

ORDINANCE NO. 2004-188

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALABASAS, CALIFORNIA, APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE NEW MILLENNIUM HOMES PROJECT KNOWN AS "THE OAKS", A 550-UNIT RESIDENTIAL SUBDIVISION LOCATED AT THE WESTERN TERMINUS OF PARKWAY CALABASAS, TO EXTEND THE TERM OF THE DEVELOPMENT AGREEMENT FROM OCTOBER 5, 2004 TO APRIL 5, 2006.

WHEREAS, the County of Los Angeles ("County") and Village Properties, a California general partnership ("Developer"), entered into a development agreement dated as of March 1, 1991 ("Development Agreement"), and the Developer had a legal or equitable interest in the real property that is the subject matter of the Development Agreement; and

WHEREAS, Vesting Tentative Map No. 35596 ("Vesting Map") was also approved by the County for the project; and

WHEREAS, in January of 1991, Developer and the Las Virgenes Unified School District entered into an agreement concerning the development of a school and implementing certain project conditions; and

WHEREAS, the City of Calabasas ("City") succeeded to the interest of the County in the Development Agreement and Vesting Map by virtue of the incorporation of the City which became effective on April 5, 1991; and

WHEREAS, in May of 1992, the City approved a first amendment to the Development Agreement; and

WHEREAS, in May of 1995, the City approved a major modification to the Vesting Map and adopted an Addendum to the FEIR for the a major modification; and

WHEREAS, NM Homes One, Inc. a Delaware corporation has succeeded to the interest of the Developer in the property; and

WHEREAS, by Resolution No. 99-578, the City consented to the assignment of the Development Agreement as to the property to NM Homes One, Inc.; and

WHEREAS, by Resolution No. 99-584 the City extended the Development Agreement to October 5, 2004 and is now the Lead Agency with regard to all conditions of approval, environmental analyses and related agreements; and

WHEREAS, Government Code Section 65865.3 provides that the holder of the development agreement and the City may agree that the development agreement may be extended for a period not to exceed 15 years from the effective date of the incorporation; and

WHEREAS, NMH One, Inc. submitted an application to the City for an extension of the Development Agreement until April 5, 2006; and

WHEREAS, It has been determined that it can be seen with certainty that there is no possibility that the extension of the Development Agreement will have a significant effect on the environment and that it is therefore not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3); and

WHEREAS, notice of all relevant public hearings before the Planning Commission and City Council were provided to all Homeowners Associations in the City and published in a local newspaper and posted in at least three public places in the City; and

WHEREAS, the Planning Commission held a public hearing on the proposed amendment and recommended to the City Council that it approve the extension to the term of the Development Agreement; and

WHEREAS, a public hearing was held by the City Council on March 24, 2004 to receive public testimony regarding the proposed amendment to extend the term of the Development Agreement.

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

Section 1. Findings.

The City Council finds that the proposed amendment (extension of the Development Agreement) does not change the overall intensity or approved land uses. Additionally, the land use designation for the NMH subdivision is R-SF (Residential-Single Family) and the project is being built out with single-family homes and a school/park site. The City Council finds that the extension of the Development Agreement is consistent with the General Plan and the Development Code of the City of Calabasas.

Section 2. Approval of Development Agreement Amendment

The City Council hereby approves and adopts the following two amendments to the Development Agreement between New Millennium Homes and the City of Calabasas as set forth in the attached Amendment:

1. The term of the Development Agreement shall be extended from October 5, 2004 to April 5, 2006.
2. New Millennium Homes shall pay the City of Calabasas \$2,636,000 which represents the balance due from the required General Benefit Contribution. The balance is due upon the running of the limitations period for the filing of a mandamus action challenging the adoption of this Ordinance.

Section 3. Severability Clause

Should any section, clause, or provision of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

Section 4. Effective Date

This ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937 and shall supersede any conflicting provision of any City of Calabasas ordinance.

Section 5. Certification.

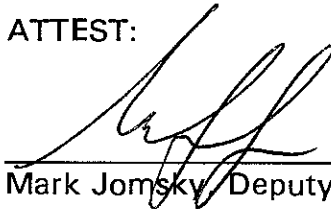
The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED, this 7th day of April, 2004.



Michael Harrison, Mayor

ATTEST:



Mark Jomsky, Deputy City Clerk

APPROVED AS TO FORM:

 4/13/04

Michael Colantuono, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF CALABASAS)

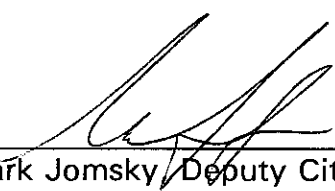
I, **MARK JOMSKY**, Deputy City Clerk of the City of Calabasas, California, **DO HEREBY CERTIFY** that the foregoing ordinance, being **Ordinance No. 2004-188** was duly adopted by the City Council of the City of Calabasas, at a regular meeting of the City Council held April 7, 2004, and that it was adopted by the following vote, to wit:

AYES: Mayor Harrison, Mayor pro Tem Groveman, Councilmembers Bozajian, Devine, Washburn.

NOES: None.

ABSTAIN: None.

ABSENT: None.



Mark Jomsky, Deputy City Clerk
City of Calabasas, California

**THIRD AMENDMENT TO THE DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF CALABASAS AND NEW MILLENNIUM HOMES**

This third amendment to the Development Agreement between the City of Calabasas and New Millennium Homes (the "Third Amendment") is entered into this 7th day of April 2004, by and between the CITY OF CALABASAS, a California municipal corporation ("the City") and NEW MILLENNIUM HOMES, LLC, a Delaware limited liability company ("NMH").

RECITALS

WHEREAS, the County of Los Angeles ("County") and Village Properties, a California general partnership ("Developer"), entered into a development agreement dated as of March 1, 1991 ("Development Agreement"), and the Developer had a legal or equitable interest in the real property that is the subject matter of the Development Agreement; and

WHEREAS, Vesting Tentative Map No. 35596 ("Vesting Map") was also approved by the County for the project; and

WHEREAS, in January of 1991, Developer and the Las Virgenes Unified School District entered into an agreement concerning the development of a school and implementing certain project conditions; and

WHEREAS, the City succeeded to the interest of the County in the Development Agreement and Vesting Map by virtue of the incorporation of the City which became effective on April 5, 1991; and

WHEREAS, in May of 1992, the City approved a first amendment to the Development Agreement; and

WHEREAS, in May of 1995, the City approved a major modification to the Vesting Map and adopted an Addendum to the FEIR for the a major modification; and

WHEREAS, NMH has succeeded to the interest of the Developer in the property; and

WHEREAS, by Resolution No. 99-578, the City consented to the assignment of the Development Agreement as to the property to NMH; and

WHEREAS, by Resolution No. 99-584 the City extended the Development Agreement to October 5, 2004 and is now the Lead Agency with regard to all conditions of approval, environmental analyses and related agreements; and

WHEREAS, Government Code Section 65865.3 provides that the holder of the development agreement and the City may agree that the development agreement may be extended for a period not to exceed 15 years from the effective date of the incorporation; and

WHEREAS, NMH submitted an application to the City for an extension of the Development Agreement until April 5, 2006.

AGREEMENT

NOW THEREFORE, for valuable consideration, receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Amendments to Development Agreement

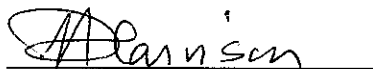
1. The term of the Development Agreement shall be extended from October 5, 2004 to April 5, 2006.
2. New Millennium Homes shall pay the City of Calabasas \$2,636,000 which represents the balance due from the required General Benefit Contribution. The balance is due upon the running of the limitations period for the filing of a mandamus action challenging the adoption of this Ordinance.

Section 2. Except as amended by this amendment and previous amendments, the terms and conditions of the Development Agreement shall remain in full force and effect.

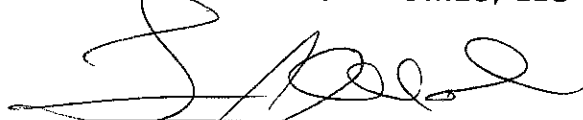
IN WITNESS WHEREOF, the City and NMH have caused this instrument to be executed by their duly authorized elected officials, partners, and/or officers on the date(s) set forth below as of the date first written above.

CITY OF CALABASAS

NEW MILLENNIUM HOMES, LLC



Michael Harrison
Mayor



Louis J. Malone
Chief Executive Officer

APPROVED AS TO FORM:

 4/13/04

Michael G. Colantuono, City Attorney