

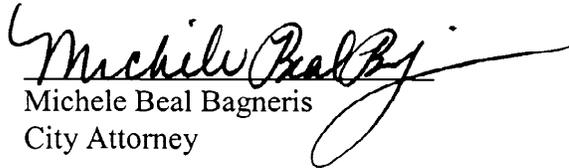
FISCAL IMPACT

The Development Agreement adopted by this ordinance provides that SMV Technology Partners LLC shall contribute \$1,000,000 to support certain public improvements to Walnut Street and Kinneloa Avenue. SMV Technology Partners LLC will be responsible for all costs associated with condition monitoring and with meeting all the conditions of approval.

ENVIRONMENTAL DETERMINATION

On April 30, 2007, and prior to approval of the Development Agreement, the City Council of the City of Pasadena conducted a duly noticed public hearing regarding the Development Agreement, after which the Council: (1) certified the Mitigated Negative Declaration, adopted by Resolution certain Findings, pursuant to the California Environmental Quality Act ("CEQA"); and (2) adopted findings in support of the Development Agreement, and approved the Development Agreement pursuant to the California Environmental Quality Act.

Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


Brad L. Fuller
Assistant City Attorney

Concurred by:


for Cynthia J. Kurtz
City Manager

Introduced by: _____

ORDINANCE NO. _____

AN UNCODIFIED ORDINANCE OF THE CITY OF PASADENA APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF PASADENA AND SMV TECHNOLOGY PARTNERS LLC.

WHEREAS, California Government Code Section 65864 provides, in pertinent part:

“The Legislature finds and declares that:

(a) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning, which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development”; and

WHEREAS, California Government Code Section 65865 provides, in pertinent part:

“(a) Any city...may enter into a development agreement with any person having a legal or equitable interest in real property for the development of the property as provided in this article...”; and

WHEREAS, California Government Code Section 65865.2 provides, in pertinent part:

“A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement...”; and

WHEREAS, the City of Pasadena provides a process for the adoption of development agreements pursuant to the Pasadena Municipal Code, Title 17, Chapter 17.66, which sets forth specific findings that must be made before a development agreement may be approved; and

WHEREAS, on April 11, 2007 the Planning Commission held a duly noticed public hearing concerning the “Development Agreement by and between the City of Pasadena, a California municipal corporation, and SMV TECHNOLOGY PARTNERS LLC, a California limited liability partnership” (“Development Agreement”), concerning that property generally located on the southeast corner of SMV and East Foothill Boulevard. See Site Map attached hereto as Exhibit A. After the public hearing, the Planning Commission recommended approval of the Development Agreement to the City Council; and

WHEREAS, on April 30, 2007, the City Council of the City of Pasadena conducted a duly noticed public hearing regarding the Development Agreement, after which the Council: (1) certified the Mitigated Negative Declaration, adopted by Resolution certain Findings, pursuant to the California Environmental Quality Act (“CEQA”); and (2) adopted findings in support of the Development Agreement, and approved the Development Agreement; and

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

NOW, THEREFORE, the People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance due to its length and the corresponding cost of publication will be published by title and summary as permitted by Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

“Summary

Ordinance No. _____ is an uncodified ordinance through which a Development Agreement between the City of Pasadena and SMV Technology Partners LLC (“Developers”) is approved. The purpose of the Development Agreement is to provide certainty to the Developers that they may develop the property into 212 housing units and a 350 seat performance and educational theater complex located at the southeast corner of Sierra Madre Villas and East of Foothill Boulevard in conformance with the goals and objectives of the East Pasadena Specific Plan, that the City will complete certain improvements of Walnut Street and Kinneloa Avenue in a timely manner, and to assure that the Theater Parcel is developed for a non-profit, public benefit corporation providing a performance and educational theater complex or, failing that, another purpose

that is beneficial to the City and its residents. The Development Agreement (including legal descriptions of all affected parcels), Master Plan, and findings in support of the Development Agreement, are on file in the City Clerk's Office.

Ordinance No. _____ shall take effect upon publication.”

SECTION 2. The City Council finds that the Development Agreement complies with the requirements of California Government Code Sections 65865 through 65869.5 in that the Development Agreement does specify in detail and contains the following:

a. Provisions are included in the Development Agreement (Section 5) and in the Pasadena Municipal Code (Section 17.66.070) which require periodic review of the Agreement at least every 12 months, at which time the applicant shall be required to demonstrate good faith compliance with the terms of the Agreement. (California Government Code Section 65865.1.)

b. The duration of the Development Agreement is specified in the Agreement as being for 7 years. The Development Agreement may be extended through mutual agreement of the parties, consistent with Section 8 of the Agreement and Pasadena Municipal Code Section 17.66.080. (Government Code Section 65865.2.)

c. The permitted uses of the property, the density and intensity of use, the maximum height and size of the proposed structures, and other required provisions are referred to in the Development Agreement and/or its attachments (which include applicable provisions of the Zoning Code, and the East Pasadena Specific Plan). (Government Code Section 65865.2.)

d. The Development Agreement and/or its attachments include conditions, terms, restrictions and requirements for subsequent discretionary actions to implement the Development Agreement. (Government Code Section 65865.2.)

e. The Development Agreement and/or its attachments specify that the applicant shall donate to the non-profit theater group known as “A Noise Within”, or to a similar non-profit public benefit theater group, the Theater Parcel to be developed by the theater group into a performance and educational theater complex or, failing that, another purpose that is beneficial to the City and its residents. (Government Code Section 65865.2.)

f. The Development Agreement and/or its attachments specify that the applicant shall contribute One Million dollars (\$1,000,000) to support certain public improvements to Walnut Street and Kinneloa Avenue which are expected to dramatically improve traffic conditions at that intersection. (Government Code Section 65865.2.)

SECTION 3. At its meeting on April 30, 2007, and subject to passage of this ordinance, the City Council approved the Development Agreement. At that same meeting, and as required by Pasadena Municipal Code Section 17.66.040.G, the City Council made findings in support of the Development Agreement. Those findings are set forth in Exhibits E through J to the Development Agreement and are fully incorporated herein. The findings are based upon substantial evidence presented during the above-referenced public hearings, including written and oral staff reports, and public testimony.

SECTION 4. Upon the effective date of this ordinance, the City Manager or her designee shall execute the Development Agreement on behalf of the City. Within 10 days of full execution of the Development Agreement, the City Clerk shall cause the

Development Agreement to be recorded in the offices of the County Recorder for the County of Los Angeles, as provided in Pasadena Municipal Code 17.66.050.

SECTION 5. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 6. This ordinance shall take effect upon publication.

Signed and approved this _____ day of _____, 2007.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this _____ day of _____, 2007 by the following vote:

AYES:

NOES:

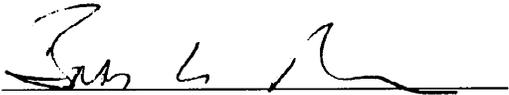
ABSENT:

ABSTAIN:

Published:

Jane L. Rodriguez, CMC
City Clerk

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "Brad L. Fuller", is written over a horizontal line.

Brad L. Fuller
Assistant City Attorney

BF Ordinances/Resolutions - SMV Technology Development Agreement Ordinance