

ORDINANCE NO. 2017-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON APPROVING A DEVELOPMENT AGREEMENT TO EXTEND THE TIME PERIOD TO ACT ON THE NAPA LOGISTICS PARK PHASE 2 CONDITIONAL USE PERMIT BY TEN YEARS; FOR THE PROJECT LOCATED SOUTH OF THE NAPA COUNTY AIRPORT AND WEST OF THE NAPA BRANCH RAILROAD LINE, APN 057-090-083, (FILE NO. PL 17-0010)

WHEREAS, the Development Agreement Law (Gov. Code § 65864 et seq.) authorizes the City of American Canyon (“City”) to enter into agreements for the development of real property with any party having a legal or equitable interest in such property to establish certain development rights in such property for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements can assure property owners that they may proceed with projects as approved by the City and that those approvals will not be modified (consistent with the legal principles of vesting) during the period covered by said agreements. The City is equally assured that elements of the project with peculiar and specific public interests are achieved and that its local land use policies are advanced; and

WHEREAS, the City has enacted Municipal Code Title 19, Chapter 19.47 to implement Government Code Section 65865(c), establishing the procedures and requirements for the consideration of development agreements to carry out the City’s planning policies (“City Development Agreement Standards”); and

WHEREAS, Orchard Partners, LLC, on behalf of DWF IV NLP II, LLC, has submitted a Development Agreement application to extend the time to act on the approved Napa Logistics Park Phase 2 (“NLP 2”) Conditional Use Permit (“CUP”) by 10 years from December 15, 2017 to December 15, 2027; and

WHEREAS, the CUP authorized the development of the 173-acre NLP 2 site, located south of the Napa County Airport and west of the Napa Branch Railroad Line, APN 057-090-083, (File No. PL 17-0010), with up to 2,271,000 square feet of warehouse, distribution, E-commerce, manufacturing, and accessory retail/office uses, building heights of up to 100 feet, and relaxation of front and side yard landscaping requirements; and

WHEREAS, on December 15, 2015 the Planning Commission and City Council conducted a duly noticed joint public hearing to evaluate the NLP 2 Project and consider certification of the NLP 2 Project Final Environmental Impact Report (“Final EIR”; State Clearinghouse No. 2014082033) and heard all public speakers and considered written materials in the record, including the staff report, and oral testimony given at the hearing; and

WHEREAS, on December 15, 2015 the Planning Commission recommended to the City Council and the City Council certified the Final EIR as adequate to address environmental impacts associated with the NLP 2 Project, pursuant to the requirements of the California Environmental Quality Act (“CEQA”; Pub. Res. Code Section 21000, et seq.) and the CEQA Guidelines (Cal. Code Regs., Title 14, Section 15000, et seq.), adopted a Statement of Overriding Considerations and adopted the Mitigation Monitoring and Reporting Program for the NLP 2 Project, based on all of the evidence presented in the record and presented at the hearing, as set out in City Council Resolution 2015-106; and approved the CUP by adopting City Council Resolution 2015-107; and

WHEREAS, the City caused an Initial Study/Addendum to be prepared by First Carbon Solutions dated August 31, 2017 (“2017 Initial Study/Addendum”) to evaluate whether approval of the proposed Development Agreement had the potential to present any significantly increased or new impacts over the project impacts evaluated and identified in the Final EIR or whether there was any new information of

substantial importance, which was not known and could not have been known at the time the Final EIR was certified as complete, that would require additional environmental review pursuant to Public Resources Code Section 21166 and the CEQA Guidelines Sections 15162-15164; and

WHEREAS, the 2017 Initial Study/Addendum concluded there have been no changes to the NLP 2 Project, changed circumstances, or new information of substantial importance that could have been known at the time the Final EIR was approved, which would result in new, or substantially more severe, environmental impacts; and

WHEREAS, on September 12, 2017, the Planning Commission conducted a duly noticed public hearing on the proposed Development Agreement and heard all public speakers and considered all written materials in the record including the staff report and oral testimony given at the meeting; and

WHEREAS, on September 12, 2017, the Planning Commission unanimously adopted Resolution No. 2017-08 recommending that the City Council determine the Final EIR and 2017 Initial Study/Addendum provide the necessary environmental review as required by CEQA and the CEQA Guidelines for the proposed Development Agreement and approve the Development Agreement, included as Exhibit A to this Ordinance; and

WHEREAS, the City Council heard all public speakers and considered all material in the record including written materials, the staff report, and oral testimony given at a duly noticed public hearing on October 3, 2017 as well as the findings and recommendations of the City Planning Commission, and continued the public hearing to the duly noticed October 17, 2017 City Council meeting; and

WHEREAS, the City Council has heard all public speakers and considered all material in the record including written materials, the staff report, and oral testimony presented at a continued public hearing on October 17, 2017, in addition to hearing all public speakers and considering all material in the record including written materials, the staff report, and oral testimony presented on October 3, 2017, as well as the findings and recommendations of the City Planning Commission.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: This Ordinance incorporates by this reference, the Development Agreement attached hereto as Exhibit A.

SECTION 2: This Ordinance is adopted under the authority of the Development Agreement Law (Gov. Code § 65864 et seq.) and the City Development Agreement Standards (American Canyon Municipal Code Title 19, Chapter 19.47).

SECTION 3: The City Council makes the following Findings to Approve the Development Agreement in accordance with American Canyon Municipal Code Section 19.47.080:

A. ***The proposal for which the development agreement is requested conforms with the maps and policies of the general plan and any applicable specific, community, or area plans because:***

When approving the CUP in 2015, the City Council found the NLP 2 Project was consistent with the City's General Plan and the Napa County Airport Industrial Area Specific Plan (now known as the Napa Valley Business Park Specific Plan) that applies to the subject property. The Development Agreement will not change the project as it was approved, but only extends the time period within which the CUP may be exercised by 10 years. The extension of the CUP term and the additional

community benefits provided for in the Development Agreement would be consistent with the applicable policies of the City's General Plan and the Napa County Airport Industrial Area Specific Plan (now known as the Napa Valley Business Park Specific Plan) because the Development Agreement will allow the NLP 2 Project to be implemented. Additionally, the Development Agreement Section 3.3 will require the NLP 2 Project to provide additional community benefits that will facilitate implementation of certain City infrastructure projects [including but not limited to reserving wetlands on the project site for the City's use, sanitary sewer improvements, the extension of Devlin Road, and the Green Island Road widening and reconstruction improvements] and provide financial support for the American Canyon Fire Protection District, which are consistent with City General Plan goals and policies.

- B. ***The proposal for which the development agreement is requested complies with the requirements of California Government Code Sections 65865 through 65869.5, and any other applicable state law, because:***

The property that will be subject to the Development Agreement is located within the municipal boundaries of the City; the Development Agreement will be between the City and the owner of the property; and the provisions of the Development Agreement comply with the Development Agreement Law and the City Development Agreement Standards.

- C. ***The proposal for which the development agreement is requested is consistent with the zoning ordinance and all applicable codes and ordinances because:***

When approving the CUP in 2015, the City Council found the NLP 2 Project was consistent with the City Zoning Ordinance; the other goals and purposes for which Municipal Code Title 19, Chapter 19.47 was enacted by the City and the City's other applicable codes and ordinances. The NLP 2 Project's consistency with the applicable codes and ordinances was also analyzed and included in the Final EIR and City Council Resolution 2015-107. Because no project changes are proposed, these findings remain valid.

- D. ***The proposal for which the development agreement is requested will not be detrimental to or cause adverse effects on adjacent property owners, residents, or the general public because:***

When adopting City Council Resolution 2015-107 for the NLP 2 CUP, the City Council made findings that the proposed development would not be detrimental to or cause adverse effects on adjacent property owners, residents, or the general public. These findings remain valid because no changes have been proposed to the NLP 2 Project approved in 2015. Extending the life of the CUP and the additional community benefits provided for in the Development Agreement will not result in any new or substantially increased significant environmental impacts as shown in the 2017 Initial Study/Addendum. Thus, the Development Agreement will not be detrimental to or cause adverse effects on adjacent property owners, residents, or the general public.

- E. ***The proposal for which the development agreement is requested provides clear and substantial benefit to the residents of the city because:***

Approval of the proposed Development Agreement would extend the CUP for 10 years. The extension would eliminate uncertainty in the City's land use planning for the project site and its vicinity, and will provide for orderly growth and development consistent with the City's General Plan, the Napa County Airport Industrial Area Specific Plan (now known as the Napa Valley Business Park Specific Plan), and other City policies and programs; will provide critical substantial

public benefits as set forth in Section 3.3 of the Development Agreement and summarized above in Finding A; and will otherwise achieve the goals and purposes for which City Municipal Code Title 19, Chapter 19.47 was enacted by the City.

SECTION 4: The City Council finds that the Final EIR certified by City Council Resolution 2016-206 and the 2017 Initial Study/Addendum, approved by City Council Resolution 2017-81, incorporated by this reference, provide the necessary environmental review as required by CEQA and the CEQA Guidelines for the proposed Development Agreement.

SECTION 5: The City Council approves the Development Agreement included as Exhibit A to this Ordinance and authorizes the City Manager to finalize and execute the Agreement.

SECTION 6: 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 Development Agreement pursuant to the terms of the Development Agreement.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 17th day of October, 2017, by the following vote:

AYES: Council Members Aboudamous, Leary, Oro, Vice Mayor Joseph, Mayor Garcia
NOES: None
ABSTAIN: None
ABSENT: None


The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 7th day of November, 2017, by the following vote:

AYES: Council Members Aboudamous, Leary, Oro, Vice Mayor Joseph, Mayor Garcia
NOES: None
ABSTAIN: None
ABSENT: None




Leon Garcia, Mayor

ATTEST:



Suellen Johnston, CMC, City Clerk

APPROVED AS TO FORM:



William D. Ross, City Attorney