



## Legislation Details (With Text)

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<b>Type:</b>	Ordinance	<b>Status:</b>	Passed	<b>In control:</b>	City Council
<b>On agenda:</b>	9/20/2021	<b>Final action:</b>	9/20/2021		
<b>Enactment date:</b>	9/20/2021	<b>Enactment #:</b>	Ordinance 2021-010		
<b>Title:</b>	ORDINANCE of the City of San Leandro City Council Approving the First Amendment to the Development Agreement for the Residential Development Project located at 2436 Washington Avenue - 2450 Washington Avenue Development Project, APN 077D-1410-025-00, PLN20009-00006 and PLN21-0001				
<b>Sponsors:</b>	Tom Liao				

### Indexes:

### Code sections:

**Attachments:** 1. Proposed First Amendment to the Development Agreement (Exhibit A)

Date	Ver.	Action By	Action	Result
9/20/2021	1	City Council	Adopted	Pass
9/7/2021	1	City Council	Passed to Print	Pass

ORDINANCE of the City of San Leandro City Council Approving the First Amendment to the Development Agreement for the Residential Development Project located at 2436 Washington Avenue - 2450 Washington Avenue Development Project, APN 077D-1410-025-00, PLN20009-00006 and PLN21-0001

**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 legal or equitable interest in such property in order to establish certain development rights in such property; and

**WHEREAS**, William Mathew Brooks, of Wm. Mathews, Inc. (the "Applicant") submitted applications for a two-story 66-unit residential development project (PLN2009-00006) (the "Project") consisting of 48 two-bedroom units and 18 one-bedroom units, with a proposed density of 23.2 dwelling units per acre, to be located on an approximately 2.85-acre site at 2436 Washington Avenue, commonly known as the 2450 Washington Avenue Development Project, known as Assessor's Parcel Number 077D-1410-25-00 (the "Property"); and

**WHEREAS**, the City Council on November 21, 2011 had a first reading to approve the Project, and subsequently on December 5, 2011 approved the Project, adopted the Initial Study and Mitigated Negative Declaration and Mitigation Monitoring Reporting Program associated with the Project, along with the Vesting Tentative Map, Tract 8003, a General Plan Map Amendment from Office to High Density Residential, a Rezone from P (AU)-Professional with Assembly Use Overlay to RM-1800(PD) -Residential Multi-Family with Planned Development Overlay, a Development Agreement, and

approved a Development Agreement for the Project; and

**WHEREAS**, the Development Agreement has an initial term of ten (10) years, which expires on January 4, 2022, and which may be extended by one five (5) year term upon approval by the City of San Leandro Planning Commission; and

**WHEREAS**, though the Project as currently approved includes a Vesting Tentative Tract Map for condominium purposes, allowing for the sale of individual units, the Project was originally contemplated as a rental project. As such, Section 2.10 of the Development Agreement precludes Project units from being offered for sale during the term of the Development Agreement; and

**WHEREAS**, the Applicant on January 11, 2021 submitted an application to amend the Development Agreement in two ways: to exercise the five (5) year term extension, and to modify the Development Agreement by deleting Section 2.10 to allow the Project to be operated as a rental and/or for sale project; and

**WHEREAS**, the Vesting Tentative Map prepared for the Project has a lifespan dependent on the Development Agreement and remains viable throughout the initial term and five (5) year extension of the term of the Development Agreement; and

**WHEREAS**, City prepared an Initial Study, Mitigated Negative Declaration and a Mitigation Monitoring Reporting Program consistent with the California Environmental Quality Act, Public Resources Code, Sections 21000, et seq. (CEQA) and CEQA Guidelines, approved by the City Council on November 21, 2011 by Resolution No. 2011-192; and

**WHEREAS**, the First Amendment to the Development Agreement is exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15061(b)(3) State CEQA Guidelines; and

**WHEREAS**, subsequent to the date of the Development Agreement, and due to a change in state law the City's Inclusionary Housing Ordinance became enforceable, San Leandro Zoning Code Section 6.04.100, et seq., and California Government Code Section 65580, et seq., in the development of new housing projects, which provides that for new rental housing development, fifteen percent (15%) of the Base Units be reserved as affordable housing (the "Inclusionary Units"). Sixty Percent (60%) of the Inclusionary Units must be reserved for occupancy by Very-Low Income Households, and Forty percent (40%) of the Inclusionary Units must be reserved for occupancy by Low-Income Households. The Inclusionary Housing Ordinance requires that for new for sale or ownership housing development, fifteen percent (15%) of the Base Units be reserved as affordable housing (the "Inclusionary Units"). Sixty Percent (60%) of the Inclusionary Units must be reserved for occupancy by Moderate Income Households, and Forty percent (40%) of the Inclusionary Units must be reserved for occupancy by Low-Income Households; and

**WHEREAS**, Section 2.4.2(c) of the Development Agreement provides that in the event that "Future Rules" are adopted by the City after the effective date of the Development Agreement, such Future Rules shall apply to the Project upon the written consent of the Applicant; and

**WHEREAS**, the Applicant is willing to consent to the application of the changes in the Inclusionary Housing Ordinance to the Project, and the inclusionary housing requirements are also made part of Applicant's application to modify the Development Agreement; and

**WHEREAS**, City has given the required notice of its intention to adopt the First Amendment and has conducted a public hearing thereon pursuant to Government Code Sections 65867 and 65868; and

**WHEREAS**, the proposed First Amendment is consistent with the approved subdivision and City requirements and does not alter the design or layout of the subdivision or result in any land use changes to the subdivision; and

**WHEREAS**, the Planning Commission, pursuant to the requirements of Development Agreement Section 1.3.2, reviewed and approved the staff report and resolution, and recommended approval of the five (5) year term extension on July 1, 2021; and

**WHEREAS**, the City Council reviewed the staff report, the First Amendment to the Development Agreement, and the Initial Study prepared pursuant to CEQA at a noticed public hearing on September 7, 2021 at which time all interested parties had the opportunity to be heard.

**NOW, THEREFORE THE CITY OF SAN LEANDRO CITY COUNCIL ORDAINS** as follows:

Section 1. The foregoing recitals are true and correct and made part of this Ordinance. This Ordinance incorporates, and by this reference makes a part hereof, the First Amendment to the Development Agreement attached hereto as Exhibit A.

Section 2. The City Council reviewed and considered the draft First Amendment to the Development Agreement, the Initial Study and Mitigated Negative Declaration prepared pursuant to CEQA in 2011 and the CEQA exemption, comments received during the public review period, and the City's written responses to comments prior to acting on the Project.

Section 3. On the basis of the whole record before it, the City Council finds there is no substantial evidence that the First Amendment to the Development Agreement will have a significant effect on the environment beyond those identified by the Initial Study and Mitigated Negative Declaration, approved by the City Council on November 21, 2011 by Resolution No. 2011-192 and is exempt from the requirements of the California Environmental Quality Act (CEQA) under Section 15061(b)(3) State CEQA Guidelines. The City Clerk is hereby authorized and directed to file a Notice of Exemption from CEQA with the County of Alameda within five days from the date of this Ordinance.

Section 4. The First Amendment to the Development Agreement is drafted in compliance with the requirements of the Development Agreement, the Subdivision Map Act, California Government Code Section 65580, et seq., San Leandro Zoning Code Chapter 6.04, and all other applicable federal, state, and local laws.

Section 5. The First Amendment to the Development Agreement is consistent with the City General Plan.

Section 6. The First Amendment to the Development Agreement is complete and adequate and reflects the City's independent judgement and analysis of the Applicant's Application to Amend the Development Agreement in the context of the Project.

Section 7. Based on the above findings, the City Council adopts:

A. First Amendment to Development Agreement. An Amendment to the Development Agreement, extending the term of the Development Agreement by an additional five (5) years, to expire on January 4, 2027; and deleting Section 2.10 of the Development Agreement; and agreeing that the City's Inclusionary Housing Ordinance constitutes a "Future Rule" that is applicable to the Project.

Section 8. Upon the effective date of this Ordinance as provided below, the City Manager is hereby authorized and directed to execute the First Amendment to the Development Agreement on behalf of the City of San Leandro. The City Clerk is hereby authorized and directed to record the First Amendment to Development Agreement in the Official Records of Alameda County within ten (10) days of the date of the First Amendment.

Section 9. This Ordinance shall be in full force and effect thirty (30) days after its passage and adoption.

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