



California Market Watch, October 20, 2009

Recognizing “hidden” costs can be key to the purchase of mapped lots



Now that the majority of for-sale finished lots are quickly being purchased, attention will soon be focusing on mapped or “paper” lots which are now approaching historic raw land values. But unlike finished lot projects that have already capitalized a bulk of the improvement costs, mapped lots may come with a history of issues that can have a significant impact on improvements costs.

To avoid such costs that can be hiding in approved entitlements, we have compiled some of the common “cost sensitive” issues to be considered when purchasing approved tentative tract maps.

Changes in Development Impact Fees: Many jurisdictions have recently adjusted development impact fees on a temporary basis or have agreed to move specific fees farther out in the development process (i.e., building permit or certificate of occupancy) to help stimulate overall development. Although reductions in fees will help current builders with the build-out of stalled communities, it is likely that such fees will be moved to normal levels once development activity picks up and mapped lots come to market. Since development impact fees often make up 50% of the finished lot costs, buyers of previously mapped lots should double check with City/County staff as to how and when impact fees will be applied.

Items to look for:

- Current fee resolutions that contain time limitations or sunset clauses for fee reductions
- Development agreements that may have locked-in a higher fee that cannot be adjusted
- City/County budget reports that suggest future impact fee adjustments

Outdated and Overcommitted Conditions of Approval: Based on recent land use surveys, a majority of current tentative tract map designs were originally conceived as early as the late 1990’s and were most likely approved prior to 2005 as the previous housing market continued to improve. During this time, finished lot values significantly outpaced development costs making it easy for developers to absorb increased fees and off-site infrastructure commitments and approving agencies were likely to get whatever extra exactions that could be justified, or in some cases agreed to by the developer in order to get the project approved. In today’s market, such commitments can overburdened a project’s balance sheet, increasing finished lot costs and in some cases, making a project unbuildable. Understanding the reasons why individual conditions were applied to ensure such agreements are still relevant.

Items to look for:

- Reference to fee programs that have been changed or are no longer relevant
- Commitments to off-site infrastructure improvements that depend on other un-built projects to be successful
- Timing of conditions that are dependent of another project's performance or mitigation measure implementation
- References to public/private agreements that have expired or can be eliminated through simple redesign
- References to obtaining other agency approvals (such as will-serve letters) whose policies may have changed
- References older City/County design guidelines that may be in conflict with current policies
- Original minutes of reviewing agencies that provide history behind special conditions
- Any condition that seems odd, out of context or open-ended

CFD Tax Rates: Many approved tentative tract maps include the use of Community Facility Districts ("CFD's") to finance major infrastructure improvements. Since CFD's were based on past housing prices that are not relevant in today's market, original funding and underwriting agreements should be reviewed to make sure tax rates do not rise to levels that are not marketable to homebuyers. Be aware that CFD agreements most often differ from District to District, and some will not allow for a "pre-payment or buy-down" option that could be used to lower the CFD tax rate. Approved yet unfunded Districts may offer opportunities for administrative adjustments or negotiation of funded facilities; however, it is unlikely that Cities and Counties will forego needed infrastructure improvements given the current statewide budget crisis.

Items to look for:

- Original CFD underwriting package and agency/developer agreements
- CFD Rate and Method documentation
- Previously negotiated fee credit agreements
- Potential for buy-down of principle or administratively make changes to the tax rate.

Value Engineering: It is common for developers to use retaining walls, the import or export of grading material, or other quick design solutions while responding to staff review comments and changing policies during the approval process to avoid re-engineering costs. As was the case with conditions of approval, such costs could easily be absorbed in the last cycle as lot prices continued to climb. With the recent decline in lot values, mapped lots should be reviewed for such issues and value engineered to remove extra costs.

Items to look for:

- Excessive use of between lot retaining walls
- Large number of odd shaped or inconsistent lot sizes
- Excessive amount of import or export of cut and fill material
- Dual or redundant infrastructure improvements

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