

Attachment 10

Ordinance Approving the Development Agreement

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SANTA CLARA,
CALIFORNIA, APPROVING A DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF SANTA CLARA
AND RELATED SANTA CLARA, LLC, FOR THE
CITYPLACE SANTA CLARA PROJECT LOCATED AT 5155
STARS AND STRIPES DRIVE, ET AL**

SCH#2014072078

CEQ2014-01180 (EIR)

PLN2014-10554 (General Plan Amendment, Rezoning and Development Agreement)

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, California Government Code Sections 65864 through 65869.51 (“Development Agreement Act”) authorize cities to enter into binding development agreements with owners of real property and these agreements govern the development of the property;

WHEREAS, Related Santa Clara, LLC, (“Developer”) has requested that the City of Santa Clara (“City”) enter into the type of agreement contemplated by the Development Agreement Act;

WHEREAS, City staff negotiated and recommended for approval a Development Agreement subject to specific conditions of approval, attached hereto and incorporated herein by this reference, with Developer in connection with the proposed development of seven parcels located at 5155 Stars and Stripes Drive that include Assessor’s Parcel Numbers: 097-01-073, 097-01-039, 104-01-102, 104-03-036, 104-03-037, 104-03-038 and 104-03-039, totaling 239.48 acres (“Project Site”);

WHEREAS, the Project approvals will include Certification of the Environmental Impact Report (EIR) for the CityPlace Santa Clara Project (“EIR Resolution”), General Plan Amendment #83 from Parks/Open Space and Regional Commercial to Urban Center/Entertainment District, and rezone of the Project Site from Public, Quasi-Public, Park or Recreation (B) and Commercial Park (CP) to Planned Development-Master Planned Community (PD-MC); along with the adoption of a

Development Agreement Ordinance;

WHEREAS, Government Code Section 65867 and Santa Clara City Code Section 17.10.120 require the Planning Commission to make a recommendation to the City Council prior to the Council's consideration of the Development Agreement;

WHEREAS, on June 8, 2016, the Planning Commission held a duly noticed public hearing to consider the Development Agreement, at the conclusion of which the Planning Commission adopted a Resolution recommending that the City Council approve the Development Agreement;

WHEREAS, Santa Clara City Code Section 17.10.160 requires the City Council to hold a public hearing before approving the Development Agreement;

WHEREAS, notice of the public hearing on the proposed Development Agreement was published in the *Santa Clara Weekly*, a newspaper of general circulation for the City on June 15, 2016;

WHEREAS, notices of the public hearing on the Development Agreement were mailed to all property owners within 1,000 feet of the Project Site, according the most recent assessor's roll, on June 9, 2016;

WHEREAS, the City Council has reviewed the Development Agreement;

WHEREAS, before considering the Development Agreement, the City Council reviewed and considered the information contained in the EIR (SCH#2014072078), CEQA Findings, and Statement of Overriding Considerations for significant unavoidable impacts in the areas of land use, transportation, air quality, greenhouse gas emissions, noise, and biology; and cumulative significant unavoidable utilities impacts that cannot be avoided or substantially lessened by the adoption of feasible mitigation measures; and,

WHEREAS, on June 28, 2016, the City Council conducted a duly noticed public hearing, at which time all interested persons were invited to provide testimony and evidence, both in support and in

opposition to the proposed Development Agreement.

**NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA,
AS FOLLOWS:**

SECTION 1: The City Council hereby finds and determines that the foregoing recitals are true and correct and by this reference makes them a part hereof.

SECTION 2: Pursuant to Government Code Sections 65867 and 65867.5, the City Council hereby finds that the provisions of the Development Agreement are consistent with the General Plan, for the reasons set forth in Exhibit "General Plan Consistency Findings," attached hereto and incorporated herein by this reference.

SECTION 3: The City Council hereby finds and determines that the Development Agreement complies with all requirements of the Government Code Section 65865.2.

SECTION 4: The City Council hereby approves the Development Agreement, substantially in the form attached hereto as Exhibit "Development Agreement" subject to such minor and clarifying changes consistent with the terms thereof as may be approved by the City Attorney prior to execution thereof.

SECTION 5: This Ordinance, including the Development Agreement approval described in Section 4 above, is based on the findings set forth above, the EIR, the EIR Resolution, the CEQA Findings Related to the Certification of the EIR, the General Plan Amendment, and the Rezoning.

SECTION 6: The City Manager and/or his designee is hereby authorized and directed to perform all acts to be performed by the City in the administration of the Development Agreement pursuant to the terms of the Development Agreement, including but not limited to conducting annual review of compliance as specified therein. The City Manager is further authorized and directed to perform all other acts, enter into all other agreements and execute all other documents necessary or convenient to

carry out the purposes of this Ordinance and the Development Agreement.

SECTION 7: Except as specifically set forth herein, this Ordinance suspends and supersedes all conflicting resolutions, ordinances, plans, codes, laws and regulations.

SECTION 8: Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara, California, hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

SECTION 9: This Ordinance shall not be codified in the Santa Clara City Code.

SECTION 10: Effective date. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

PASSED FOR THE PURPOSE OF PUBLICATION this 28th day of June, 2016, by the following vote:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS: ATTEST:

ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Development Agreement
2. General Plan Consistency Findings

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