

ORDINANCE NO. 95-17

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
AMERICAN CANYON, CALIFORNIA, APPROVING THE DEVELOPMENT
AGREEMENT BY AND BETWEEN THE CITY OF AMERICAN CANYON AND
CANYON CENTER ASSOCIATES, RELATIVE TO THE DEVELOPMENT KNOWN
AS GATEWAY VILLAGE (APN 059-110-15)**

WHEREAS, Canyon Center Associates seeks to develop approximately 17.39 acres of land, located at APN 059-110-15 ("project site"); and

WHEREAS, the Project Site is more particularly described in the legal description, attached hereto as Exhibit "A"; and

WHEREAS, in connection with the Development Agreement (DA95-01), Canyon Center Associates has applied for Zone Change No. 95-01 to change the zoning for the project site from Planned Development (PD) to Planned Community (PC); and

WHEREAS, in connection with the Development Agreement, Canyon Center Associates has applied for a Tentative Tract Map which will permit Canyon Center Associates to subdivide the project site into 115 single family residential lots and up to 118 residential units; and

WHEREAS, Canyon Center Associate's application for the Development Agreement, Zone Change and Tentative Tract Map constitute the "proposed project"; and

WHEREAS, A Mitigated Negative Declaration was prepared for the proposed project;
and

WHEREAS, the Development Agreement includes the following terms:

- the duration of the agreement;
- the uses to be permitted on the Project Site;
- the density and intensity of use permitted on the project site;
- the time schedule established for periodic review that does not exceed 12 months; and

WHEREAS, the City and the public will benefit from the monetary contributions and other obligations to be performed by Canyon Center Associates pursuant to the Development Agreement and the project entitlements; and

WHEREAS, the benefits conferred on the City by Canyon Center Associates herein will eliminate uncertainty in planning and facilitate the orderly development of the Project Site; and

WHEREAS, development of the project site will promote the vital and best interests of the City by ensuring progressive installation of necessary public improvements and services which will significantly promote the health, safety, and welfare of the citizens of the City, effectively utilize the resources within the City at the least economic cost to its citizens, and otherwise achieve the goals and purposes for which the State's Development Agreement Statute was enacted; and

WHEREAS, the proposed Development Agreement has been found consistent with the General Plan in that it specifies the terms, timing and type of exactions that will be necessary to mitigate impacts on public infrastructure, and ensures that necessary facilities will be constructed in a timely manner consistent with policies contained in the Public Services & Utilities Element of the General Plan; and

WHEREAS, the proposed Development Agreement complies with the requirements of the California Government Code Section 65865 through 65869.5, in that the Agreement contains all necessary terms and conditions, including procedures for monitoring the duration of agreement is specified, public benefit is clearly established based on specific evidence, and public hearing procedures have been followed; and

WHEREAS, the Development Agreement is consistent with the Zoning Ordinance in that the associated development conforms to all provisions of the Planned Community Zone and the Development Agreement does not alter any of the applicable standards; and

WHEREAS, the proposed Development Agreement will not be detrimental or cause adverse affects to adjacent property owners, residents or the general public, and that the project is of compatible scale and design to adjacent properties, both which contain small lot developments and the proposed Development Agreement does not alter the scale or scope of the project contemplated; and

WHEREAS, the proposed Development Agreement provides clear and substantial benefits to residents of the City of American Canyon, including expedited payment of exaction fees for capital facilities including parks, roads, public facilities and storm drainage and contains various design and development provisions including a provision for four sided architectural treatment of all residential structures, treated fence materials and upgraded street sections to the Flosden frontage, all contributing to a high quality project that will be a benefit to the City; and

WHEREAS, the proposed project is consistent with the public convenience, general welfare and good land-use practice, making it in the public interest to enter into the Development Agreement with Canyon Center Associates; and

WHEREAS, as conditioned, the proposed project will not:

- Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area; or
- Be materially detrimental to the use, enjoyment, or valuation of property of other persons residing or working in the surrounding area; or
- Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; and

WHEREAS, notice of all relevant public hearings before the Planning Commission and City Council were provided to relevant local and regional agencies, local Homeowner's Associations, all property owners within a 300 foot radius of the project site, and notices of all public hearings before the Planning Commission and City Council were published in a local newspaper and posted in at least three public places in the City; and

WHEREAS, notices of relevant Planning Commission and City Council public hearings included the date, time, and place of the public hearings, the identity of the hearing body, a general explanation of the matter to be considered, a general description of the location of the project site and of the need to exhaust administrative remedies; and

WHEREAS, public hearings were held by the Planning Commission on April 13, 1995 and June 13, 1995, to receive public testimony regarding the proposed project; and

WHEREAS, the Planning Commission recommended to the City Council that it approve the proposed Development Agreement; and

WHEREAS, a public hearing was held by the City Council on July 20, 1995, to receive public testimony regarding the proposed project and the Planning Commission's recommendation; and

WHEREAS, Canyon Center Associates has executed the amended Development Agreement prior to the City Council's adoption of this Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of American Canyon does ordain as follows:

Section 1. **TITLE**

This Ordinance shall be known as the 1995 Gateway Village Development Agreement.

Section 2. INCORPORATION BY REFERENCE

The Development Agreement By and Between the City of American Canyon and Canyon Center Associates is hereby incorporated by reference as though set forth at length herein.

Section 3. EFFECTIVE DATE

This Ordinance shall take effect 30 days after its passage and adoption and shall supersede any conflicting provision of any City of American Canyon Ordinance.

**Section 4. EXECUTION OF DEVELOPMENT AGREEMENT
AMENDMENT**

The Development Agreement shall not be executed by the City until Canyon Center Associates has executed the Development Agreement and thirty days has passed since adoption of this Ordinance.

Section 5. RECORDATION OF EXECUTED AGREEMENT

The City Clerk shall record a fully executed copy of the Development Agreement not more than ten days following the execution of the Development Agreement by the City.

**Section 6. EFFECT OF SUBSEQUENTLY ENACTED STATE AND
FEDERAL LAWS ON DEVELOPMENT AGREEMENT**

In the event that state or federal laws or regulations enacted subsequent to execution of the Development Agreement prevent or preclude compliance with one or more provisions of the Development Agreement, the provisions of the Development Agreement shall be deemed modified or suspended to the extent necessary to comply with said state or federal law or regulation.

Section 7. ENFORCEMENT OF DEVELOPMENT AGREEMENT

Unless and until amended or canceled in whole or in part, the Development Agreement shall remain enforceable by any party thereto.

Section 8. SUCCESSORS IN INTEREST

The burdens of the Development Agreement shall be binding upon, and the benefits of the Development Agreement shall inure to, the successors in interest to the parties of the Development Agreement.

Section 9.

VIOLATION OF DEVELOPMENT AGREEMENT

(a) Where the Planning Director notifies the Planning Commission that provisions of the Development Agreement are being violated, in whole or in part, a public hearing shall be scheduled before the Planning Commission to consider Canyon Center Associates.

(b) If, after such a hearing, the Planning Commission determines that Canyon Center Associates or its successor in interest is in violation of any of the provisions of the Development Agreement, the Planning Commission shall notify the City Council of its findings, recommending such action as it deems appropriate.

Section 10.

CITY COUNCIL'S ACTIONS IN THE EVENT OF A VIOLATION OF THE DEVELOPMENT AGREEMENT'S PROVISION

Where the Planning Commission reports the violation of the Development Agreement, the City Council may take one of the following actions:

- (a) In cases other than a recommendation to terminate or modify the Development Agreement, approve the recommendation of the Planning Commission instructing that action be taken as indicated therein; or
- (b) Refer the matter back to the Planning Commission for further proceedings with or without instruction; or
- (c) Schedule the matter for properly noticed public hearing before itself where termination or modification of the Development Agreement is recommended.

Section 11.

SEVERABILITY

The City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by and final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance shall remain in full force and effect.

Section 12.

CERTIFICATION

The City Clerk shall certify to the passage and adoption of this Ordinance.

Section 13.

NOTICE

The City Clerk shall serve notice of the adoption of this ordinance and approval of related actions to the following:

- (a) The applicant;
- (b) The first three protestants who testified or spoke at the public hearing; and
- (c) Any other persons who testified or spoke at a public hearing that requested such notification.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council on August 17, 1995, by the following vote:

AYES: Councilmembers Cypher, Orlando, Winters, Mayor Pro Tem Anderson,
Mayor Mahanay
NOES: None
ABSTAIN: None
ABSENT: None


Richard Mahanay, Mayor

ATTEST:

APPROVED AS TO FORM:


Ralph Freedman, City Clerk


William D. Ross, City Attorney