



## Memorandum

TO: Andrew Ching, City Manager

FROM: Bill Greene, City Auditor

CC: Steven Methvin, Deputy City Manager, Chief Operating Officer  
Chad Weaver, Community Development Director

DATE: May 29, 2020

SUBJECT: COMMUNITY DEVELOPMENT PROJECT REVIEW – CAMDEN HAYDEN II

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### **Purpose**

At your request, the Internal Audit Office conducted a consulting review to:

- 1) Confirm the current status of the Camden Hayden II project (Project);
- 2) Create timelines for the Project plan review process and drafting of the associated Dog Park Agreement;
- 3) Determine if project turnaround times were reasonable when compared to performance targets and/or averages for similar projects, to the extent possible;
- 4) Identify opportunities to improve any processes that contributed to permitting delays.

### **Background**

Concerns were raised to the City Manager about potential delays in the plan review process that may have caused the Project to be cancelled or put on hold. As a result, the Internal Audit Office was asked to examine plan review and other actions specific to this Project.

### **Scope and Methods**

The objective of this consulting engagement was to provide information as described in the purpose statement above. The work performed does not constitute an audit in accordance with *Government Auditing Standards*.

To achieve our stated objectives, I conducted the following review steps:

- Interviewed Community Development Department staff;
- Interviewed City Attorney's Office staff;
- Interviewed the Project developer's primary representative;
- Reviewed reports and data from the Accela system (Accela is the City's software platform used for all project submittals that include, Planning, Building and Engineering. Accela allows

Community Development staff to assign, track and automatically notify customers the status of their review. The software also provides reporting and metrics for each aspect of a project from the planning phase to final inspection);

- Reviewed available documentation supporting key steps in the Project plan review process (e.g. City Council Action Reports, Plan Check Reports, Accela reports, email correspondence);
- Reviewed the Dog Park Maintenance and Operations agreement and related email correspondence supporting key timeline dates and steps;
- Calculated Project plan review cycle times and compared them to available targets and similar projects;
- Reviewed the January 16, 2018 *Development Review – Customer Experience Recommendations* report issued by the Office of Strategic Management and Diversity.

## **Results**

### *1. Camden Hayden II Project Status*

**The developer’s primary representative described the current Project status as “Indefinite Hold.” Although descriptions of project status were consistent with prior communications to City staff, no supporting documents were provided to corroborate developer assertions for cause or timing of placing the Project on hold.**

When contacted, the developer’s representative indicated that although they desire to move the Project forward at some point, it is currently on “Indefinite Hold” because the developer cannot secure funding. He indicated the developer’s lack of ability to obtain funding resulted from fallout of the COVID-19 pandemic. Specifically, he stated that financial institutions discontinued issuing loans for any development projects that were not already started. These statements were consistent with assertions made by the representative in March 2020 emails sent to City staff. According to Accela, Project permits were ready for issuance pending payment of fees and execution of the Dog Park Agreement on March 12, 2020. Further, on May 13, 2020, Community Development staff approved a one-year time extension for two Project Development Plan Review approvals requested by the developer’s representative.

When asked about other contributing factors, the representative stated that although many things went well during plan review, he believes general delays in the permit review process (and specifically the unwillingness of the Community Development Department (Community Development) to issue permits until the Dog Park Agreement was executed) caused permits not to be issued before the developer lost the ability to secure funding for the Project.

The representative declined to provide any documents (e.g. letters from funding institutions, internal company communications) supporting his assertions or the timing of any funding notifications, citing proprietary concerns. Despite multiple requests to provide other written evidence generally available in the public domain, no other documents corroborating his statements were received as of the date of this report.

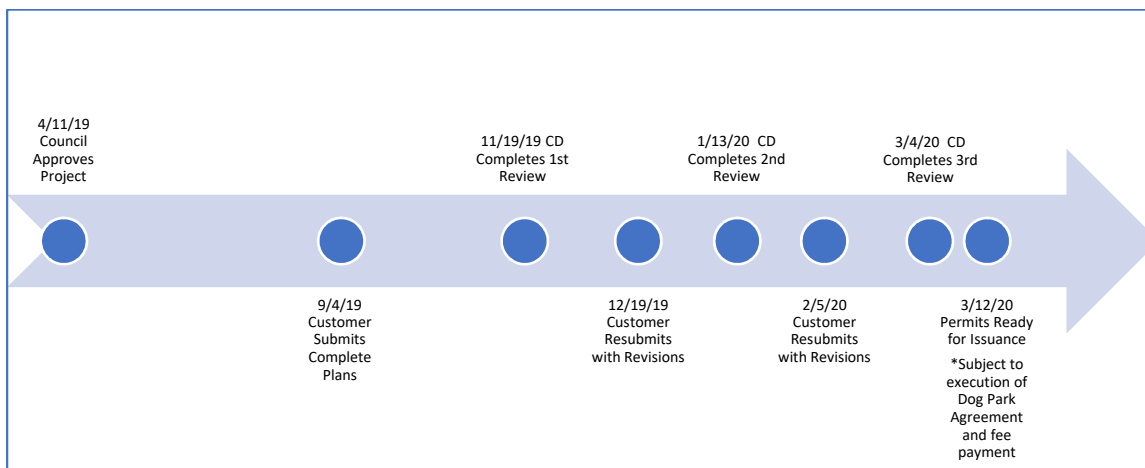
### *2. Project Timelines*

**Based on information recorded in Accela and other supporting documents, the developer submitted the initial Project building permit application 139 calendar days following Council approval. Of the**

**336 total calendar days that elapsed from the date of Council approval until permits were ready for issuance, 201 can be assigned to developer activities and 135 to City staff.**

Community Development is responsible for assisting customers through the development entitlement process such as use permits, variances, development plans and land division approvals per the General Plan and Zoning and Development Code. Community Development processes change or adoption of codes and ordinances, facilitates the rules and regulations applicable to new development, redevelopment, construction, and property conservation. Consistent with its mission, Community Development led plan review and permit activities associated with this Project. I worked with Community Development staff and examined supporting evidence to identify key steps in the Project plan review timeline as shown below (Figure 1).

*Figure 1: Camden Hayden II Plan Review Timeline*



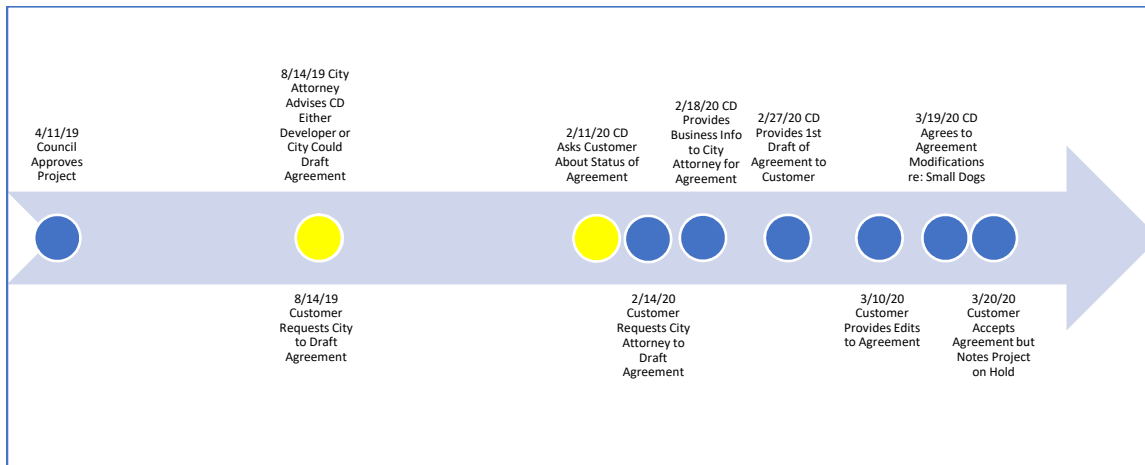
**According to City staff, the requirement to build a dog park on City property and related maintenance and operations agreement are unusual conditions of approval for a Planned Area Development (PAD) amendment. As a result, evidence reviewed showed differing opinions regarding which party was responsible for drafting the initial agreement. No documentation was provided to demonstrate either the representative or City staff followed-up or communicated with each other about agreement status until February 2020. Inactivity during this 181-day period was the primary cause for the delay to draft the Dog Park Agreement. Despite this, no evidence was provided to prove whether earlier execution of the agreement would have enabled the developer to obtain funding for the Project. It is important to note that there is only a 7-day gap between notification that permits were ready to be issued (March 12, 2020) and the date the final dog park agreement was provided to the developer (March 19, 2020).**

Among other requirements, Condition of Approval #4 of the PAD Amendment approved by City Council for this Project required the execution of, "...an operations and maintenance agreement for the proposed dog park prior to issuance of building permits." According to staff in both Community Development and the City Attorney's Office, the requirement to construct a dog park on City property is an unusual component of a PAD Amendment. More typically, this requirement, including which party is responsible for drafting, resides in a separate development agreement. Condition of Approval #4 did not identify who was responsible for drafting the operations and maintenance agreement.

No actions necessary to draft the Dog Park Agreement were dependent on plan review activities. Because it was a separate process, the timeline on the following page (Figure 2) highlights key steps taken to draft and execute the agreement and does not include plan review actions. Primary parties involved in this process included:

- Developer’s Representative
- Community Development
- City Attorney’s Office
- Community Services Department and Risk Management (to a much lesser degree)

Figure 2: Dog Park Agreement Timeline



The table on the following page (Table No. 1) provides additional detail regarding steps and the number of days taken to draft the Dog Park Agreement (Table No.1). Based on email correspondence reviewed, the developer’s representative first requested the City to draft the Dog Park Agreement on August 14, 2019 (125 days after City Council approved the Project). On the same day, Community Development staff requested direction from the City Attorney’s Office (City Attorney) as to which party should draft the initial agreement. In an email response to Community Development staff, City Attorney staff advised that either the developer or the City could initiate the process, but indicated the need for additional information, such as background information about the dog park and a list of all the maintenance and operation requirements.

Subsequent to the email response from the City Attorney, no documentation was provided to demonstrate that City staff directed the developer to begin drafting the Dog Park Agreement. However, there was also no correspondence that showed the developer’s representative followed up on the status of his initial request. It is not until February 12, 2020 (when Community Development staff ask the developer about the status of the agreement) that communications about the agreement resume between City and developer. It is my opinion that City staff should have clearly communicated a request for the developer to provide an initial draft. Conversely, as an advocate for the Project, the developer’s representative had an obligation to follow up with the City on the status of his initial request. Therefore, there is a shared responsibility between City and developer for the 181 days of inactivity on the Dog Park Agreement.

When reviewing the timeline and details in Table 1 on the following page, it is clear the Dog Park Agreement could have been drafted well before permits were ready to be issued on March 12, 2020 if

the process had begun earlier. Evidence shows that once the City Attorney's Office received a request to draft an agreement in mid-February 2020, a total of 35 calendar days elapse before a final agreement is presented to the developer. However, no evidence was provided to demonstrate whether earlier execution of the agreement would have enabled the developer to obtain funding.

Table No. 1 Camden Hayden II - Dog Park Agreement Calendar Days to Execute Agreement					
Date	Action	Developer	City	Shared Responsibility	Total Days
4/11/2019	Council approves Project (Condition #4 Requires Dog Park Agreement)	-	-	-	-
8/14/2019	Customer requests City to draft Dog Park Agreement	125	0	0	125
8/14/2019	City Attorney's Office (City Attorney) advises CD that either Developer or City could draft agreement - Requests addl information	0	0	0	0
9/4/2019	<b>Customer Submits Complete Plans</b>				
2/11/2020	CD Staff asks Customer about the status of the Dog Park Agreement	0	0	181	181
2/14/2020	Customer requests City Attorney to draft Dog Park Agreement	3	0	0	3
2/19/2020	CD Provides business information to City Attorney for Dog Park Agreement	0	5	0	5
2/24/2020	City Attorney provides 1st draft of agreement to CD	0	5	0	5
2/25/2020	CD provides feedback and additional information to City Attorney	0	1	0	1
2/27/2020	City provides Customer 1st draft of Dog Park Agreement for review	0	2	0	2
3/10/2020	Customer returns agreement to the City with requested edits	12	0	0	12
3/12/2020	<b>Customer Notified Permits Ready Pending Dog Park Agreement &amp; Fee Payment</b>				
3/13/2020	City provides Customer 2nd draft of Dog Park Agreement	0	3	0	3
3/17/2020	Customer returns agreement to the City with requested edits	4	0	0	4
3/18/2020	City accepts final changes to the Dog Park Agreement, with the removal of the dog size limitation	0	1	0	1
3/18/2020	Applicant disagrees with removal of small dog size limitation and requests a call to discuss	0	0	0	0
3/19/2020	Applicant sends final Dog Park Agreement	1	0	0	1
3/19/2020	City agrees to final Dog Park Agreement and allows the small dog limitation. Requests agreement to be signed and returned for building permits to be issued.	0	0	0	0
3/20/2020	Applicant agrees with final Dog Park Agreement changes but notes funding issues and states project is on hold.	1	0	0	1
TBD	Executed Dog Park Agreement not yet received from Customer	-	-	-	-
		<b>146</b>	<b>17</b>	<b>181</b>	<b>344</b>

3. *Plan Review Turnaround Times*

**Overall, Project plan review turnaround times were within Community Development’s published target goals and comparable to several other similar projects.**

Using dates, email notifications recorded in the Accela system and other correspondence, I calculated the number of business days required for Community Development to complete Project plan review activities. I then compared plan review turnaround times and the overall time in calendar days (defined as the number of days between the date the developer’s application is first accepted and the date permits are ready to be issued) to target times published on the Community Development web page. Community Development staff also provided Accela data from 3 other projects they represented were comparable to the Camden Hayden II project. The comparison shows that, except for Initial Plan Review, turnaround times were within targets, shorter than comparable projects and the Overall Time was well within the target goal.

Table No. 2					
Camden Hayden II - Turnaround Time Comparison (Number of Business Days)					
		Other Comparison Projects			
	Camden Hayden II	CD Targets*	Tempe Crossroads	Aspen Heights	1100 Apache
Admin. Completeness	5	15	3	2	3
Initial Plan Review	54	30-38	37	38	17
2nd Plan Review	12	20-25	31	37	49
3rd Plan Review	18	15-20	32	47	45
Overall Time (Calendar Days)	190	365	197	254	208

Note\*: As published on Community Development Web Site

4. *Opportunities for Improvement*

**Although there is no evidence to support that earlier execution of the Dog Park Agreement would have changed the Project’s current status, clarity about who was responsible to initiate the agreement and improved communication could have expedited the drafting process.**

City Attorney’s Office and Community Development staff suggested that the unusual inclusion of the dog park construction on City property and related operations and maintenance agreement in the PAD amendment conditions of approval represented an outlier to the standard development process. The absence of a standard protocol for managing these outliers may have contributed to a lack of clarity about responsibility, communication and thus, timeliness.

**Recommendations**

1. Community Development create a standard operating procedure for managing development process entitlement outliers.