

CITY OF RIVERBANK

ORDINANCE NO. 2020-007

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, APPROVING DEVELOPMENT AGREEMENT NO. 01-2020 BY AND BETWEEN THE CITY OF RIVERBANK AND MCROY WILBUR COMMUNITIES, INC. FOR THE EXTENSION AND APPROVAL OF THE DIAMOND BAR EAST SUBDIVISION TENTATIVE MAP AND REVISED MAP 02-2014 (APN 062-020-010 AND 062-020-025)

WHEREAS, McRoy Wilbur Communities, LLC, which proposes to develop 85 residential lots in the City of Riverbank (“City”) and related public improvements, is requesting to extend by Development Agreement the life of Tentative Map 02-2014, a subdivision known as Diamond Bar East (the “Project”); and

WHEREAS, in order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the California Legislature adopted Government Code section 65864 *et. seq.* (“Development Agreement Statute”), which authorizes the City and property owner to enter into a development agreement that establishes certain development rights in real property that is the subject of a development project application; and

WHEREAS, consistent with the requirements of the Development Agreement Statute, the City has adopted Resolution No. 99-39 establishing rules, regulations, and limitations for Development Agreements; and

WHEREAS, On March 24, 2015, the City Council adopted Resolution No. 2015-017, approving a general plan amendment redesignating 17.9 acres to low-density residential (LDR) which allows for a net density of zero to eight (0-8) dwelling units per acre; and

WHEREAS, On March 24, 2015, the City Council adopted Resolution No. 2015-018, approving Tentative Map 02-2014 and related conditions of approval, which set forth the infrastructure obligations and conditions related to the development and build out of approximately 96 residential lots on 17.9 acres; and

WHEREAS, On March 24, 2015, the City Council adopted Ordinance No. 2015-007, approving a rezone of 17.9 acres to Planned Development and allowing for a net density of zero to eight (0-8) dwelling units per acre; and

WHEREAS, the City Council of the City of Riverbank amends Resolution 2015-018 and amends Ordinance 2015-007 by approving the change of proposed lots from 96

lots to 85 lots as depicted in the revised TM, and per the City Engineers documented findings and determination; and

WHEREAS, the City of Riverbank Planning Commission held a duly noticed public hearing on Tuesday, March 17, 2020 to consider the Diamond Bar East Development Agreement and provided their recommendation to the City Council; and

WHEREAS, the City and McRoy Wilbur Communities, Inc. intend to enter into a Development Agreement concerning the Project pursuant to California Government Code section 65864 and Resolution No. 99-39; and

WHEREAS, the City Council of the City of Riverbank held a duly noticed public hearing on April 14, 2020 to consider the introduction of the Diamond Bar East Development Agreement for first reading; and

WHEREAS, the City Council of the City of Riverbank held a duly noticed public hearing on April 28, 2020 to consider the approval of the Diamond Bar East Development Agreement; and

WHEREAS, the City Council for City of Riverbank, based on its independent review and analysis, the staff analysis, oral and written testimony, and the record as a whole, finds, after due study, deliberation and public hearing, and based on its independent judgment, the following:

1. The Project is consistent with the goals, policies, and standards of the City of Riverbank General Plan and all other applicable standards and ordinances of the City of Riverbank; and
2. The City Council finds that the Diamond Bar East Development Agreement:
 1. Is consistent with the objectives, policies, and programs and residential land uses established by the 2005 Riverbank General Plan; and
 2. Is consistent with the provisions of Government Code Section 65864 through 65869.5; and
 3. Is in conformity with the public convenience and general welfare and good land use practices because the terms of the Development Agreement establish appropriate and adequate mechanisms to fund and install infrastructure needed to support public services relating to the Project and General Plan planning area; and
 4. Will provide funding and infrastructure to support the Project, and will not adversely affect the orderly development of property or the preservation of property values; and

5. Will provide funding and infrastructure to ensure that adequate public services are available to serve the Project without being detrimental to the health, safety, and general welfare of the City of Riverbank; and
6. Provides sufficient benefit to the City to justify entering into the Development Agreement.

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

Section 1: The City Council of the City of Riverbank approves a Development Agreement by and between McRoy Wilbur Communities, LLC. and the City of Riverbank relating to the development known as “Diamond Bar East” located on the following APNs: 062-020-010 and 062-020-025.

Section 2: The City shall review the Development Agreement for compliance with its terms and conditions not less than once every twelve (12) months from the effective date of the Development Agreement.

Section 3: Notice of the public hearing on the proposed Development Agreement Ordinance was published in the Riverbank News, a newspaper of general circulation, on April 1, 2020; and Notices of the public hearing on the proposed Development Agreement were mailed to all interested parties and property owners within 300 feet of the property, according to the most recent assessor’s roll, on April 2, 2020.

Section 4: Pursuant to the California Environmental Quality Act (CEQA) environmental impacts relating to the Project were evaluated and mitigated in the Mitigated Negative Declaration adopted on March 24, 2015, when the City Council approved a General Plan Amendment, Tentative Map, and Rezoning for the Project. Pursuant to CEQA Guidelines Section 15378, the Development Agreement is within the purview of the River Run Project, for which environmental impacts have already been reviewed. Thus, approval of the Development Agreement does not require further environmental review.

Section 5: If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City Council of the City of Riverbank hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

SECTION 6: Severability. If any section, subsection, subdivision, paragraph, sentence, clause, phrase or portion of this chapter, or any part thereof is for any reason held to be unconstitutional, by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 3: This Ordinance shall become effective thirty (30) days from and after its final passage (05/29/2020), provided it is published pursuant to GC § 36933 in a newspaper of general circulation within fifteen (15) days after its adoption.

The foregoing ordinance was given its first reading and introduced by title only at a regular meeting of the City Council of the City of Riverbank on April 14, 2020. Said ordinance was given a second reading by title only and adopted.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting on the 28th day of April, 2020; motioned by Councilmember District 4 Darlene Barber-Martinez, seconded by Councilmember District 3 Cal Campbell; moved said ordinance by a City Council vote of 5-0:

AYES: Barber-Martinez, Campbell, Fosi, Uribe, and Mayor O'Brien
NAYS: None
ABSENT: None
ABSTAINED: None

ATTEST:

APPROVED:

(THE ORIGINAL DOCUMENT ON FILE WITH THE CITY CLERK

Annabelle H. Aguilar, CMC
City Clerk

Richard D. O'Brien
Mayor

APPROVED AS TO FORM:

XXXXXXXXXXXXXXXXXXXX

Tom P. Hallinan, City Attorney