

ORDINANCE NO. 3542

ORDINANCE OF THE CITY OF CHULA VISTA APPROVING
A SECOND AMENDMENT TO THE DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF CHULA VISTA AND
MCMILLIN OTAY RANCH, LLC.

WHEREAS, on August 26, 2009, the City of Chula Vista's Planning Commission held a duly noticed public hearing on the Development Agreement and at the conclusion of the hearing recommended approval of the Development Agreement by and between the City of Chula Vista (City) and McMillin Otay Ranch, LLC (the "Development Agreement"); and

WHEREAS, on September 15, 2009, the Chula Vista City Council held a duly noticed public hearing on the Development Agreement at the conclusion of which the City Council introduced and conducted the first reading of the ordinance approving the Development Agreement and subsequently on October 6, 2009 adopted Ordinance No. 3143 approving the Development Agreement and the agreement was recorded with the San Diego County Recorder's Office on October 27, 2009 as Document No. 2009-0595116; and

WHEREAS, on June 13, 2018 the City's Planning Commission held a duly noticed public hearing on a First Amendment to the Development Agreement (the "First Amendment") and at the conclusion of the hearing recommended approval of the First Amendment; and

WHEREAS, on July 10, 2018, the City Council held a duly noticed public hearing on the First Amendment, at the conclusion of which the City Council introduced and conducted the first reading of the ordinance approving the First Amendment; and subsequently, on July 17, 2018, adopted Ordinance No. 3431 approving the First Amendment and said Amendment was recorded with the San Diego County Recorder's Office on July 27, 2018; and

WHEREAS, the purpose of the First Amendment was a Material Change to the project proposed by the Master Developer to reduce the total amount of development in the Eastern Urban Center without reducing infrastructure; and

WHEREAS, McMillian Otay Ranch, LLC was the Original Master Developer and now Meridian Communities, LLC, is the successor-in-interest ("Developer"); and

WHEREAS, the City and Developer have agreed to amend the Development Agreement a second time (the "Second Amendment") in order to facilitate the development of uses within the Eastern Urban Center, known today as Millenia, that both City and Developer desire; and

WHEREAS, the intent of the Development Agreement and Eastern Urban Center Sectional Planning Area Plan is to serve as a mechanism to further the comprehensive development vision for Millenia to advance a vibrant, mixed-use, pedestrian-oriented urban center that will serve as the economic and social focal point of Eastern Chula Vista creating an urban employment center which will establish a strong, well-located employment sub-market and add new local jobs including higher-quality office employment opportunities; and

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WHEREAS, to continue with the establishment of a high-quality Class “A” office submarket within Millenia, it is the desire of the Developer and the City to have the City guide the economic development opportunity of up to 1.7 million square feet of Class “A” office space available on the 10.93-acre Lot 1 of Millenia (APN 643-066-09-00); and

WHEREAS, Lot 1 of Millenia shall be subdivided with a 2.1-acre portion of the southerly parcel being retained by the Developer and developed as a reputable flag hotel as a permissible use under the Eastern Urban Center Sectional Planning Area Plan; and

WHEREAS, as part of the Second Amendment to the Development Agreement, the Developer shall provide the remaining 8.83 acres of Lot 1 to the City for the price of \$1 and shall hold the land for the City for a period up to 60 months and at any time requested by the City, will transfer ownership directly to a user of the City’s choice; and

WHEREAS, in exchange for acquisition of 8.83 acres of Lot 1, City agrees to expedite the review of developing the allowable remaining residential units within the Eastern Urban Center on Lot 19 of Millenia (APN 643-060-69-00); and

WHEREAS, the Eastern Urban Center Sectional Planning Area Plan has entitled 2,983 residential units and 2,659 units have been permitted to date allowing Master Developer to build up to the remaining 324 residential units on Lot 19; and

WHEREAS, Lot 19 was previously entitled for up to 700,000 square feet of office development, and such entitlements shall be transferred to the City’s portion of Lot 1, a shift permissible under the auspices of the Eastern Urban Center Sectional Planning Area Plan Density Transfer provisions; and

WHEREAS, the Director of Development Services has reviewed the project for compliance with the California Environmental Quality Act (CEQA) and has determined that the Development Agreement Amendment was adequately covered in previously certified Final Second Tier Environmental Impact Report (EIR 07-01) – SCH No. 2007041074 for Otay Ranch Eastern Urban Center (EUC) Sectional Planning Area (SPA) Plan and Tentative Map; thus, no further CEQA review or documentation is required; and

WHEREAS, the City’s Planning Commission held a duly noticed public hearing on December 14, 2022, to consider the Second Amendment at the conclusion of which the Planning Commission adopted a resolution recommending the City Council authorize the Second Amendment to the Development Agreement; and

WHEREAS, on January 17, 2023, a duly noticed public hearing was scheduled before the City Council of the City of Chula Vista to consider adopting an ordinance to approve the Second Amendment to Development Agreement; and

WHEREAS, City staff has reviewed the Second Amendment to the Development Agreement and determined it to be consistent with the Otay Ranch General Development Plan and the City’s General Plan.

NOW, THEREFORE, the City Council of the City of Chula Vista does ordain as follows:

Section I. Adopt Ordinance Approving Second Amendment to Development Agreement

1.1 INCORPORATION OF PLANNING COMMISSION RECORD

The proceedings and all evidence introduced before the Planning Commission at their public hearing held on December 14, 2022, and the minutes and resolutions resulting therefrom, are hereby incorporated into the record of this proceeding. These documents, along with any documents submitted to the decision makers, shall comprise the entire record of the proceedings for any California Environmental Quality Act (CEQA) claims.

1.2 FINDING OF COMPLIANCE WITH CEQA

The City Council hereby finds that the adoption of the ordinance approving the Development Agreement Amendment was adequately covered in previously certified Final Second Tier Environmental Impact Report (EIR 07-01) – SCH No. 2007041074 for Otay Ranch Eastern Urban Center (EUC) Sectional Planning Area (SPA) Plan and Tentative Map.

1.3 FINDING CONSISTENCY WITH GENERAL PLAN AND OTAY RANCH GENERAL DEVELOPMENT PLAN

The City Council finds that the proposed Second Amendment to the Development Agreement is consistent with the City's General Plan and Otay Ranch GDP. The Second Amendment to the Development Agreement implements the General Plan and GDP by promoting economic growth opportunities to attract industries and businesses that contribute to diversification and stabilization of the local economy (ED 1.1), and increased office space and additional economic development opportunities to strengthen Millenia's position as a business, cultural and entertainment hub of the City (ED 9.2).

1.4 ACTION

The City Council adopts an Ordinance approving the Second Amendment to the Development Agreement between the City of Chula Vista and McMillin Otay Ranch LLC., in substantially the form presented, with such minor modifications as may be required or approved by the City Attorney (a final copy of which is on file in the City Clerk's office), finding it consistent with the California Government Code, adopted City policies, the General Plan, and the Otay Ranch GDP.

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable, or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability, or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause, or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses, or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

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Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This Ordinance shall take effect and be in full force on the thirtieth day from and after its adoption.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

[SIGNATURES ON THE FOLLOWING PAGE]

Presented by

Approved as to form by

DocuSigned by:

 2FC55998BD74C4...
 Eric C. Crockett
 Deputy City Manager/Director of Economic
 Development

DocuSigned by:

 CF40650850444BF...
 Glen R. Googins
 City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 14th day of February 2023, by the following vote:

AYES: Councilmembers: Cardenas, Chavez, Gonzalez, Preciado, and McCann
 NAYS: Councilmembers: None
 ABSENT: Councilmembers: None

DocuSigned by:

 7804EC23B90B473...
 John McCann, Mayor

ATTEST:

DocuSigned by:

 3074D104EAF342E...
 Kerry K. Bigelow, MMC, City Clerk

STATE OF CALIFORNIA)
 COUNTY OF SAN DIEGO)
 CITY OF CHULA VISTA)

I, Kerry K. Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3542 had its first reading at a regular meeting held on the 17th day of January 2023, and its second reading and adoption at a regular meeting of said City Council held on the 14th day of February 2023 and was duly published in summary form in accordance with the requirements of state law and the City Charter.

2/23/2023

 Dated

DocuSigned by:

 3074D104EAF342E...
 Kerry K. Bigelow, MMC, City Clerk