

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SANTA CLARA,
CALIFORNIA, APPROVING A DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF SANTA CLARA AND TOD BROKAW,
LLC FOR THE PROPERTY LOCATED AT 1205 COLEMAN
AVENUE, SANTA CLARA**

SCH#2017022066
CEQ2016-01025 (EIR)
PLN2016-12318 (General Plan Amendment and Rezoning)
PLN2016-12321 (Vesting Tentative Subdivision Map)
PLN2017-12481 (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, TOD Brokaw, LLC (“Owner”) 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, all attached hereto as Exhibit “Development Agreement” and incorporated herein by this reference, with Developer in connection with the proposed development located at 1205 Coleman Avenue (“Project”);

WHEREAS, the Project approvals will include the Environmental Impact Report (EIR) for the Gateway Crossings Project; General Plan Amendment from Santa Clara Station Regional Commercial (commercial up to 3.0 Floor Area Ratio (FAR)), Santa Clara Station High Density Residential (37-50 du/acre), and Santa Clara Station Very High Density Residential (51-100 du/acre) to Santa Clara Station Very High Density Residential (51-120 du/acre) with a minimum commercial FAR of 0.20; Rezoning from Light Industrial (ML) to Very High Density Mixed Use (VHDMU); Vesting Tentative Subdivision Map; and the adoption of a Development Agreement

Ordinance;

WHEREAS, on November 14, 2018, pursuant to Santa Clara City Code (“SCCC”) section 17.10.120, the Planning Commission held a duly noticed public hearing to consider the proposed Development Agreement, at the conclusion of which the Commission recommended that the City Council adopt the Development Agreement Ordinance;

WHEREAS, before considering the Development Agreement, the City Council reviewed and considered the information contained in the EIR (SCH#2017022066);

WHEREAS, Santa Clara City Code section 17.10.160 requires the City Council to hold a public hearing before approving a 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 October 31, 2018 for the City Council meeting of December 4, 2018;

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 November 2, 2018 for the City Council meeting of December 4, 2018, and to all local agencies expected to provide essential facilities or services to the Project;

WHEREAS, on December 4, 2018, the City Council conducted a public hearing for review of the Development Agreement and invited all interested persons to provide testimony and evidence, both in support and in opposition to the proposed Development Agreement;

WHEREAS, following public testimony and the close of public hearing, the City Council continued the Project to allow for additional public outreach;

WHEREAS, notice of the public hearing on the proposed Development Agreement was published in *The Weekly* (formerly the *Santa Clara Weekly*), a newspaper of general circulation for the City, on May 8, 2019 for the City Council meeting of May 21, 2019;

WHEREAS, notices of the public hearing on the Development Agreement were mailed to property owners within an expanded notification radius to include approximately 4,800 properties on May 10, 2019 for the City Council meeting of May 21, 2019, and to all local agencies expected to provide essential facilities or services to the Project;

WHEREAS, on May 21, 2019, the City Council conducted a public hearing to consider the Development Agreement, and following public testimony, the City Council continued the public hearing to July 9, 2019, with the request to the Owner to increase the amount of retail floor area in the project design; and

WHEREAS, the City Council has reviewed the Development Agreement, and on July 9, 2019, conducted a continued 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 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 2: Pursuant to Government Code section 65867.5, the City Council hereby finds that the provisions of the Development Agreement are consistent with the General Plan, in that the proposed Project creates a mixed use development of the scale and character that complements and is supportive of the surrounding uses and existing and planned transit facilities; creates a mixed use development that maximizes density with accessibility to alternative transportation modes, and integrates pedestrian, bicycle, transit, open space and outdoor uses to encourage active centers.

SECTION 3: Pursuant to Government Code section 65865.2, the City Council hereby finds that the Development Agreement complies with all requirements of Government Code section 65865.2, in that the Agreement specifies the duration of the Agreement (10 years), lists the permitted uses of the property (residential/commercial mixed use), sets the density and intensity of the proposed uses (73 dwelling units per acre with 45,000 square feet of ground floor retail and a 152,000 square foot hotel with 225 rooms), sets the maximum height and size of the proposed buildings (150 feet, as depicted on the attached Development Plans), and includes provisions for the dedication of land for public purposes (a 2.1 acre neighborhood park and a 0.46 acre linear park).

SECTION 4: This Ordinance, including the Development Agreement approval described in Section 1 above, is based in part on the findings set forth above, and the California Environmental Quality Act Findings Related to Approval of the Certification of the EIR, the General Plan Amendment, the Rezoning, and the Vesting Tentative Subdivision Map.

SECTION 5: The City Manager and/or her 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 6: Except as specifically set forth herein, this Ordinance suspends and supersedes all conflicting resolutions, ordinances, plans, codes, laws and regulations.

SECTION 7: This Ordinance shall not be codified in the Santa Clara City Code.

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SECTION 8: 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 9th day of July, 2019, by the following vote:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST:

NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA

Attachments incorporated by reference:

1. Development Agreement

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