



CITY OF
HAYWARD
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DATE: November 6, 2007
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Adoption of an Ordinance Authorizing Execution of Amendment to Mount Eden Business and Sports Park Community Development Agreement

RECOMMENDATION

That the City Council adopt the attached Ordinance.

BACKGROUND

The ordinance was introduced at the October 23, 2007, meeting of the City Council with the following vote:

| | | |
|-----------------|------------------|---|
| AYES: | Council Members: | Rodriquez, Quirk, Halliday, Ward, Dowling, Henson |
| NOES: | Council Members: | None |
| | Mayor: | Sweeney |
| ABSENT: | Council Members: | None |
| ABSTAIN: | Council Members: | None |

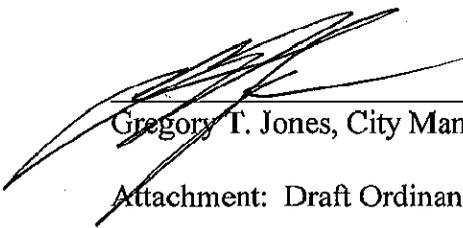
The ordinance was published in the Hayward Daily Review on October 27, 2007. Adoption at this time is therefore appropriate.

Recommended by:



Angelina Reyes, City Clerk

Approved by:



Gregory T. Jones, City Manager

Attachment: Draft Ordinance

PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE BY THE CITY
COUNCIL OF THE CITY OF HAYWARD

AN ORDINANCE AN ORDINANCE AUTHORIZING EXECUTION OF AMENDMENT TO MOUNT
EDEN BUSINESS AND SPORTS PARK COMMUNITY DEVELOPMENT AGREEMENT

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Findings. This ordinance authorizes the execution of an amendment to the existing Mount Eden Business and Sports Park Development Agreement ("Amendment to Development Agreement"), for the Legacy Eden Shores project to be developed on an approximately 60-acre site located to the north and east of the Eden Shores East residential project (the "Property"), which is a portion of the property commonly known as Oliver East. The findings and determinations contained in the following resolution are incorporated by this reference: Resolution 07-145, which approves General Plan Amendment PL 2007-0019, which amends the land use designations for the Property; Zone Change Application PL 2007-0232, reclassifying portions of the Property from Business Park (BP) District and Commercial Retail (CR) District to Medium Density Residential (RM) District, Neighborhood Commercial (CN) District and Regional Commercial (CR) District; Zoning Text Amendment Application PL 2007-0233 deleting the Commercial Retail (CR) District, amending the Business Park (BP) District and Neighborhood Commercial (CN) District and creating a new zoning district, the Regional Commercial (CR) Zoning District; and certain revisions to the South of 92/Oliver & Weber Properties Specific Plan and the South of 92 Development Guidelines. The following additional findings also support the adoption of this ordinance authorizing the execution of the Amendment to Development Agreement.

- A. This ordinance is adopted pursuant to the enabling provisions of Article 9, Chapter 10 of the Hayward Municipal Code, the City's Development Agreement Ordinance, and the provisions of state law which authorize the City to enter into binding development agreements with persons having legal or equitable interests in real property for the development of their property, contained in Government Code sections 65864 through 65869.5.
- B. The proposed Amendment to Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the City's General Plan, the City's zoning ordinance, the South of 92 Specific Plan, and the South of 92 Development Guidelines, all as amended.
- C. The proposed development agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is located.
- D. The proposed Development Agreement is in conformity with public convenience, general welfare, and good land use practice in that it will provide new housing opportunities as well as opportunities for expanded neighborhood and new regional commercial uses to serve residents in the surrounding area, where such opportunities in close proximity do not currently exist.
- E. Existing or proposed public facilities have sufficient capacity to accommodate the proposed development in that additional access will be provided from the northern residential area to Industrial Boulevard; thereby providing a second means of ingress/egress to and from the development.

- F. The public health, safety, and general welfare will be promoted and advanced by the proposed development in that mitigation measures will be required as a part of the development approvals to ensure that significant environmental impacts will be reduced to levels of insignificance, including those associated with dust and air quality, biological resources, cultural resources, hydrology, noise and recreation.
- G. The orderly development of property or the preservation of the property values will be promoted and advanced by the proposed development in that mitigation measures will be required as part of the development approvals to ensure that any significant environmental impacts will be reduced to levels of insignificance, including those associated with dust and air quality, biological resources, cultural resources, hydrology, noise and recreation.

Section 2. Authorization to Execute Amendment to Development Agreement. Based on the findings set forth in this ordinance and in Resolution No. 07-145, as well as a review of the proposed Amendment to the Mount Eden Business and Sports Park Community Development Agreement Relating to Development of Legacy Eden Shores project, a portion of Oliver East Property, submitted to the City Council at its October 9, 2007 meeting, the City Council hereby takes the following actions:

- A. The City Manager is authorized to negotiate and execute the Amendment to Development Agreement, regarding the Legacy Eden Shores project, substantially in the form of the proposed Amendment to Development Agreement presented to the City Council on October 9, 2007, together with such minor clarifying changes as may be necessary upon approval by the City Manager after consultation with the City Attorney.
- B. The City Manager is also authorized to take such further actions which he or she deems necessary and proper to carry out and or monitor performance of the terms of the executed Amendment to Development Agreement pursuant to applicable law and regulation. This authority includes but is not limited to execution of any further agreement which the City Manager deems necessary to implement the Amendment to Development Agreement ("Implementation Agreement").

Section 3. Effective Date. This ordinance shall become effective upon adoption.

Section 4. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Introduced at a meeting of the Hayward City Council held October 23, 2007, the above-entitled ordinance was introduced by Council Member Quirk.

This ordinance will be considered for adoption at the next meeting of the Hayward City Council, to be held on November 6, 2007, at 8:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this ordinance is available for examination by the public in the Office of the City Clerk.

DATED: October 27, 2007
Angelina Reyes, City Clerk
City of Hayward