

BEFORE THE TOWN COUNCIL OF THE TOWN OF MORAGA

In the Matter of:

Approving a Development Agreement)
between the Town of Moraga,)
SummerHill Homes, and C&C Equities)
for the Camino Ricardo Subdivision)

Ordinance No. 244

WHEREAS, SummerHill Homes (the “Developer”) is the owner of certain real property located within the Town of Moraga (the “Property”); and

WHEREAS, Government Code Section 65864 through 65869.5 provide the statutory authority for development agreements between municipalities and owners of real property; and

WHEREAS, in May 2012, Developer applied for Conceptual and General Development Plan, Vesting Tentative Subdivision Map, Hillside Development Permit, Grading Permit, Design Review Permit, and Conditional Use Permit applications for the Camino Ricardo Project, a 26-Unit Single Family Residential Subdivision; and

WHEREAS, an Environmental Impact Report (“Final EIR”) was prepared for the project by Douglas Herring & Associates dated September, 2013, together with comments received during the public review process pursuant to Section 15074 of the CEQA Guidelines; and

WHEREAS, on December 16, 2013 and January 6-7, 2014, the Planning Commission held a duly noticed public hearing on the Final EIR and this Development Agreement; as well as the following Project approvals: Conceptual Development Plan, under MMC Section 8.48.090 and General Development Plan, under MMC Section 8.48.110; Vesting Tentative Subdivision Map, under the Subdivision Map Act; Hillside Development Permit, under MMC Section 8.136.50; Grading Permit, under MMC Title 14; Conditional Use Permit under MMC Section MMC 8.52.110 and 8.12.120; and Design Review associated with each of the above approvals, as applicable, under MMC Chapter 8.72; and

WHEREAS, in compliance with California Environmental Quality Act regulations, on January 6, 2014, the Planning Commission of the Town of Moraga adopted Resolution 01-14, certifying the Final EIR for the Project and making the required findings of fact and adopted Resolution 02-14 approving the Conceptual Development Plan; General Development Plan; Vesting Tentative Subdivision Map; Hillside Development Permit; Grading Permit; Conditional Use Permit; and Design Review; and

WHEREAS, Planning Commission Resolution 02-14, provides that the approvals therein are considered effective upon approval of a Development Agreement by the Town Council; and

WHEREAS, on January 7, 2014 the Planning Commission of the Town of Moraga adopted Resolution 03-14 recommending Town Council approval of the Development Agreement between the Town of Moraga and SummerHill Homes; and

WHEREAS, on February 12 and February 26, 2014, the Town Council of the Town of Moraga held duly noticed public hearings on the Development Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MORAGA AS FOLLOWS:

1. The recitals set forth above are true and correct, and are hereby incorporated herein by this reference as if fully set forth in their entirety.

This Ordinance is adopted under the authority of the Government Code Section 65864, et seq. and pursuant to the provisions of the Town Council Resolution No. 39-2010, establishing procedures and requirements for consideration of development agreements pursuant to Government Code Section 65864, et seq.

3. The Final EIR for the Camino Ricardo project was certified by the Planning Commission on January 6, 2014, the Final EIR analyzed all environment impacts of the project and there are no changes to the project as a result of the Development Agreement that require any revisions to the Final EIR. The Final EIR identified several significant environment effects of the project, all of which have been avoided or substantially lessened by the adoption of mitigation measures and a mitigation monitoring and reporting program, as set forth in the findings of fact and determinations in Planning Commission Resolution 01-14 and incorporated herein by reference.

4. The Town Council, having considered the evidence received at the public hearing duly noticed and held for said proposed Development Agreement, hereby finds and determines that the Development Agreement is consistent with the Town's General Plan, the Moraga Center Specific Plan and the Moraga Municipal Code.

5. Based on the findings set forth in this Ordinance and the evidence in the staff report, the Town Council hereby approves the Development Agreement, substantially in the form on file with the Town Clerk and attached hereto and incorporated herein by this reference, subject to minor and clarifying revisions approved by the Town Attorney.

6. The Town Manager is hereby authorized and directed to execute the Development Agreement on behalf of the Town of Moraga.

7. The Town Manager or his or her designee is hereby authorized and directed to perform all acts required to be performed by the Town in the administration and implementation of this Development Agreement, including, without limitation, reviewing the Development Agreement on annual basis, approving assignments and

executing other agreements or documents necessary to carry out the purposes of the Development Agreement.

8. This Ordinance shall take effect thirty (30) days following its final passage. The Town Clerk shall cause this Ordinance to be posted or published pursuant to the requirements of state law.

9. If any part of this Ordinance, or the Development Agreement which it approves, is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance or of the Development Agreement, and this Town Council hereby declares that it would have passed the remainder of the Ordinance, or approved the remainder of the Agreement, if such invalid portion thereof had been deleted.

The foregoing Ordinance was introduced on February 26, 2014 and adopted at a regular meeting of the Town Council of the Town of Moraga held on March 12, 2014 by the following vote:

AYES:	Mayor Chew, Councilmembers Arth, Metcalf and Trotter
NOES:	Vice Mayor Wykle
ABSTAIN:	None
ABSENT:	None

Ken Chew, Mayor

Attest:

Marty C. McInturf, Town Clerk