

ORDINANCE NO. 2017-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HESPERIA, CALIFORNIA, TO APPROVE A DEVELOPMENT AGREEMENT WITH HESPERIA VENTURE I LLC, A CALIFORNIA LIMITED PARTNERSHIP.

WHEREAS, Hesperia Venture I, LLC, proposed the Tapestry Specific Plan project ("Project") consisting of development of a maximum of 16,196 residential units; two mixed-use town centers with approximately 500,000 to 700,000 square feet of commercial and retail space, 387 acres of parkland; trails totaling 59 miles; eight elementary schools, two middle schools and two high schools totaling approximately 263 acres; public and civic facilities, a wastewater reclamation plant; drainage facilities, domestic and recycled water infrastructure and preservation of approximately 3,533 acres of open space. The Project repeals and replaces the Rancho Las Flores Specific Plan. The Project includes three tentative maps, including a tentative map for Phase 1 to include 2,104 dwelling units; and

WHEREAS, the overall objectives of the Project are to provide a complementary and supportive array of land uses that will enable development of a community with homes, shopping, schools, recreation, community facilities, public services, and open areas within a walkable/bikeable distance; provide land use designations and development regulations that allow for a wide range of housing densities, types, styles, and prices while ensuring a quality development; conserve significant, natural and cultural resources, significant landforms such as bluffs, canyons and open space for recreational and habitat purposes; create a unique identity for the Project that is compatible with surrounding development and the character of the Hesperia community, while also creating a distinctive identity and sense of place within each village; incorporate sustainable design concepts into the community; develop a logical multi-modal project transportation network encouraging safe and efficient travel throughout the community and neighboring areas; and provide for orderly development that ensures appropriate phasing of development with infrastructure and public facilities, while also allowing for flexible adaptation to market trends and conditions; and

WHEREAS, on November 3, 2015, January 16, 2016, and January 26, 2016 the City Council of the City of Hesperia conducted a duly noticed public hearing pertaining to the proposed Tapestry Specific Plan, and concluded said hearing on January 26, 2016; and

WHEREAS, the Tapestry Specific Plan was approved by ordinance No. 2015-10 adopted February 2, 2016; and

WHEREAS, California Government Code Sections 65864 et seq. ("Development Agreement Law") authorizes cities to enter into binding development agreements with persons having a legal or equitable interest in real property for the development of such property, all for the purpose of strengthening the public planning process, encouraging private participation in comprehensive planning and reducing the economic costs of such development; and

WHEREAS, Developer is the owner of legal and/or equitable interests in certain real property legally described in Exhibit "A" of the attached Development Agreement (the "Property"), and thus qualifies to enter into the Development Agreement (the "Agreement") in accordance with Development Agreement Law; and

WHEREAS, Developer and City agree that a development agreement should be approved and adopted for this Property in order to memorialize the property expectations of City and Developer as more particularly described therein; and

WHEREAS, the City Council has found that the Agreement is in the best public interest of the City and its residents, adopting the Agreement constitutes a present exercise of the City's police power, and the Agreement is consistent with the City's General Plan and the Tapestry Specific Plan. The Agreement and the proposed Project will achieve a number of City objectives, including the orderly development of the Property; the providing of public benefits to the City and its residents through public improvements, including public parks, improvements to the Property, and street improvements in and around the Property; and

WHEREAS, as part of the process of approving the Agreement and granting the Development Approvals, the City Council has required the preparation of an Environmental Impact Report and EIR Addendum and has otherwise carried out all requirements of the California Environmental Quality Act ("CEQA") of 1970, as amended, and;

WHEREAS, on November 27, 2017, following a duly noticed and conducted public hearing, the City Planning Commission recommended that the City Council approve the Agreement; and

WHEREAS, on December 19, 2017, following a duly noticed and conducted public hearing, the City Council of the City of Hesperia introduced the ordinance approving the Agreement and making the findings set forth herein; and

WHEREAS, all legal prerequisites to the adoption of this ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF CITY OF HESPERIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby specifically finds that all of the above recitals are true and correct and are hereby incorporated herein by reference as if set forth in full.

SECTION 2. Based upon substantial evidence presented to the City Council during the above-referenced December 19, 2017 hearing, including public testimony and written and oral staff reports, the City Council specifically finds as follows:

- (a) The Development Agreement will not have a significant effect on the environment. An addendum to the EIR has been prepared in accordance with CEQA.
- (b) The Development Agreement is consistent with the goals, policies, standards and maps of the Development Code and all applicable codes and ordinances adopted by the City of Hesperia because the plan extends and enhances development standards already in place within the current Development Code.
- (c) The Development Agreement provides public improvements and benefits that would not otherwise be obtained through other applicable development approval processes.

(d) The Development Agreement is consistent with all of the requirements of Development Agreement Law.

(e) The Development Agreement is consistent with the Land Use Element, which provides for a mix of residential, commercial and in, mixed-use and institutional land uses capable of supporting the development of necessary infrastructure and municipal services, as directed by the City's adopted General Plan.

(f) Adoption of the Development Agreement is consistent with the Tapestry Specific Plan and the General Plan.

SECTION 3. The City Council hereby approves the Development Agreement attached hereto as Exhibit A. The City Council hereby authorizes and directs the Mayor and City Clerk to execute the Development Agreement on behalf of the City upon adoption of this Ordinance.

SECTION 4. Subject to and during the Term of the Development Agreement, Developer shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan, the Development Approvals, the Existing Land Use Regulations, applicable Subsequent Development Approvals, applicable Subsequent Land Use Regulations, and the Agreement.

SECTION 5. The Development Agreement shall be recorded with the County Recorder by the City Clerk within the period required by Section 65868.5 of the Government Code. Amendments approved by the parties, and any cancellation, shall be similarly recorded.

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

SECTION 7. This Ordinance shall take effect 30 days after its adoption. The Development Agreement shall be effective upon the Effective Date of this Ordinance.

SECTION 8. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of the same to be published in a manner prescribed by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Hesperia, California, at a regular meeting held on this ___th day of _____, 2018.

Russ Blewett, Mayor

ATTEST:

Melinda Sayre, City Clerk

APPROVED AS TO FORM

Eric L. Dunn, City Attorney

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