

ORDINANCE NO. 2023-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ESCONDIDO, CALIFORNIA, AMENDING THE TERM OF A PREVIOUSLY EXECUTED DEVELOPMENT AGREEMENT FOR THE 661 BEAR VALLEY PARKWAY DEVELOPMENT

The City Council of the City of Escondido, California does ordain as follows:

SECTION 1. The City Council makes the following findings:

a) The intent and purpose of a Development Agreement is to grant vested rights for a period of time that guarantees a project's approval; and

b) The City is assured certain public benefits by the developer that includes construction of off-site improvements, or other commitments that the City ordinarily cannot require of the developer;

c) A verified application was submitted to, and processed by, the Planning Division of the Development Services Department as Planning Case No. PL23-0270, and seeks approval of an Extension of Time to amend the terms of a previously executed Development Agreement for the 661 Bear Valley Parkway Development for the property at 661 Bear Valley Parkway, and is all the real property described in Exhibit "A". The amendment will amend the Development Agreement to extend it for two years; and

d) Said application was processed in accordance with the rules and regulations of the Escondido Municipal and Zoning Code, and the applicable procedures and time limits specified by the Permit Streamlining Act (Government Code Section 65920 et. Seq) and CEQA (Public Resources Code Section 210000 et. seq); and

e) The Planning Division of the Development Services Department completed its review and scheduled and held a public hearing regarding the Extension of Time before the Planning Commission on

August 22, 2023. Following the public hearing on August 22, 2023, the Planning Commission adopted Resolution No. 2023-14, which recommended that the City Council approve the Extension of Time and amend the term of the Development Agreement.

SECTION 2: Proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 3. The City Council did on September 13, 2023, hold a duly noticed public hearing as prescribed by law. Evidence was submitted to and considered by the City Council, including, without limitation

- a) Written information including application materials and other written and graphical information.
- b) Oral testimony from City staff, interested parties, and the public.
- c) The City Council staff report, dated, September 13, 2023, which along with its attachments, is incorporated herein by this reference as though fully set forth herein, including the Planning Commission's recommendation on the request.
- d) Additional information submitted during the public hearing

SECTION 4. Upon consideration of the Findings of Fact, attached as Exhibit "B" and incorporated herein by this reference as though fully set forth, the September 13, 2023, City Council staff report, and the Planning Commission recommendation, based on the totality of the record and evidence described and referenced in this Ordinance, the City Council desires to extend the term of the Development Agreement by two years.

SECTION 5. ENVIRONMENTAL REVIEW. On August 15, 2018, the City Council adopted Resolution No. 2018-120 for certification of a Final Environmental Impact Report (FEIR) and adoption of a Mitigation and Monitoring Reporting Program. The Project would not exceed the parameters outlined for requiring a subsequent EIR. A Notice of Determination will be filed with the County of San Diego per CEQA Guidelines Section 15075.

SECTION 6. The City Council hereby approves the amendment to the Development Agreement, attached as Exhibit "C" hereto and incorporated herein by this reference as though fully set forth herein.

SECTION 7. SEVERABILITY. If any section, subsection sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 8. As of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 9. The City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation for the City of Escondido.

SECTION 10. This Ordinance shall become effective 30 days from the date of the passage.