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ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO
PROPOSED AND INITIATED BY _____
MOVED BY xiong SECONDED BY Sterling

BILL NO. B-80

ORDINANCE NO. 2008-78

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
ADOPTING A DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF FRESNO AND ASHLAN/HAYES NO. 1 L.P. PURSUANT
TO THE PROVISIONS OF SECTION 65864 ET SEQ. OF THE
GOVERNMENT CODE.

WHEREAS, Conditional Use Permit Application No. C-07-308 and Vesting Tentative Tract Map No. 5891/UGM have been filed for all that certain real property in the City of Fresno, County of Fresno, State of California, hereinafter referred to as the Subject Property and described as follows:

Parcel 1:

The North half of the Northwest quarter of the Southeast quarter of Section 16, Township 13 South, Range 19 East, Mount Diablo Base and Meridian in the City of Fresno, County of Fresno, State of California, according to the Official Plat thereof.

Except the North 30 feet thereof heretofore conveyed to Fresno Traction Company.

Parcel 2:

The North one-half of the South one-half of the Northwest quarter of the Southeast quarter in Section 16, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, in the City of Fresno, County of Fresno, State of California, according to the Official Plat thereof.

Parcel 3:

The South one-half of the South one-half of the Northwest quarter of the Southeast quarter in Section 16, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, in the County of Fresno, State of California, according to the Official Plat thereof.

Excepting therefrom the South 165.00 feet of the West 548.00 feet, as conveyed to David Scarabello,

Adopted 12/16/08
Approved 12/16/08
Effective 1/16/09

2008-78



Ordinance Adopting a Development Agreement
By and Between the City of Fresno and Ashlan Hayes No. 1 L.P.
Page 2

by Gift Deed dated may 21, 1985 as Document No. 85067612, of Official Records.

Parcel 4:

The North one-half of the North one-half of the Southwest quarter of the Southeast quarter quarter in Section 16, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, in the County of Fresno, State of California, according to the Official Plat thereof.

Excepting therefrom all oil, gas and minerals previously reserved of record.

Parcel 5:

The North half of the North half of the Southeast quarter of the Southeast quarter of Section 16, Township 13 South, Range 19 East, Mount Diablo Base and Meridian,

Excepting therefrom the South 150 feet of the East 215 feet of the North half of the North half of the Southeast quarter of the Southeast quarter of said Section 16.

Also excepting therefrom the most Westerly 660 feet of Parcel 2 of Parcel Map No. 4474, recorded in Book 31, Page 26 of Parcel Maps, Fresno County Records.

Parcel 6:

The South three-fourths of the Southwest quarter of the Southeast quarter and the West half of the South three-fourths of the Southeast quarter of the Southeast quarter all quarter in Section 16, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, in the County of Fresno, State of California, according to the Official Plat thereof, Fresno County Records.

Excepting therefrom the South 287 feet of the North 474 feet of the West 440 feet of the South three-fourths of the Southwest quarter of the Southeast quarter of said Section 16.

Also excepting therefrom the South 208 feet of the North 682 feet of the West 228 feet of the South three-fourths of the Southwest quarter of the Southeast quarter of said Section 16.

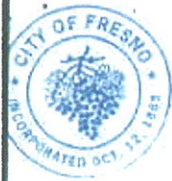
Also excepting therefrom the South 326.00 feet of the East 295.00 feet of the West half of the South three-fourths of the Southeast quarter of the Southeast quarter of said Section 16.

Parcel 7:

The South half of the North half of the South half of the East half of the East half of the Southeast quarter of Section 16, Township 13 South, Range 19 East, Mount Diablo Base and Meridian, in the County of Fresno, State of California, according to the United States Government Township Plat; and,

WHEREAS, The Fresno City Council at its meeting on May 20, 2008 adopted the Mitigated Negative Declaration finding for Environmental Assessment No. A-07-08/R-07-29/C-07-308/T-5891 dated March 13, 2008 (Ordinance No. 2008-32/Bill No. B-34); and,

WHEREAS, The Fresno City Planning Commission at its meeting on November 05, 2008, adopted Resolution Nos. 12894 and 12895, thereby authorizing the development and subdivision of



Ordinance Adopting a Development Agreement
By and Between the City of Fresno and Ashlan Hayes No. 1 L.P.
Page 3

the Subject Property for the purposes of a 738-lot, single family residential (648 lots) and neighborhood commercial shopping center (4 lots) private street planned development subdivision with 86 Outlots proposed to be dedicated for various open space, private street, and parking purposes on approximately 122.93 net acres; and

WHEREAS, Pursuant to the provisions of Section 65864 et seq., of the Government Code, the City of Fresno is authorized to enter into a Development Agreement with any person having a legal or equitable interest in real property for the development of the property; and,

WHEREAS, Ashlan/Hayes No. 1 L.P., a Limited Partnership, has such interest in the Subject Property and desires a Development Agreement by and between the City of Fresno and Ashlan/Hayes No. 1 L.P.; and,

WHEREAS, pursuant to the provisions of Section 65867 of the Government Code, the Planning Commission of the City of Fresno held a public hearing on the 10th day of December, 2008, to consider the proposed Development Agreement by and between the City of Fresno and Ashlan Hayes No. 1 L.P., during which the Commission considered, and recommended to the Council of the City of Fresno through Resolution No. 12912 approval of, the Development Agreement; and,

WHEREAS, The Council of the City of Fresno, on the 16th day of December, 2008, received the recommendations of the Planning Commission and City staff as specifically detailed in the Planning and Development Department Report to the City Council for the introduction and adoption of this Ordinance approving the Development Agreement by and between the City of Fresno and Ashlan/Hayes No. 1 L.P., dated December 16, 2008.

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

SECTION 1. Based upon the testimony and information presented at the hearing and upon review and consideration of the environmental documentation provided, the adoption of the proposed Development Agreement is in the best interest of the City of Fresno. The Council finds in



Ordinance Adopting a Development Agreement
By and Between the City of Fresno and Ashlan Hayes No. 1 L.P.
Page 4

accordance with its own independent judgment that there is no substantial evidence in the record that the addition of the Development Agreement to the project description contained in the initial study and Mitigated Negative Declaration prepared for Environmental Assessment No. A-07-08/R-07-29/C-07-308/T-5891 dated March 13, 2008 ("MND"), through the Addendum dated December 16, 2008 results in a substantial change in the project through the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Accordingly, pursuant to the findings provided in the Planning and Development Department Report to the City Council dated December 16, 2008 in accordance with Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, the Addendum to the Mitigated Negative Declaration prepared for Environmental Assessment No. A-07-08/R-07-29/C-07-308/T-5891 is hereby approved.

SECTION 2. The Council finds that the proposed project is a development for which the Development Agreement is appropriate pursuant to the findings provided in the Planning and Development Department Report to the City Council dated December 16, 2008.

SECTION 3. The Council finds, in accordance with Section 65867.5 of the Subdivision Map Act, and pursuant to the findings provided in the Planning and Development Department Report to the City Council dated December 16, 2008, that the proposed Development Agreement is consistent with the 2025 Fresno General Plan and West Area Community Plan; and,

SECTION 4. The Council finds that the proposed Development Agreement complies with the Fresno Municipal Code and other applicable ordinances, standards, policies, and regulations of the City of Fresno pursuant to the findings provided in the Planning and Development Department Report to the City Council dated December 16, 2008.

SECTION 5. The Council finds that the proposed Development Agreement furthers the public health, safety, and general welfare; and, will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the Subject Property, pursuant to the



Ordinance Adopting a Development Agreement
By and Between the City of Fresno and Ashlan Hayes No. 1 L.P.
Page 5

findings provided in the Planning and Development Department Report to the City Council dated December 16, 2008.

SECTION 6. The Council finds that the proposed Development Agreement provides for clear and substantial public benefit to the City of Fresno and residents along with a schedule for delivery of the benefit pursuant to the findings provided in the Planning and Development Department Report to the City Council dated December 16, 2008.

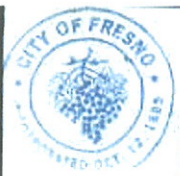
SECTION 7. The Council finds that the construction of public facilities required in conjunction with the development is adequate to serve the development pursuant to the findings provided in the Planning and Development Department Report to the City Council dated December 16, 2008.

SECTION 8. The Council finds that the proposed Development Agreement provides specified conditions under which further development not included in the agreement may occur pursuant to the findings provided in the Planning and Development Department Report to the City Council dated December 16, 2008.

SECTION 9. The Council finds that the proposed Development Agreement requires a faithful performance bond or other appropriate security in an amount deemed sufficient to guarantee the faithful performance of specified terms, conditions, restrictions, and/or requirements of the Agreement pursuant to the findings provided in the Planning and Development Department Report to the City Council dated December 16, 2008.

SECTION 10. The Council finds, in accordance with Section 65867.5 of the Subdivision Map Act, and pursuant to the findings provided in the Planning and Development Department Report to the City Council dated December 16, 2008, that the proposed Development Agreement provides that Vesting Tentative Tract Map No. 5891/UGM has complied with the provisions of Section 66473.7 relative to the determination of a "sufficient water supply" as defined therein.

SECTION 11. The Council hereby adopts and approves the Development Agreement by and between the City of Fresno and Ashlan/Hayes No. 1 L.P. dated December 16, 2008, and



Ordinance Adopting a Development Agreement
By and Between the City of Fresno and Ashlan Hayes No. 1 L.P.
Page 6

authorizes the City Manager and/or his designee to execute the Development Agreement on behalf of the City of Fresno.

SECTION 12. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

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CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, California, at a regular meeting held on the 16th day of December, 2008, by the following vote:

Ayes: Calhoun, Caprioglio, Dages, Duncan, Sterling, Xiong
Noes: None
Absent: Perea
Abstain: None

REBECCA E. KLISCH
City Clerk

By Rebecca Klisch

APPROVED AS TO FORM:

JAMES C. SANCHEZ
City Attorney

By James C. Sanchez 12/2/2008
Deputy

Development Agreement by and between the City of Fresno and Ashlan/Hayes No. 1 L.P.

APN No(s): 512-070-01, 07, 17, 19, 29, 32, 39, 48, 50 & 54