



Meeting Date: 09/28/2010

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input checked="" type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other	<input type="checkbox"/> Other

Prepared By: Linda Windsor, Associate Planner *LW* Agenda Item No. K-1

Reviewed By: City Manager *[Signature]* City Attorney *SMP* Finance *[Signature]* Other (Specify) _____

DATE: August 26, 2010

TO: City Council

FROM: Susan L. Martin AICP, Planning Manager *SML*
Development Services Department

SUBJECT: **Third Amendment to the RiverPark Development Agreement No. A-6128 (PZ 10-670-02). Filed by Tony Talamante c/o RiverPark Legacy LLC, 1250 Corona Pointe Suite 600, Corona, CA 92879 on behalf of the RiverPark developers.**

RECOMMENDATION

That City Council approve the first reading by title only and subsequent adoption of an ordinance approving the Third Amendment to the RiverPark Development Agreement No. A-6128 (PZ 10-670-02), between the owners of the RiverPark Project and the City of Oxnard, and authorizing the Mayor to execute the Third Amendment to the RiverPark Development Agreement after the second reading of the ordinance.

DISCUSSION

On September 10, 2002, the City Council adopted Ordinance No. 2605, approving Planning and Zoning Permit No. 01-5-46 (Development Agreement No. A-6128) between the owners of the RiverPark Project and the City of Oxnard.

The City Council has approved two previous amendments to the RiverPark Development Agreement. On December 14, 2004, the City Council approved the First Amendment, which amended the original development agreement to incorporate properties located within the *RiverPark Specific Plan* that were acquired by RiverPark A and RiverPark B after the effective date of the Development Agreement. The first amendment specifies which rights, duties, and obligations under the agreements are retained and assumed by the various parties to the agreement.

The Second Amendment to the Development Agreement was adopted on July 24, 2007. The Second Amendment incorporated changes which allowed construction of the multiplex theater consistent with Ordinance No. 2742, which permits the location of a multiplex theater within the specific plan area now being constructed as The Collection Shopping Center.

The proposed Third Amendment modifies Section 4 (Limitation on Increase of Certain Fees for Five Years) from the current terms as follows:

1. Additional three years for market rate residential building permits
2. Additional three years for affordable residential building permits
3. Additional five years for commercial and retail building permits

This section specifies that specific development fees (“building permit fees”) paid to the City for construction of new buildings within the RiverPark Specific Plan Area will remain at the same level as the fees in effect as of January 6, 2006, and limits the new fees that can be assessed on the project. The Development Agreement currently provides that the limitations on the fee increases will expire on January 6, 2011. The applicant’s justification for this request is that holding development fees at 2006 levels will allow the applicants to continue developing the project, including continued construction of required public improvements, despite the delayed recovery of the real estate market.

Staff recommends approval of this development agreement amendment to allow continued timely development of the RiverPark project, including on- and off-site public improvements. The developers have invested significant funds into these improvements, which include (both constructed and under construction) modifications to the Highway 101 northbound off- ramps at Oxnard Boulevard and Vineyard Avenue; widening and landscaping of Gonzales Road east of Oxnard Boulevard; widening of RiverPark Boulevard west of Vineyard Avenue; intersection improvements to Vineyard Ave/RiverPark Boulevard; construction of nine parks and two schools within RiverPark, and reclamation grading work for the open space and recharge basins.

This proposed development agreement amendment does not change the use or intensity of land uses on the site, and is consistent with the project that was evaluated by the EIR. The fee adjustments and phasing change in the build-out of market rate and affordable housing do not create any additional environmental impacts not previously analyzed in the EIR. Therefore, staff has determined that the previously certified EIR provides adequate California Environmental Quality Act clearance for this development agreement amendment.

FINANCIAL IMPACT

Staff expects that approval of Amendment No. 3 would result in a net positive impact to the City. The ability of the RiverPark Specific Plan area’s commercial and residential components to continue moving forward to build out with the current fixed fees would be a minimal decrease in short-term revenue compared to the longer-term revenues related to the project, such as sales tax, and property tax revenues, as well as other development services and City fees lost due to extended delays of the project or its economic failure.

There would be no negative financial impact to the City of Oxnard for modification to the affordable housing phasing. The revised milestone generally remains consistent with the Development Agreement and Specific Plan criteria and intent.

Attachment #1 - Ordinance Approving Third Amendment to Development Agreement

Attachment #2 – Third Amendment to Development Agreement (Note: There are 12 documents, each identical except for the signatories.)

Note: Attachment #2 has been provided to City Council under separate cover. Copies for review are available at the Circulation Desk in the Library after 6:00 p.m. on Thursday prior to the Council meeting and in the City Clerk's Office after 8:00 a.m. on Friday prior to the Council meeting.

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO.

ORDINANCE OF THE CITY OF OXNARD APPROVING THIRD AMENDMENT TO THE RIVERPARK DEVELOPMENT AGREEMENT NO. A-6128 (PZ 10-670-02) WITH RIVERPARK A; RIVERPARK B; E.D., E.D. 2, KOH, KOH 12-17, RP PROPERTIES, RIVERPARK COLLECTION, RIVERPARK POINTE, RIVERPARK LANDING, AND RIVERPARK HOTEL.

WHEREAS, Government Code Section No. 65864 et seq. authorizes the City Council to adopt development agreements; and

WHEREAS, Government Code Section No. 65868 et seq. authorizes the City Council to adopt amendments to development agreements; and

WHEREAS, the City Council and RiverPark A; RiverPark B; E.D., E.D. 2, KOH, KOH 12-17, RP Properties, Riverpark Collection, Riverpark Pointe, RiverPark Landing, and Riverpark Hotel (collectively "Riverpark Developers") wish to enter into a Third Amendment to the RiverPark Development Agreement (No. A-6128, on file with the City Clerk's Office), dated August 27, 2002; and

WHEREAS, the Environmental Impact Report (the "EIR") for the RiverPark project, which the City certified in August of 2002, evaluated the impacts of the RiverPark project, and the proposed amendment would not constitute a change in the RiverPark project that requires subsequent environmental review under the California Environmental Quality Act. Rather, the previously certified EIR provides adequate CEQA clearance for this amendment; and

WHEREAS, the City Council has considered the information contained in such EIR before approving this project; and

WHEREAS, the City Council finds, after due study, deliberation and public hearing, that the project is a logical refinement of the RiverPark Development Agreement and that the proposed Third Amendment to the RiverPark Development Agreement is consistent with the 2020 General Plan; and

WHEREAS, the City Council provided notice of its intent to consider the third amendment to the RiverPark Development Agreement in accordance with the requirements set forth in Section 65867 of the Government Code; and

WHEREAS, on September 28, 2010, the City Council conducted a public hearing on the third amendment to the RiverPark Development Agreement in accordance with the requirements set forth in Section 65867 of the Government Code.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Part 1. The "Third Amendment to Development Agreement" between the City and RiverPark Developers, consisting of 12 agreements, identical except for the signatories, attached hereto as

Exhibit A, is hereby adopted.

Part 2. The Mayor is authorized to execute on behalf of the City the "Third Amendment to the RiverPark Development Agreement" between the City and RiverPark Developers.

Part 3. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the City. Ordinance No. _____ was first read on September 14, 2010, and finally adopted on _____, 2010, to become effective thirty days thereafter. Not later than ten (10) days after such date, the City Clerk shall record a copy of the Third Amendment to the RiverPark Development Agreement in the office of the Ventura County Recorder.

PASSED AND ADOPTED this ____ day of September, 2010, by the following vote:

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:



Alan Holmberg, City Attorney