

ORDINANCE NO. 2019-05

AN ORDINANCE OF THE CITY OF SAN JUAN BAUTISTA APPROVING A THIRD AMENDMENT TO DEVELOPMENT AGREEMENT WITH MERITAGE HOMES OF CALIFORNIA, INC. REGARDING THE RANCHO VISTA PROJECT

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Sections 65864 et seq. (the "Development Agreement Statute") which authorizes cities to enter into agreements for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property; and

WHEREAS, in accordance with the Development Agreement Statute, the City of San Juan Bautista (the "City") has enacted Chapter 10-6 of the San Juan Bautista Municipal Code (the "Development Agreement Regulations") to implement procedures for the processing and approval of development agreements in accordance with the Development Agreement Statute; and

WHEREAS, the City and R.L. Fulton Holding Company, LLC, predecessor in interest to Meritage Homes of California Inc. ("Developer"), previously entered into that certain Development Agreement dated as of March 17, 2015 (the "Development Agreement"), pursuant to which the City and R.L. Fulton Holding Company, LLC agreed to certain matters with respect to the development of 86 lots (the "Project") on certain real property consisting of approximately 28.35 acres, located in the northerly part of the City, on the west side of the San Juan Highway, within the current city limits boundary (the "Project Site"), which is more particularly described in the Development Agreement; and

WHEREAS, the City and Developer have amended the Development Agreement twice previously with those certain Amendments to the Development Agreement dated as of June 1, 2015 and March 20, 2018 (the "Amended Development Agreement"); and

WHEREAS, prior to its adoption of the Development Agreement, the City has approved an Initial Study and Mitigated Negative Declaration for the Project Site (the "IS/MND") a General Plan Amendment (the "General Plan Amendment"), rezoning, and a vesting tentative map (collectively the "Project Approvals"); and

WHEREAS, consistent with the Project Approvals, the Developer is in the process of developing the Project on the Project Site; and

WHEREAS, the City and Developer have negotiated the terms of this Third Amendment to the Development Agreement (the "Third Amendment") amending the terms of the Amended Development Agreement; and this Ordinance No. 2019-05; and.

WHEREAS, the complexity, magnitude and long-term buildout of the Project would be difficult for the Developer to undertake if the City had not determined, through the Amended Development Agreement, to inject a sufficient degree of certainty in the land use regulatory process to justify the substantial financial investment associated with development of the Project; and

WHEREAS, the Third Amendment to the Development Agreement will assure both the City and Developer that the Project can proceed without disruption caused by a change in City planning and development policies and requirements, which assurance will thereby reduce the actual or perceived risk of planning, financing and proceeding with construction of the Project and promote the achievement of the private and public objectives of the Project; and

WHEREAS, pursuant to Section 65867 of the Government Code, the Planning Commission held a duly noticed public hearing on July 2, 2019, on the Third Amendment to the Development Agreement during which public hearing the Planning Commission received comments from the Developer, City staff, and members of the general public; and

WHEREAS, following said public hearing, the Planning Commission elected to forward the Third Amendment to the Development Agreement to the City Council with a recommendation that the City Council approving Amendment Three of the Development Agreement; and

WHEREAS, pursuant to Section 65867 of the Government Code, the City Council, on July 16, 2019, held a duly noticed public hearing on the Third Amendment to the Development Agreement, during which public hearing, the City Council received comments from Developer, City staff, and members of the general public.

THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. This Ordinance incorporates, and by this reference makes a part hereof, the Amended Development Agreement and the Third Amendment to the Development Agreement substantially in the form on file with the City Clerk as of the date of passage of this Ordinance, subject to the provisions of Section 10-6 hereof.

SECTION 2. This Ordinance is adopted under the authority of Government Code Section 65864 et seq., and pursuant to Chapter 10.6 of the Municipal Code of the City of San Juan Bautista, which was added by City Ordinance No. 2007-09, establishing procedures and requirements for consideration of development agreements pursuant to Government Code Section 65864 et seq. (the "Development Agreement Regulations").

SECTION 3. In accordance with Section 10-6-080 of the Development Agreement Regulations, the City Council hereby finds and determines, as follows: (a) The Third Amendment to the Development Agreement is consistent with the objectives, policies, general land uses and programs in the General Plan and any applicable

specific plan; (b) The Third Amendment to the Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use districts in which the Property which is subject to the Development Agreement is located; (c) The Third Amendment to the Development Agreement is in conformity with public convenience, general welfare and good land use practice; (d) The Third Amendment to the Development Agreement will not be detrimental to the public health, safety and general welfare; (e) The Third Amendment to the Development Agreement will not adversely affect the orderly development of property or the preservation of property values; and (f) The Third Amendment to the Development Agreement is consistent with the provisions of Government Code Sections 65864 through 65869.5. (g) Based on the information provided that no new environmental review for the project is required pursuant to CEQA Guidelines Section 15162 and that the IS/MND shall serve as the environmental review for the approval of the Third Amendment to the Development Agreement.

SECTION 4. The foregoing findings and determinations are based upon the following: (a) The Recitals set forth in this Ordinance, which are deemed true and correct; (b) The IS/MND; (c) The City's General Plan; (d) The San Juan Bautista Zoning Map; (e) All City staff reports (and all other public reports and documents) prepared for the Planning Commission, City Council, or others relating to the IS/MND, the General Plan Amendments, the Development Agreement, the First and Second Amendments to the Development Agreement and other actions relating to the Property; (f) All documentary and oral evidence received at public hearing or submitted to the Planning Commission or City during the comment period relating to the Third Amendment; and (g) All other matters of common knowledge to the City Council, including, but not limited to the City's fiscal and financial status; City policies and regulations; reports, projections and correspondence related to development within and surrounding the City; State laws and regulations and publications.

SECTION 5. The City Council hereby approves the Third Amendment to the Development Agreement, subject further to such minor, conforming and clarifying changes consistent with the terms hereof as may be approved by the City Manager prior to execution hereof, as follows:

Section 2.10 shall be repealed and replaced to read in its entirety as follows:

"2.10 Development Fees

- a) Developer shall be obligated to pay only those City building permit fees and City impact fees listed in this Section 2.10.b and 2.10.e.
- b) Building Permit Fees shall be paid on a dwelling by dwelling basis and shall be due no sooner than building permit issuance, unless indicated otherwise below. For the Term of this Development Agreement, the Building Permit Fees shall be as set forth below. Developer shall pay a proportionate share, as defined below, of building permit fees for "conditioned or living space" as defined in the Building

Code; and shall pay for all other permitted space, such as patios and garages, the current fees established by the City and the Building Code. The amount of these listed Building Permit Fees is based on a base case of 2400 square feet of conditioned space per dwelling. If the size of the actual conditioned space for a dwelling unit varies from the base case of 2400 square feet the building permit fees will be adjusted accordingly. For example, if the size of the actual conditioned space for which a building permit is requested is 2,640 square feet (a 10% increase over 2,400 square feet), then the amount of the building permit fee owing for that building permit shall be increased by 10%. Likewise, as another example, if the size of the conditioned space for which a building permit is requested is 2,160 square feet (a 10% decrease from 2,400 square feet of conditioned space) then the amount of the Building Permit Fees shall be reduced by ten percent (10%). The listed Building Permit Fees are based on 2400 square feet of conditioned space per dwelling unit. All spaces other than conditioned spaces will be charged based on the square footage of such construction, the tables within the Building Code and the City's rate structure. For the Term of this Development Agreement, the Building Permit Fees shall be:

- 1) Building Permit (UBC) Fee in the amount of \$2,125.25 per floor plan, payable at building permit issuance for each such building permit sought.
- 2) Plan Check Fee in the amount of \$1,034.00 per dwelling unit, payable at building permit issuance for each such building permit sought.
- 3) Electrical Permit (Average) Fee in the amount of \$280.00 per dwelling unit, payable at building permit issuance for each such building permit sought.
- 4) Plumbing Permit Fee in the estimated amount of \$190.00 per dwelling unit, payable at building permit issuance for each such building permit sought.
- 5) Mechanical Permit Fee in the amount of \$120.00 per dwelling unit, payable at building permit issuance for each such building permit sought.
- 6) Strong Motion Instrumentation Fee in the amount of \$30.00 per dwelling unit, payable at building permit issuance for each such building permit sought.
- 7) Green Fee in the amount of \$12.00 per dwelling unit, payable at building permit issuance for each such building permit sought.

(c) If a request for a dwelling plan that has previously paid a plan check fees and is reused on another lot or site and there are no structural changed or modification other than cosmetic or exterior architectural appendages, no plan check fees will be required.

(d) No additional Development Fees shall be imposed on the Project during the Term of this Development Agreement.

e) Development Impact Fees shall be paid on a dwelling by dwelling unit basis, and will not vary with the size of the unit. The development impact fees shall be paid in accordance with the following schedule which comprises the fees in effect as of July 1, 2019.

- 1) Water Connection Fee in the amount of \$9,002.29 per dwelling unit, payable at building permit issuance for each such building permit sought.
- 2) Traffic Fee in the amount of \$2,045.92 per dwelling unit, payable at building permit issuance for each such building permit sought.
- 3) Public Safety Fee in the amount of \$1,838.59 per dwelling unit, payable at building permit issuance for each such building permit sought.
- 4) Park Development Fee in the amount of \$931.90 per dwelling unit, payable at building permit issuance for each such building permit sought.
- 5) Storm Drain Fee in the amount of \$1,851.70 per dwelling unit, payable at building permit issuance for each such building permit sought.
- 6) Library Fee in the amount of \$2,377.18 per dwelling unit, payable at building permit issuance for each such building permit sought.
- 7) Civic/Public improvement Fee in the amount of \$1,767.09 per dwelling unit payable at building permit issuance for each such building permit sought.
- 8) In addition, it is understood that the Aromas/San Juan School District collects a School Fee per square foot of habitable space.
- 9) Fire Sprinkler inspection fee in the amount of \$150 per dwelling unit, payable at building permit issuance for each such building permit sought.
- 10) Sewer Connection Fee in the amount of \$6,243.81 per dwelling unit, payable at building permit issuance for each such building permit sought."

Section 2.01 (e) shall be added to read in its entirety as follows:

"(e) In exchange for the benefits provided by this Third Amendment to the Development Agreement, Developer agrees to provide an additional public benefit to the City by contributing \$25,000 to be used by the City to install upgrades to the Sewer Lift Station at Rancho Vista. Unless, the City Manager and the Developer agree to have the improvements installed by the Developer, the payment shall be due upon execution of this ordinance."

SECTION 6. Upon the effective date of this Ordinance as provided in Section 9 hereof, the Mayor and City Clerk are hereby authorized and directed to execute the Third Amendment to the Development Agreement on behalf of the City of San Juan Bautista.

SECTION 7. The City Manager is hereby authorized and directed to perform all acts authorized to be performed by the City Manager in the administration of the Third Amendment to the Development Agreement and the Amended Development Agreement pursuant to the terms of the Amended Development Agreement as amended by the Third Amendment, including but not limited to provisions for certain administrative amendments and transfers and assignments as authorized therein.

SECTION 8. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION 9. This Ordinance shall be in full force and effect thirty (30) days after its passage and adoption; as certified by the City Clerk.

THE FOREGOING ORDINANCE was first read at a regular meeting of the San Juan Bautista City Council on the 16th day of July, 2019, and was passed and adopted at a regular meeting of the San Juan Bautista City Council on the 17th day of September 2019.

AYES: Flores, Edge, Freeman, DeVries

NOES: None

ABSTAIN: None

ABSENT: Jordan



César E. Flores, Mayor

ATTEST:


Laura Cent, City Clerk

APPROVED AS TO FORM:


Deborah Mall, City Attorney