

P05-173 – Sky Park at Natomas Field

- REQUEST:
- A. **Environmental Determination:** Previously Adopted Negative Declaration;
 - B. **Development Agreement** between the City of Sacramento and Towne Development of Sacramento;

LOCATION: East of East Commerce Way, south of Prosper Way
APN: 225-0150-015 and portions of 225-0150-018, -036
North Natomas Community Plan Area
Natomas Unified School District
Council District 1

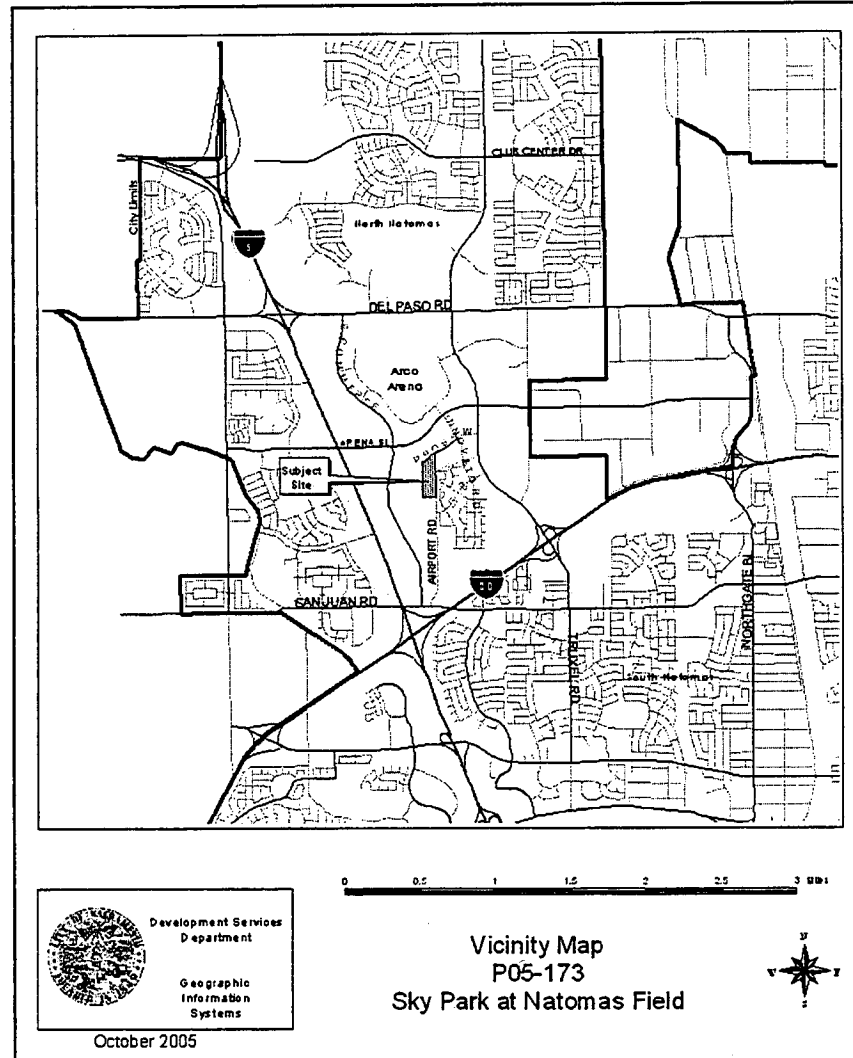
APPLICANT/OWNER: Towne Development of Sacramento
Jeff Pemstein, (916) 782-2424
775 Sunrise Avenue, #270, Roseville, CA 95662

APPLICATION FILED: October 17, 2005

STAFF CONTACT: David Hung, Associate Planner, (916) 808-5530

SUMMARY:

On March 22, 2005, the City Council approved the project entitlements for the Strawberry Field project (P03-134), including a Development Agreement between the City of Sacramento and Towne Development of Sacramento, Inc. On July 21, 2005, the City Council approved an ordinance postponing the effective date of the Development Agreement from 90 days to 180 days due to unanticipated environmental conditions at the site that delayed Towne Development's acquisition of title. As of now, the approved effective date on the Developed Agreement has expired and the applicant is submitting a new application for the Development Agreement that will need to be approved by the Planning Commission and City Council.

**RECOMMENDATION:**

Staff recommends approval of the Previously Adopted Negative Declaration and the Development Agreement as requested. This recommendation is based upon the proposal's consistency with applicable City policies.

BACKGROUND INFORMATION:

The Development Agreement approved by City Council on March 22, 2005 for Strawberry Field (P03-134) stated that Towne Development of Sacramento must acquire title to the property covered by the Development Agreement within 90 days of the effective date of the ordinance. In this case, the ordinance approving the Development Agreement became effective on April 22, 2005. Ninety days from April 22, 2005 is July 22, 2005. Due to clean up efforts on the site taking longer than expected, Towne Development anticipated that it will be

unable to gain title to the entire property, including the portion of the property exchanged with Beazer Homes, until August 2005; subsequently, the City Council approved an emergency Ordinance on July 21, 2005 to amend the definition of the Effective Date of the ordinance from 90 days to 180 days, which would extend the deadline to acquire title to October 22, 2005. The proposed amendment to the definition of Effective Date is not considered substantive for the purposes of City Code Section 18.16.130 because it does not change the terms of the development agreement or modify the provisions of the agreement dealing with the permitted uses, density or intensity of use, height or size of buildings, provisions for reservation and dedication of land, conditions, terms, restrictions and requirements relating to subsequent discretionary actions, monetary contributions by a landowner, or any other material term or condition of the agreement.

The applicant, Towne Development of Sacramento, did not have sufficient time to request an extension of the Effective Date again and therefore the Development Agreement expired on October 22, 2005. According to the applicant, final confirmation samples have been collected and are now being tested to finalize the site clean-up work. Upon confirmation that the site has been cleaned up, the State of California Regional Water Quality Control Board will publish a "closure letter". Issuance of the "closure letter" is a required condition for the property exchange between Towne Development and Beazer Homes. The applicant has submitted a new application for the Development Agreement (P05-173) that will need to be approved by the Planning Commission and City Council.

STAFF EVALUATION: Staff has the following comments:

A. Policy Considerations

The Sky Park at Natomas Field project, formerly know as the Strawberry Field project, has been determined to be consistent with applicable City policies, including the Inclusionary Housing Policy, the City's Smart Growth Principles, and the City's Strategic Plan.

B. Development Agreement

The standard Development Agreement format, approved by the City Council on August 9, 1994, (Resolution No. 94-494), has been used by the applicant and the exhibits have been provided for the specific project. The Draft Ordinance for the Development Agreement is included with this staff report (Attachment 3). The applicant will be coordinating with the City Attorney's Office to complete the Development Agreement. Planning staff recommends the Planning Commission recommend approval of the Development Agreement and forward it to the City Council.

PROJECT REVIEW PROCESS:

A. Environmental Determination

On March 22, 2005, the City Council approved a Mitigated Negative Declaration for the originally proposed project (P03-134). Potentially significant environmental issues regarding biological resources, hazards, and cultural resources were discussed and mitigated in this document. The current request to establish a new Development Agreement for the same project does not result in any impacts over and above what was previously analyzed. Section 15162 of the Guidelines for Implementation of the California Environmental Quality Act Public Resources Code provides that an additional Negative Declaration (or Environmental Impact Report) need not be prepared unless subsequent changes are proposed in the project, substantial changes occur with respect to the project circumstances, or new information of substantial importance to the project becomes known or available. Thus, a previously adopted Negative Declaration is considered for the subject proposal. The applicant has reviewed the previously adopted Mitigation Monitoring Plan and has signed a Mitigation Agreement in acceptance of the imposed mitigation measures.

PROJECT APPROVAL PROCESS: Of the entitlements below, Planning Commission has the authority to approve or deny (A) Previously Adopted Negative Declaration, and (B) Development Agreement. The Planning Commission action may be appealed to the City Council. The appeal must occur within 10 days of the Planning Commission action. Entitlement B requires City Council approval.

RECOMMENDATION:

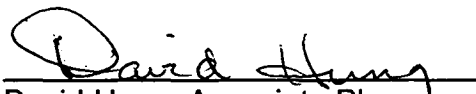
Staff recommends approval of the development agreement for the following reasons:

- o Consistency with applicable City policies, including the Inclusionary Housing Policy, the City's Smart Growth Principles, and the City's Strategic Plan.

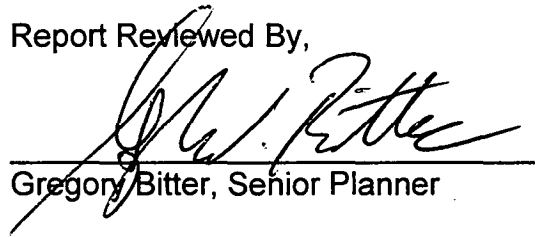
Staff recommends the Planning Commission take the following actions:

- A. Finds that a previous Environmental Document was prepared and approved; and
- B. Adopt the attached Notice of Decision and Findings of Fact approving the Development Agreement between the City of Sacramento and Towne Development of Sacramento.

Report Prepared By,


David Hung, Associate Planner

Report Reviewed By,


Gregory Bitter, Senior Planner

Attachments

Attachment 1	Notice of Decision & Findings of Fact
Attachment 2	Land Use & Zoning Map
Attachment 3	Draft Development Agreement Ordinance

Attachment 1
NOTICE OF DECISION AND FINDINGS OF FACT FOR
SKY PARK AT NATOMAS FIELD, LOCATED AT EAST OF EAST COMMERCE WAY AND
SOUTH OF PROSPER WAY, SACRAMENTO, CALIFORNIA (P05-173)

At the regular meeting of November 10, 2005, the City Planning Commission heard and considered evidence in the above-entitled matter. Based on verbal and documentary evidence at said hearing, the Planning Commission took the following actions for the location listed above:

- A. Environmental Determination: Previously Adopted Negative Declaration;**
- B. Recommended approval of the Development Agreement between the City of Sacramento and Towne Development of Sacramento.**

These actions were made based upon the following findings of fact and subject to the following conditions:

FINDINGS OF FACT

- A. Prior Environmental Document Prepared: The City Planning Commission has considered the previously approved Mitigated Negative Declaration.

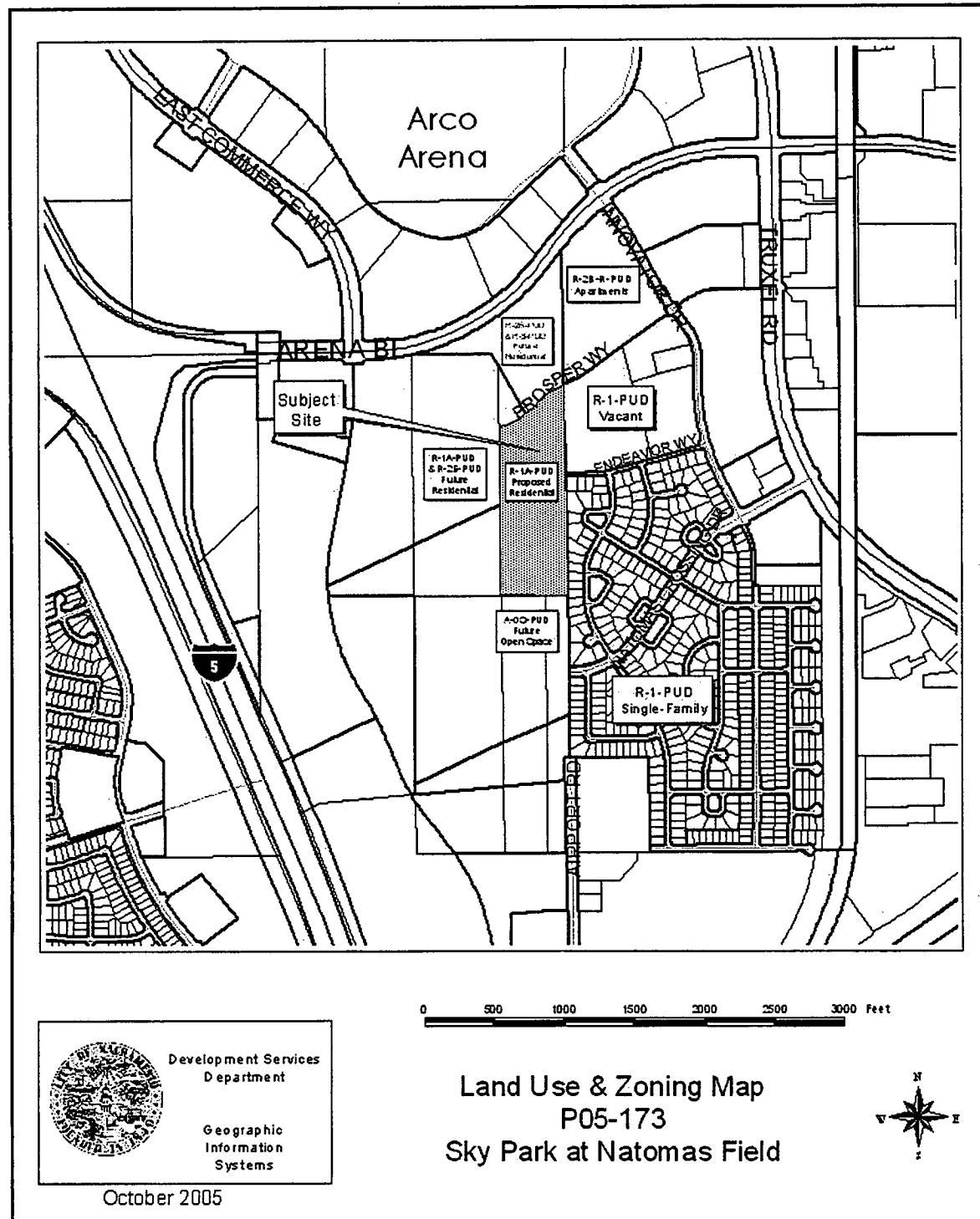
CHAIRPERSON

ATTEST:

SECRETARY TO CITY PLANNING COMMISSION

DATE (P05-173)

Attachment 2 – Land Use & Zoning Map



Attachment 3 – Draft Development Agreement Ordinance

ORDINANCE NO. 2005-XXXX

Adopted by the Sacramento City Council

Date

AN ORDINANCE RELATING TO THE APPROVAL OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SACRAMENTO AND TOWNE DEVELOPMENT OF SACRAMENTO, INC., FOR PROPERTY LOCATED EAST OF EAST COMMERCE WAY, SOUTH OF PROSPER WAY. (APN: 225-0150-015 and portions of 225-0150-018, -036) (P05-173)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO THAT:

SECTION 1

This Ordinance incorporates, and by this reference makes part hereof, that certain Development Agreement, by and between the City of Sacramento and Towne Development of Sacramento, Inc., a copy of which is attached hereto.

SECTION 2

The City Council finds:

1. The agreement is consistent with the city general plan and the goals, policies, standards and objectives of any applicable specific or community plan;
2. The project should be encouraged in order to meet important economic, social, environmental or planning goals of any applicable specific or community plan;
3. The project would be unlikely to proceed in the manner proposed in the absence of a development agreement;
4. The landowner will incur substantial costs in order to provide public improvements, facilities or services from which the general public will benefit;
5. The landowner will participate in all programs established and/or required under the general plan or any applicable specific or community plan and all of its approving resolutions (including any mitigation monitoring plan), and has agreed to financial participation required under any applicable financing plan and its implementation measures, all of which will accrue to the benefit of the public;

Attachment 3 – Draft Development Agreement Ordinance

6. The landowner has made commitments to a high standard of quality and has agreed to all applicable land use and development regulations.

SECTION 3

The Development Agreement attached hereto is hereby approved, and the Mayor is authorized to execute after the effective date of this Ordinance said Development Agreement on behalf of the City of Sacramento. This approval and authorization is based upon the Mitigated Negative Declaration and Mitigation Monitoring Plan which is the subject of a separate resolution adopted by City Council prior to or concurrent with the adoption of this Ordinance.

Attachment 3 – Draft Development Agreement Ordinance

A copy of the Development Agreement
is available for Review at:

City of Sacramento
Development Services Department
915 I Street, 3rd Floor
Sacramento, CA 95814
(916) 808-5381

8 a.m. - 5 p.m.
Monday through Friday



REPORT TO COUNCIL City of Sacramento

27

915 I Street, Sacramento, CA 95814-2671
www.CityofSacramento.org

PUBLIC HEARING
December 13, 2005

Honorable Mayor and
Members of the City Council

Subject: Sky Park at Natomas Field (P05-173)

Location/Council District:

East of East Commerce Way and south of Prosper Way. APN: 225-0150-015 and portions of 225-0150-018, -036. Council District 1.

Recommendation:

Planning Commission and staff recommend that the City Council approve an Ordinance for a Development Agreement between the City of Sacramento and Towne Development of Sacramento.

Contact: David Hung, Associate Planner, 808-5530; Gregory Bitter, Senior Planner, 808-7816

Presenters: David Hung, Associate Planner

Department: Development Services

Division: Planning

Organization No: 4875

Summary:

On March 22, 2005, the City Council approved the project entitlements for the Strawberry Field project (P03-134), including a Development Agreement between the City of Sacramento and Towne Development of Sacramento, Inc. On July 21, 2005, the City Council approved an ordinance postponing the effective date of the Development Agreement from 90 days to 180 days due to unanticipated environmental conditions at the site that delayed Towne Development's acquisition of title. As of now, the approved effective date on the Developed Agreement has expired and the applicant is submitting a new application (now known as Sky Park at Natomas Field) for a Development

Agreement that requires approval by the City Council.

Committee/Commission Action:

On November 8, 2005, the Planning Commission unanimously approved (eight ayes and zero noes) the Development Agreement and forwarded the recommendation to the City Council for approval.

Background Information:

The Development Agreement approved by City Council on March 22, 2005 for Strawberry Field (P03-134) stated that Towne Development of Sacramento must acquire title to the property covered by the Development Agreement within 90 days of the effective date of the ordinance. In this case, the ordinance approving the Development Agreement became effective on April 22, 2005, which is 30 days after City Council approval. Due to clean-up efforts on the site taking longer than expected, Towne Development anticipated that it would be unable to gain title to the entire property, including the portion of the property exchanged with Beazer Homes, until August 2005. Subsequently, the City Council approved an emergency Ordinance on July 21, 2005 to amend the definition of the Effective Date of the ordinance from 90 days to 180 days, which would extend the deadline to acquire title to October 22, 2005.

The proposed amendment to the definition of Effective Date is not considered substantive for the purposes of City Code Section 18.16.130 because it does not change the terms of the Development Agreement or modify the provisions of the Agreement dealing with the permitted uses, density or intensity of use, height or size of buildings, provisions for reservation and dedication of land, conditions, terms, restrictions and requirements relating to subsequent discretionary actions, monetary contributions by a landowner, or any other material term or condition of the Agreement.

The applicant, Towne Development of Sacramento, did not have sufficient time to request an additional extension of the Effective Date and, therefore, the Development Agreement expired on October 22, 2005. According to the applicant, final confirmation samples have been collected and are now being tested to finalize the site clean-up work. Upon confirmation that the site has been cleaned up, the State of California Regional Water Quality Control Board will publish a "closure letter." Issuance of the "closure letter" is a required condition for the property exchange between Towne Development and Beazer Homes. The applicant has submitted a new application for the Development Agreement (P05-173) that requires approval by the City Council.

Financial Considerations:

This project has no fiscal considerations.

Environmental Considerations:

On March 22, 2005, the City Council approved a Mitigated Negative Declaration for the

originally proposed project (P03-134). Potentially significant environmental issues regarding biological resources, hazards, and cultural resources were discussed and mitigated in this document. The current request to establish a new Development Agreement for the same project does not result in any impacts over and above what was previously analyzed. Section 15162 of the Guidelines for Implementation of the California Environmental Quality Act Public Resources Code provides that an additional Negative Declaration (or Environmental Impact Report) need not be prepared unless subsequent changes are proposed in the project, substantial changes occur with respect to the project circumstances, or new information of substantial importance to the project becomes known or available. Thus, a previously adopted Negative Declaration is considered for the subject proposal. The applicant has reviewed the previously adopted Mitigation Monitoring Plan and has signed a Mitigation Agreement in acceptance of the imposed mitigation measures.

Policy Considerations:

The Sky Park at Natomas Field project, formerly know as the Strawberry Field project, has been determined to be consistent with applicable City policies, including the Inclusionary Housing Policy, the City's Smart Growth Principles, as well as the City's Strategic Plan three-year goals of achieving sustainability and enhance livability, and increasing opportunities for all Sacramento residents to live in safe and affordable housing .

Emerging Small Business Development (ESBD):

No goods or services are being purchased under this report.

Respectfully Submitted by:


David Kwong, Interim Planning Manager

Approved by:


William Thomas
Director of Development Services

Recommendation Approved:


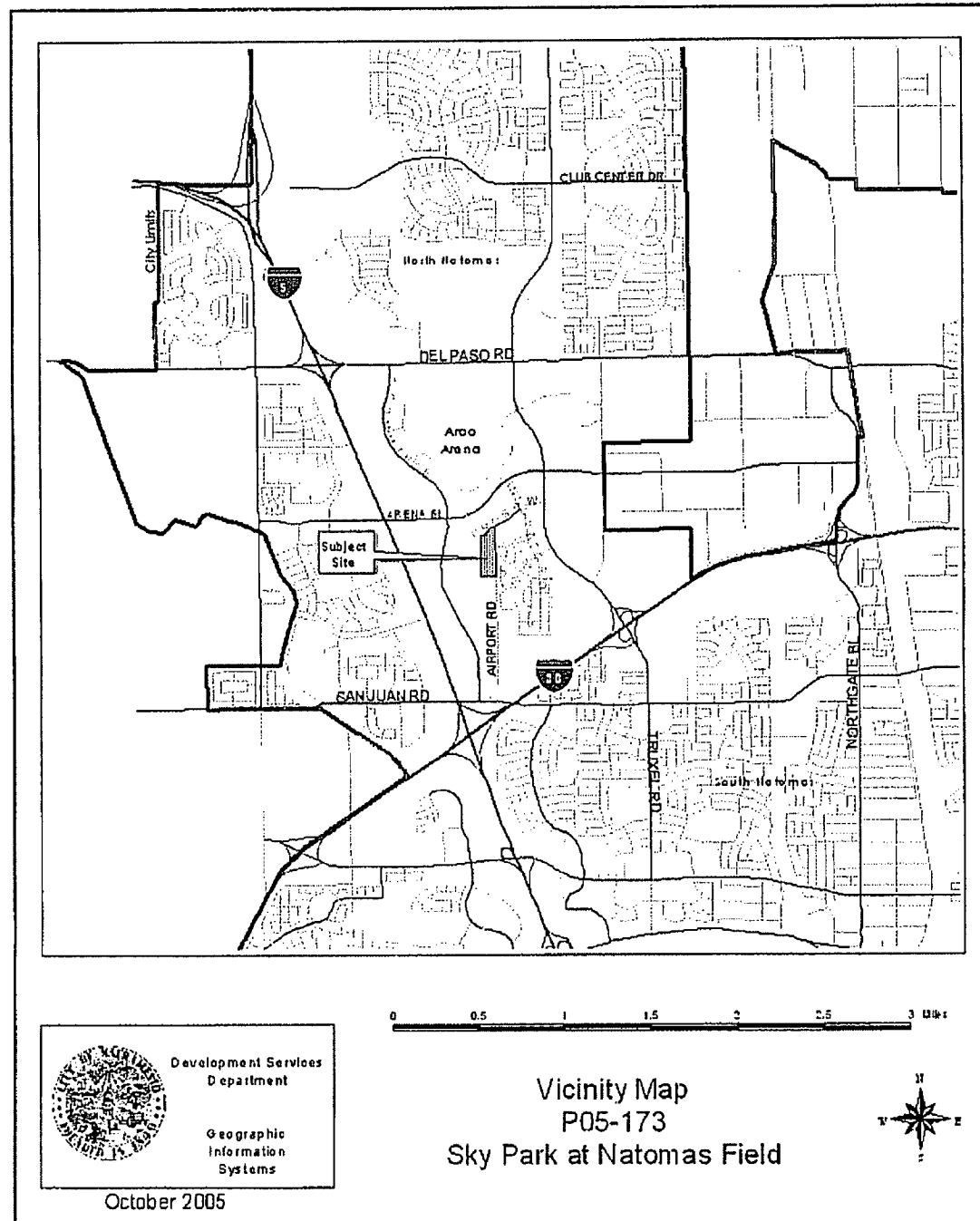

ROBERT P. THOMAS
City Manager

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Attachment 1 – Vicinity Map



ORDINANCE NO. 2005-XXXX

Adopted by the Sacramento City Council

December 13, 2005

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The City Council finds:

1. The Agreement is consistent with the City general plan and the goals, policies, standards and objectives of any applicable specific or community plan;
2. The project should be encouraged in order to meet important economic, social, environmental or planning goals of any applicable specific or community plan;
3. The project would be unlikely to proceed in the manner proposed in the absence of a development agreement;
4. The landowner will incur substantial costs in order to provide public improvements, facilities or services from which the general public will benefit;
5. The landowner will participate in all programs established and/or required under the general plan or any applicable specific or community plan and all of its approving resolutions (including any mitigation monitoring plan), and has agreed to financial participation required under any applicable financing plan and its implementation measures, all of which will accrue to the benefit of the public;

Sky Park at Natomas Field (P05-173)

December 13, 2005

6. The landowner has made commitments to a high standard of quality and has agreed to all applicable land use and development regulations.

SECTION 3

The Development Agreement attached hereto is hereby approved, and the City Manager is authorized to execute after the effective date of this Ordinance said Development Agreement on behalf of the City of Sacramento. This approval and authorization is based upon the Mitigated Negative Declaration and Mitigation Monitoring Plan which is the subject of a separate resolution adopted by City Council prior to or concurrent with the adoption of this Ordinance.

Sky Park at Natomas Field (P05-173)

December 13, 2005

Exhibit A – Development Agreement

A copy of the Development Agreement
is available for review at:

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(916) 808-5381

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