term of the DA.

What are the benefits of a Development Agreement?

Since the DA "freezes" the General Plan and Specific Plan for the Specific Plan area for the term of the DA, this can protect owners from political and personnel changes in the County for the term of the development agreement. This development certainty typically makes the property more valuable and marketable.

What is the process for approving a Development Agreement for MGV?

Formally, a DA is approved by ordinance by a majority vote of the County Board of Supervisors after review and recommendations by the Planning Commission.

Before this formal approval, as a negotiated contract, the DA was negotiated by County staff and the landowners. The County developed a proposed term sheet for County and property owners for review and comment. Once the basic draft business terms were reviewed, the County's special counsel and County Counsel's office drafted the MDA for several rounds of review by the property owners.

The MDA was recommended for approval by the Planning Commission, and will need to be approved by the Board of Supervisors in conjunction with the Final Environmental Impact Report and Specific Plan.

Once approved, the DA will be finalized and signed by all parties and recorded against all the applicable properties.