

ORDINANCE NO. 845-C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA APPROVING DEVELOPMENT AGREEMENT DA-1-18 TO ESTABLISH CERTAIN DEVELOPER BENEFITS AND PUBLIC BENEFITS IN CONJUNCTION WITH A MIXED USE DEVELOPMENT LOCATED ON THE WESTERN SIDE OF PALMETTO AVENUE, APPROXIMATELY 77 FEET SOUTHWEST OF THE INTERSECTION OF SANTA ROSA AVENUE AND PALMETTO AVENUE (APNS 016-182-370 AND 016-182-390) (FILE NO. 2018-035)

WHEREAS, California Government Code section 65864 et seq. authorizes a city and a developer having a legal or equitable interest in real property to enter into a binding, long-term development agreement establishing certain development rights in the property; and

WHEREAS, the City Council of the City of Pacifica adopted Ord. 837-C.S., establishing Article 50 of Chapter 4, Title 9, authorizing the execution of development agreements and setting forth the procedures for approving development agreements; and

WHEREAS, Phoenix Capital XV LLC owns certain real property located on the western side of Palmetto Avenue, approximately 77 feet southwest of the intersection of Santa Rosa Avenue and Palmetto Avenue, in the West Sharp Park neighborhood (APNs 016-182-370 and 016-182-390) ("Property"); and

WHEREAS, Phoenix Capital XV LLC and John R. Hansen (collectively "Developer") caused to be submitted an application for a development agreement in conjunction with an application for the construction of a new, two- to three-story mixed-use building consisting of 993 square feet of ground floor commercial space and three residential condominiums units with a vesting tentative subdivision map, removal of a heritage tree, and a parking exception for driveway width, 20 off-street vehicle parking spaces, and two bicycle parking spaces required for the commercial development on a 5,446-square foot (sf) vacant site ("Project"); and

WHEREAS, the Property is located in the Sharp Park area of the City and is in an area of the City zoned C-1 (Neighborhood Commercial) with CZ (Coastal Zone) and CO-SP (Cannabis Operation, Sharp Park) overlay districts, and has a General Plan designation of Commercial; and

WHEREAS, the proposed development agreement would incorporate certain public benefits and developer benefits including, but not be limited to, contributions by applicant to the City of Pacifica for creation of public parking facilities and promotion of economic development along Palmetto Avenue, and vested rights for the applicant to proceed with the subject development; and

WHEREAS, City and Developer have reached mutual agreement on the terms of the Development Agreement to facilitate development of the Project subject to the conditions and requirements set forth therein, in the form attached hereto as Exhibit "A" (the "Development Agreement"); and

WHEREAS, the Planning Commission, after giving all public notices required by Government Code sections 65090 and 65091 on May 6, 2019 and at that hearing considered all oral and written information, testimony, and comments received during the public review process, including information received at the public hearing, the oral report from City staff, the

written report from City staff, materials, exhibits presented, and all other information that constitutes the record of proceedings on which the Planning Commission has based its decision; and

WHEREAS, on May 6, 2019, the Planning Commission, after consideration of all pertinent plans, documents, and testimony, adopted Resolution No. 2019-017 approving Site Development Permit PSD-834-18, Coastal Development Permit CDP-397-18, Use Permit UP-107-18, Parking Exception PE-184-19, Tentative Subdivision Map SUB-242-19, authorizing a heritage tree removal and recommending City Council approval of Development Agreement DA-1-18; and

WHEREAS, the City Council after giving all public notices required by Government Code sections 65090 and 65091 on June 10, 2019 and at that hearing considered all oral and written information, testimony, and comments received during the public review process, including information received at the public hearing, the oral report from City staff, the written report from City staff, materials, exhibits presented, and all other information that constitutes the record of proceedings on which the City Council has based its decision.

NOW, THEREFORE, the City Council of the City of Pacifica does hereby ordain as follows:

Section 1. Recitals. The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Compliance with CEQA. The City Council hereby finds that the project is categorically exempt pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code section 21000 et seq.) and CEQA Guidelines section 15303(a) and (c) as a Class 3 Exemption.

Section 3. General Plan and Local Coastal Plan Consistency. The City Council hereby finds that the provisions of the Development Agreement and the project are consistent with the General Plan and Local Coastal Plan by virtues of consistency with General Plan policies, including but not limited to, Policy No. 1 of the Community Facilities Element, Policy Nos. 4 and 6 of the Circulation Element, Policy No. 2 of the Community Design Element, and Policy No. 8 of the Land Use Element of the General Plan, and Coastal Act Policies Nos. 2, 4, 5, and 23, respectively.

Section 4. Factors for Consideration. The City Council hereby finds that the Development Agreement in conjunction with the Project meets the considerations in section PMC section 9-4.5007 as follows:

- (a) The Development Agreement would serve to provide parking facilities in the Sharp Park area, which would also benefit other planned and approved projects in the area.
- (b) The Development Agreement would provide a contribution to facilitate the City's process to establish a Sharp Park parking district and would provide substantial resources to facilitate the City's process to establish such district and associated parking facilities, thus enhancing abutting properties and the community. The Development Agreement would result in an improved visual character for the surrounding neighborhood in that it would allow for an aesthetically desirable project to proceed.
- (c) The Development Agreement requires a contribution of \$60,000 towards the study and creation of more public parking facilities and improvement of parking availability in the Sharp

Park area, which would provide crucial resources to the City to establish appropriate policies and public facilities to enable the Palmetto Avenue commercial area to properly function as a downtown commercial district.

- (d) The Development Agreement will facilitate the type of mixed-use commercial and residential development proposed with the project that would be consistent with the goals and purpose of the City's GMP.
- (e) The provisions of the Development Agreement, namely, the \$60,000 contribution to the City of Pacifica for the study and creation of more public parking facilities and improvement of parking availability in the Sharp Park area, would provide crucial resources to the City to establish appropriate policies and public facilities to enable the Palmetto Avenue commercial area to properly function as a downtown commercial district, and the provision committing the developer to marketing and offering financial incentives to locate a restaurant or café use within the proposed commercial space would result in a desirable commercial use along Palmetto Avenue which would be accessible to the public and provide a benefit to the community.
- (f) The Development Agreement contains two provisions which would enhance the project's economic effects to the City of Pacifica in that the developer would commit to a good faith marketing effort to secure a restaurant tenant within the commercial space of the project, which would be an important economic development component to revitalizing Palmetto Avenue and providing a desirable visitor-serving use. Additionally, the developer would make a contribution of \$30,000 to the City of Pacifica towards the study and implementation of a Sharp Park Specific Plan and improvements to the Sharp Park area and the promotion of Palmetto as a shopping district as part of the City's revitalization efforts for the Palmetto area. Additionally, the proposed project would result in three new housing units which are needed to contribute towards the City's Regional Housing Needs Allocation (RHNA) of 413 housing units for the period from 2015-2023. It would also result in three new households residing along Palmetto Avenue in proximity to existing and future commercial uses. Sufficient population density in close proximity to businesses is recognized as an important element to establishing a successful downtown commercial district.

Section 5. Approval. The City Council does hereby approve and authorize the City Manager to execute the Development Agreement DA-1-18 in form attached hereto as Exhibit "A", with minor technical, non-substantive revisions that may be approved by the City Manager in consultation with the City Attorney. Upon execution of the Development Agreement DA-1-18 by all parties, the City Clerk is hereby directed to record the Development Agreement DA-1-18 with the San Mateo County Recorder's Office.

Section 6. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 7. Effective Date. This Ordinance No. 845-C.S., shall become effective thirty (30) days following its passage and adoption.

Section 8. Publication. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published in accordance with the law of the State of California.

* * * * *

PASSED AND ADOPTED this 24th day of June, 2019, by the following vote:

AYES: Vaterlaus, Martin, Beckmeyer, Bier.

NOES: O'Neill.

ABSTAIN: None.

ABSENT: None.


Sue Vaterlaus, Mayor

ATTEST:


Sarah Coffey, City Clerk

APPROVED AS TO FORM:



Michelle Kenyon, City Attorney

EXHIBIT A
DEVELOPMENT AGREEMENT