

DATE: April 28, 2009

TO: Mayor and City Council

FROM: Director of Development Services Department

SUBJECT: Final Map Tract 7736, Application No. PL-2006-0069, Stonebrae Country Club Village B – Stonebrae, L.P. (Subdivider) – Request Additional Extension of Time for Completion of Certain Conditions of Approval Pertinent to Traffic Fees and Roadway Improvements - The Project is Located Southeast of the Fairview Avenue/Hayward Boulevard Intersection

RECOMMENDATION

That the City Council relies on previously approved environmental documents and adopts the attached resolution approving the requested additional extension of time for completion of certain conditions of approval for Final Map Tract 7736 pertaining to traffic fees and roadway improvements as follows:

1. The payment date for the second and final payment of \$1,611,574 for traffic impact fees shall be remitted either upon issuance of the 289th building permit or January 1, 2011, whichever occurs first; and
2. The starting date for Phase 1B off-site roadway improvements along Fairview Avenue from the project boundary through the planned Fairview/Woodstock roundabout shall be no later than June 1, 2010, in order to complete construction prior to the 2010 rainy season.
3. Authority is granted to the Director of Public Works, with concurrence of the City Manager, to approve additional extensions of these two conditions if deemed necessary due to economic conditions in the future.

BACKGROUND

The vesting tentative tract map for the Stonebrae Country Club was approved by the City Council in September 2002. The first Final Map Tract 5354 for Village A (214 homes) was approved on April 19, 2005, and recorded on July 29, 2005. The second Final Map Tract 7736 for Village B (149 homes) was approved on November 14, 2006, and recorded on May 24, 2007.

The project is under construction, with the school and golf course completed. As of March 5, 2009, Stonebrae has developed Village A, with nearly 150 homes being occupied, and infrastructure in Village B is also completed. While work under the City-approved improvement plans for Village B is completed, home construction has not yet started in this village. The developer is hopeful to have homes under construction and ready for delivery by spring of 2010.

In December of 2007, the developer of Stonebrae submitted a letter requesting an extension of time, and on January 29, 2008, the City Council approved amendments to the conditions of approval for Final Map Tract 7736 pertaining to the required traffic fees and roadway improvements because the construction and occupancy of these Village B homes would occur later than previously anticipated.

Due to current economic conditions, the developer for Stonebrae submitted a letter dated March 5, 2009, requesting an additional extension of time for the same two conditions. Currently, the amended conditions stipulate the payment date for traffic impact fees is either at the issuance of the 289th building permit or on January 1, 2010, whichever is earlier; and the commencement date for improvements along Fairview Avenue is June 1, 2009.

The Stonebrae developer is requesting an additional one-year extension for the timing of the second and final payment of traffic fees, and the schedule for the construction of the remaining off-site traffic improvements. Staff has reviewed the developer's request and determined that this second request does not constitute significant changes to the final map. In addition, due to the present uncertainty in future market conditions, staff also supports the requested delegation of approval for future extensions of these two traffic-related conditions to the Public Works Director, with concurrence of the City Manager. Any request for substantial changes to the conditions of approval would be brought back for the City Council consideration as required by law.

DISCUSSION

This is a second request for extensions of time for completion of required improvements and is a typical request for a large and complex project, especially given the current economic conditions.

Payment of Traffic Impact Fees:

The traffic impact fees in the amount of \$1,611,574 represents the remaining 50% of Stonebrae's pro-rata share towards the required improvements to the local street system identified in the project's traffic analysis. As modified with approval of the second Final Map, Tract 7736, condition of approval no. 46 established a time frame for the payment of the remaining \$1,611,574, as either at the issuance of the 289th building permit or on January 1, 2010, whichever is earlier. Because of the current economic conditions, lot sales for Village B have not met the developer's expectation. Total buildout of the Stonebrae development would encompass 566 units.

Under these circumstances and in light of the slower schedule for home construction in Stonebrae, the developer has requested that the due date for the remittance of traffic impact fees to be the earlier of either the issuance of the 289th building permit or January 1, 2011. The 289th building permit represents the total number of homes in Village A and one-half of the homes in Village B.

This payment delay for traffic impact fees could represent a loss of interest income to the City, but as previously modified, the condition includes interest at the rate of 5% and the developer has confirmed that 5% interest would be compounded annually, from January 1, 2007. The 5% rate is reasonable considering the City's present return on its investment portfolio. With the interest covered, staff supports this request.

Off-site Roadway Improvements:

Off site improvements to Fairview Ave were divided into two phases (1A and 1B) during approval of the first final map. Phase 1A covering the project frontage has been completed. The amended condition of approval no. 3.w. established a commencement date of June 1, 2009, for Phase 1B, which consists of roadway improvements along Fairview Avenue from the project boundary through the planned Fairview/Woodstock roundabout (refer to Exhibit B). The Stonebrae developer had also agreed to include undergrounding of utilities and new street lights along this section of Fairview Avenue, which were added improvements during approval of the second Final Map. The construction date of June 1, 2009 was selected so that roadway improvements would be completed prior to the beginning of rainy season.

For the aforementioned reasons relating to the projected timing of actual home construction and occupancy, and due to the voluntary nature of the expanded scope of work for the remaining roadway improvements, Stonebrae has also requested that the commencement date for the off-site roadway improvements be postponed one year, to June 1, 2010.

Staff has determined that the requested extensions are justified by the changed circumstances in the housing market and do not propose new provisions that modify the development authorized under the approval of the final map, nor alter any right, title or interest in the property. Therefore, it is recommended that the City Council approves the requested extension. Also, considering the prospect of continued slower than expected market conditions, staff supports the requested delegation of approval for future extensions of these two traffic related conditions to the Public Works Director, with concurrence of the City Manager.

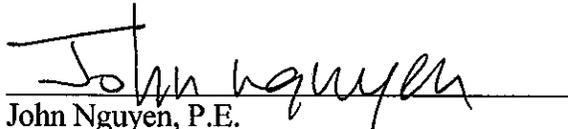
FISCAL IMPACT

There is no fiscal impact to the General Fund for this recommendation because the developer had previously agreed, and has reaffirmed such agreement, that 5% annual interest would continue to accrue on the unpaid portion of the fees and would be included with final payment.

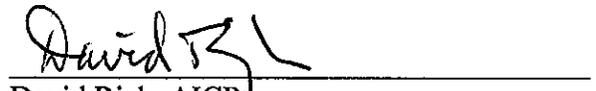
NEXT STEPS

If the request is approved, an addendum to the Subdivision Agreement for Final Map 7736 will be executed.

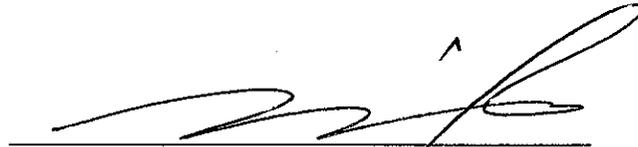
Prepared by:


John Nguyen, P.E.
Development Review Engineer

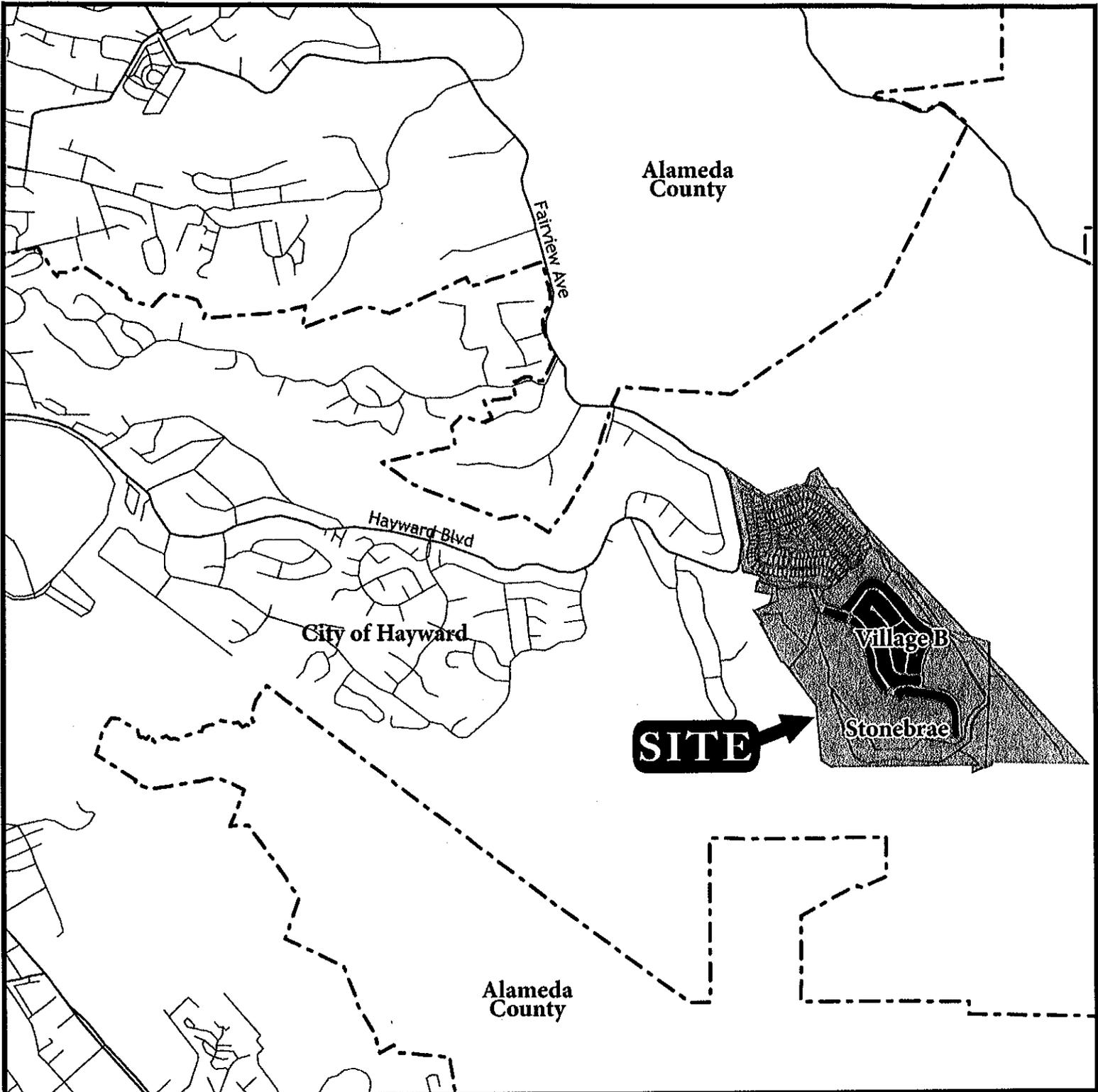
Recommended by:


David Rizk, AICP
Director of Development Services Department

Approved by:


Fran David, Assistant City Manager

Attachments: Exhibit A. Vicinity Map
Exhibit B. Fairview Avenue -- Location Map for Roadway Improvements
Exhibit C. March 5, 2009, Letter from Developer
Draft Resolution



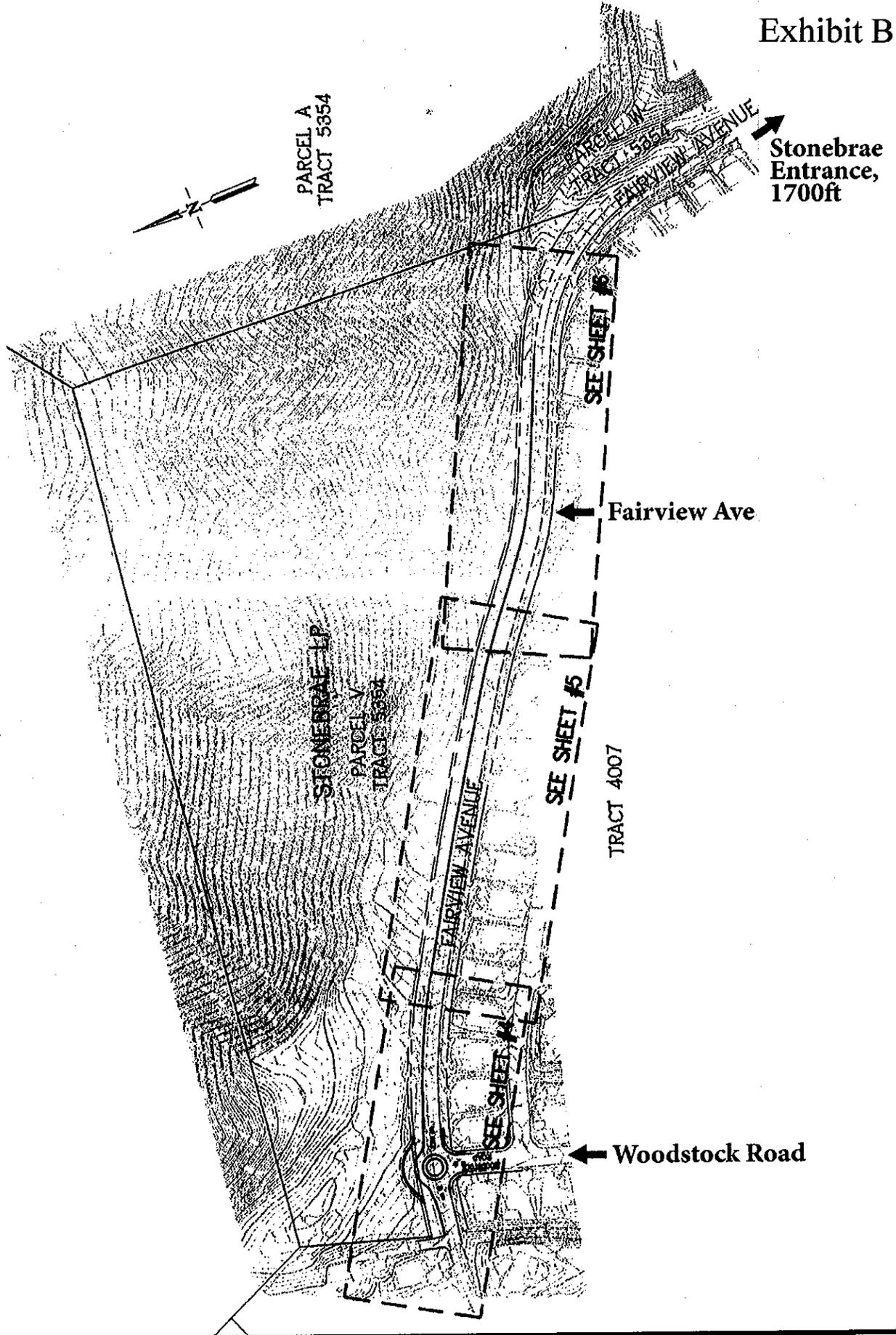
Vicinity Map

Tract 7736

Village B

FEET 2000 4000





Tract 7736 - Village B

Location Map for Offsite Roadway
Improvements on Fairview Avenue



S T O N E B R A E
C O U N T R Y C L U B

March 5, 2009

Mr. Robert Bauman
Director of Public Works
City of Hayward
777 B Street
Hayward, California 94541

Re: Traffic Improvements and Fairview Avenue

Dear Bob:

The Stonebrae community was approved for 614 homes in 2002 with a Development Agreement, Vesting Tentative Map and other approvals. Pursuant to the development plan for Stonebrae, construction should occur in approximately five phases spread over several years. The first two phases are already underway. The initial phase is the 214-home Village A (Tract 5354), which the City approved in 2005. The City approved the 149-home Village B (Tract 7736) in 2006. Village B consists of 119 lots for production builders and 32 larger lots fronting on a spine road leading to the country club facilities.

The Village B conditions of approval established a schedule for the remaining off-site project traffic fees and completion of actual road improvements. These included a second and final payment of \$1,611,574 (of a total approximate \$3.2 million) for traffic improvements. This fee is due prior to the issuance of the 289th building permit or January 1, 2010, whichever occurs first (Agenda Report of January 29, 2008, and City Council Resolution No.08-019). Additionally, the outside construction start date for the roadway improvements at the northern end of Fairview Avenue from the project boundary through the planned Fairview/Woodstock roundabout is June 1, 2009. (Subdivision Agreement for Village B, Exhibit A, Condition 3w).

Stonebrae has made substantial progress in the development of Villages A and Village B and the country club amenities. For example, we have developed Village A and nearly 150 homes are occupied, Village B infrastructure is completed and we are hopeful to have limited number of homes under construction and ready for delivery by spring of next year. The golf course and club facilities have hosted a PGA TOUR televised golf event providing four days of national exposure of our community and the City of Hayward.

Although we are very pleased with the market's acceptance of Stonebrae, the current economic conditions we have experienced during 2008 and 2009 lot sales and home construction levels have not met our expectations. Under these present conditions, the construction and occupancy of the Village B homes will now occur later and more gradually than originally planned when the City approved Village B in 2006.

In light of the revised schedule for home construction in Stonebrae under current conditions, we request that the City reconsider the schedule for the remaining off-site traffic mitigations. Consistent with the original intention for these improvements, we request the modification of the timing of this remaining payment and construction of the remaining improvements as summarized below.

Robert Bauman
Director of Public Works
777 B Street
Hayward, California 94541

With respect to the traffic mitigation fee, the first half, \$1.6 million, was paid in connection with Village A, and the approvals for Village B require payment of the remainder by January 1, 2010. We request that this final payment occur before the earlier of either issuance of the 289th building permit or January 1, 2011. This threshold equals all of the permits for Village A homes and half of the Village B homes. Under this timetable, 100% of the fee will have been paid well before 50% of the homes are occupied. As Stonebrae has previously agreed, interest will accrue on the unpaid portion of the fee at a rate of 5%, compounded annually.

As to the extension of the off-site improvements along Fairview Avenue, substantial progress has been made. We also would note that the scale of these improvements has been expanded previously to include the roundabout at Fairview and Woodstock, the widening of Fairview from the project boundary to the roundabout, which also includes our agreement to add additional project-designed light poles and the burying of all utilities. Finally, shortly after the approval of "Blue Rock Country Club" (the previous project name) in 1998, we agreed to participate in additional Fairview Avenue traffic improvements as negotiated by the City and Alameda County and in 2005 we contributed \$800,000 towards Fairview Avenue improvements (which was in addition to our traffic mitigation fees). For the reasons explained above relating to the projected timing of actual home construction and occupancy, and due to the voluntary nature of the expanded scope of the remaining improvements, we request that the required outside starting date for this portion of the project be delayed one year, until June 1, 2010.

A development of the size and scope of Stonebrae takes on many aspects that cannot always be anticipated. The City has comprehended this facet of long term construction, especially as it relates to the need for occasional modifications during phased build-out to reflect changing conditions. In order to help facilitate further modifications to the two elements described above, we request that authority to grant future extensions, if necessary, be delegated to the Director of Public Works with concurrence by the City Manager. We are proud of the successes Stonebrae has achieved with the City's assistance and believe it will continue to be a highly respected community throughout the Bay Area.

Please consider these requests. We will be pleased to meet and discuss any information requested. We look forward to hearing from you.

Sincerely,



Steven Miller
Executive Director

cc: Greg Jones, Mike Letchinger, Paul Yuen, Joanna Callenbach

DRAFT

mae
4/16/09

HAYWARD CITY COUNCIL

RESOLUTION NO. 0

Introduced by Council Member _____

**RESOLUTION AMENDING FINAL MAP TRACT 7736 FOR
STONEBRAE COUNTRY CLUB VILLAGE B RELATING TO
CERTAIN CONDITIONS OF APPROVAL PERTINENT TO
TRAFFIC FEES AND ROADWAY IMPROVEMENTS**

WHEREAS, the City Council adopted Resolution No. 06-137 on November 14, 2006, approving Final Map Tract 7736 for the Stonebrae development, which primarily encompassed Village B, consisting of 117 lots for production builders and 32 larger custom lots; and

WHEREAS, the City Council adopted Resolution No. 08-019 on January 29, 2008, approving the developer's request for an extension of time to comply with Conditions of Approval Nos. 46 and 3w of Final Map Tract 7736; and

WHEREAS, on March 5, 2009, Stonebrae L.P. submitted a letter requesting an additional extension of time to comply with Conditions of Approval Nos. 46 and 3w of Final Map Tract 7736; and

WHEREAS, amended Condition of Approval No. 46 for Final Map Tract 7736 established a time frame for the payment of the remaining traffic impact fees in the amount of \$1,611,574 as either upon the issuance of the 289th building permit or on January 1, 2010, whichever first occurs, for which delay Stonebrae L.P. agreed to pay five percent compounded interest from January 1, 2007; and

WHEREAS, Condition of Approval No. 3w established a commencement date of June 1, 2009, for off-site roadway improvements, including undergrounding of utilities and new street lights along Fairview Avenue from the project boundary through the planned Fairview/Woodstock roundabout; and

WHEREAS, as a result of changed circumstances in the housing market and the project timing of actual home construction and occupancy, Stonebrae L.P. has requested that the City reconsider the timing of the second and final payment of traffic fees and the schedule for the construction of the remaining off-site traffic improvements; and

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward