

RESOLUTION NO. 24/2017

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA
ESTABLISHING PROCEDURES AND REQUIREMENTS FOR PROCESSING
AND CONSIDERATION OF DEVELOPMENT AGREEMENTS**

WHEREAS, the California State Legislator has determined that lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of development, and discourage investment in an commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public (Government Code Section 65864);

WHEREAS, development agreements provide assurance to the applicant and public agency that upon approval of a project, the project may proceed in accordance with existing policies, rules and regulations, and subject to the conditions of approval, will strengthen the public planning process and encourage comprehensive planning; and,

WHEREAS, State law requires cities to establish procedures and requirements for the consideration of a development agreement upon request by an applicant for a development agreement.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Corte Madera that:

Government Code Sections 65864-65869.5 authorize the Town to enter into development agreements for the development of property and to establish procedures for consideration of the applications for such agreements.

It is in the public interest to adopt procedures and requirements for processing and consideration of development agreement applications, similar to other land use applications, to promote public health, safety and welfare.

The Town Council hereby finds and adopts as follows:

**PROCEDURES TO PROCESS A
DEVELOPMENT AGREEMENT APPLICATION**

A. Application.

1. Consideration of a development agreement pursuant to Government Code Sections 65864-65869.5 shall be initiated by an applicant and, who shall be joined by the owner if the applicant is not the fee owner of the real property, filing an application with the Town Planning Department.

2. The Application shall include:

- a. A legal description of the property or properties sought to be covered by the development agreement;
- b. A description of the proposed uses, height and size of any buildings or structures, density and intensity of use, and provisions for any reservations or dedications of land for public purposes;
- c. Such other information that the Town may require by policy or to satisfy a requirement of law; and,
- d. Payment of all required fees.

B. Agreement.

The Development Agreement must be consistent with State law requirements and must include all of the following information:

1. A legal description of the property or properties covered by the agreement;
2. A description of the proposed uses, height and size of any buildings or structures, density and intensity of use, and provisions for any reservations or dedications of land for public purposes;
3. All proposed conditions, terms, restrictions, and requirements for subsequent Town discretionary actions;
4. The proposed time for construction and completion for the entire project and all phases;
5. The commencement and termination of the agreement.

C. Recommendation and Processing

1. The Town, at the Applicant's expense, and in accordance with Town procedures for implementation of CEQA, shall conduct the appropriate environmental investigations and upon completion of such investigations, transmit the application, together with the applications for the project and Staff's recommendations to the Planning Commission for a public hearing.

2. A public hearing shall be noticed for the Planning Commission in the same manner as the land use applications for the related development project. The Planning Commission shall conduct a public hearing to review the environmental documents, all land use applications, and the land use issues contained in the development agreement and make recommendations regarding the land use issues for the project, including the development agreement, to the Town Council.

3. A public hearing shall be noticed for the Town Council in the same manner as the land use applications for the development project. The Town Council shall conduct a public hearing on the environmental review and documents, land use applications, and the development agreement. The Town Council shall review the development agreement for all purposes including land use issues, financial, and other business terms.

4. The Town Council shall approve, modify, condition, or deny the proposed development agreement. For approval, the Town Council shall make findings that the development agreement is consistent with the general plan and any applicable specific or precise plans. All approvals of a development agreement shall be made by ordinance (uncodified).

5. No agreement shall be signed by the Town until it has been duly signed by the applicant.

6. Within ten (10) days after the Town signs the development agreement and the ordinance becomes effective, the Town shall record the development agreement with the Office of the County Recorder for Marin County.

7. All development agreement provisions are subject to modification or suspension as set forth in Government Code Section 65865.4.

E. Findings.

1. The development agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan and any preliminary or specific plan;
2. Is compatible with the uses authorized in, and the regulations prescribed for the land use district in which the real property is located;
3. Will not be detrimental to the health, safety, and general welfare of the community; and
4. Will not adversely affect the orderly development of property;
5. Is advantageous to and/or benefits the Town.

F. Annual Review.

1. All development agreements shall be reviewed by the Planning department at least once every twelve (12) months, unless the agreement provides for more frequent review, in which case the agreement terms shall control.

2. The purpose of the review shall be to inquire into the good faith compliance of the applicant with the terms of the agreement and for any other purpose which may be specified in said agreement.

3. If, as a result of periodic review, the Council finds and determines on the basis of substantial evidence following a noticed public hearing, that the applicant or its successor has not complied in good faith with the terms or conditions of the agreement, the Council may order, after a noticed public hearing, that the agreement be modified or terminated.

G. Amendment or Termination

Any development agreement may be amended, or terminated in whole or in part, by mutual consent of the applicant or its successor and the Town, or it be modified or terminated pursuant to the provisions of Paragraph F above. Notice of intention to take any such action shall be given in the manner prescribed by state law for a public hearing.

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I, the undersigned, hereby certify that the foregoing is a full, true and complete copy of a resolution duly passed and adopted by the Town Council of the Town of Corte Madera at a regular meeting thereof held on the 18th day of July 2017, by the following vote:

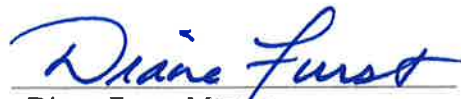
Ayes, and in favor thereof, Council Members: Andrews, Bailey, Condon, Furst, Ravasio
Noes, Council Members: -None-
Abstain, Council Members: -None-
Absent, Council Members: -None-

Dated July 18, 2017

ATTEST:


Rebecca Vaughn, Town Clerk

APPROVED:


Diane Furst, Mayor