

# CITY COUNCIL STAFF REPORT



**DATE:** May 28, 2002

**TO:** City Council/City Manager

**FROM:** Phil Wong, Planning Director

**SUBJECT:** ORDINANCE (DA01-310-003) Approving  
Bishop Ranch Annexation and Development Agreement Amendment No. 4  
(Bishop Ranch 8 and Bishop Ranch 15)

## RECOMMENDED ACTION

Staff recommends that the City Council open the public hearing take public testimony, close the public hearing and approve the attached Ordinance approving the Bishop Ranch Annexation and Development Agreement Amendment No. 4 (BR 8 & 15).

## FISCAL IMPLICATIONS

There are no fiscal implications with this action.

## BACKGROUND/ANALYSIS

Sunset Development Company is requesting approval of an amended Development Agreement for the properties relative to the office developments referred to as Bishop Ranch 8 and Bishop Ranch 15. This amendment would extend the term of the agreement to maintain the right to construct the previously approved parking structures and allow the completion of Bishop Ranch 8 and Bishop Ranch 15 to proceed in accordance with existing policies, rules, regulations and subject to the conditions of approval tied to the vesting tentative map, development plan, variance and architectural review.

Under the entitlements for both BR 8 and BR 15 office projects, the parking structures were landbanked. The conditions of approval indicate that the future parking structures are to be constructed only if Sunset and the City determines the need to meet the demonstrated demand. By maintaining this provision, it not only protects Sunset Development Company, but also the City and it's neighboring residents should tenants change that would warrant the need for more on-site parking.

The term of the development agreement in effect, expires on December 31, 2005. The request is to extend the term of the agreement to December 31, 2010 with extensions for two (2) additional five (5) year terms. Effectively, the outside expiration date would be December 31, 2020.

The Planning Commission, at their meeting of October 16, 2001, considered the proposed amended development agreement and made the finding that the development agreement is in conformance with the General Plan and recommended approval to the City Council.

Last December, the City Council, in a duly noticed public hearing, considered the development agreement and subsequently continued the matter. The Council expressed concern over the timing of the proposed development agreement amendment since the date of the development agreement was still valid until December 31, 2005. Sunset Development has responded in writing (see attachment).

### **STEPS FOLLOWING APPROVAL**

Adopt Ordinance approving the Bishop Ranch Annexation and Development Agreement Amendment No. 4 (BR 8 & 15).

### **ATTACHMENTS**

- A - Draft Ordinance
  - Development Agreement Amendment No. 4
- B - Planning Commission Resolution No. 09-01 Recommending to the City Council Approval of the Development Agreement Amendment No. 4
- C - Planning Commission staff report dated October 16, 2001 DA-01-310-003
- D - Planning Commission staff report dated December 11, 2001
- E - Letter from Sunset Development Company dated May 9, 2002

**BISHOP RANCH ANNEXATION AND DEVELOPMENT AGREEMENT  
AMENDMENT NO. 4  
(REFERRED TO AS BISHOP RANCH 8 AND BISHOP RANCH 15)**

- Extension of the term or life of the agreement from December 31, 2005 to December 31, 2010, plus 2 5-year extensions to a maximum term date of December 31, 2020.
- Right to construct a 640 space parking structure on Bishop Ranch 8 and the right to construct a 725 space parking structure on Bishop Ranch 15.

Potential Benefit to Sunset Development

- Provides additional on-site parking to tenants when and if needed.

Potential Benefit to the City

- Reduces/eliminates overflow parking onto adjoining properties and City streets.

res/2002 cc resolutions

ORDINANCE NO. \_\_\_\_\_

ORDINANCE OF THE CITY COUNCIL APPROVING AN AMENDMENT TO  
THE EXISTING DEVELOPMENT AGREEMENT BETWEEN  
THE CITY OF SAN RAMON AND SUNSET DEVELOPMENT COMPANY  
RELATIVE TO THE DEVELOPMENT KNOWN AS  
BISHOP RANCH 8 AND BISHOP RANCH 15

THE CITY COUNCIL OF SAN RAMON DOES ORDAIN as follows:

Section 1. That 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 Section 65864, et. seq. of the Government Code ("Development Agreement Statute"), which authorizes the City to enter into an agreement with any person having a legal or equitable interest in real property providing for the development of such property and establishing certain development rights therein.

Section 2. Having received Resolution No. 09-01 of the Planning Commission findings that the Bishop Ranch Development Agreement Amendment No. 4, as shown in Exhibit "A", is consistent with the General Plan, and that pursuant to the California Environmental Quality Act, Section 15162, no additional or supplemental environmental review is required.

Section 3. That the City of San Ramon agrees to provisions contained within the Bishop Ranch Development Agreement Amendment No. 4, as shown in Exhibit "A", and authorizes the Mayor to execute the Agreement.

**Ordinance No. \_\_\_\_\_**

Section 4. This Ordinance shall take effect thirty (30) days after passage. Before the expiration of fifteen (15) days after its passage, this Ordinance will be posted in three (3) places within the City of San Ramon along with the names of the members of the City Council for and against the same.

The foregoing Ordinance was introduced at the November 27, 2001 meeting and adopted at the \_\_\_\_\_, 2002 City Council meeting of the City of San Ramon by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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Nancy Tatarka  
Mayor

**ATTESTED TO:**

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Judy Macfarlane, City Clerk

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

City of San Ramon  
2222 Camino Ramon  
San Ramon, CA 94583  
Attention: City Clerk

**AMENDMENT NO. 4 TO ANNEXATION AND  
DEVELOPMENT AGREEMENT BY AND BETWEEN THE  
CITY OF SAN RAMON AND SUNSET DEVELOPMENT  
COMPANY, GRANADA SALES, INC., ALEXANDER  
PROPERTIES COMPANY RELATIVE TO THE  
DEVELOPMENT KNOWN AS BISHOP RANCH**

THIS AMENDMENT NO. 4 TO ANNEXATION AND DEVELOPMENT AGREEMENT ("*Amendment No. 4*") is entered into on \_\_\_\_\_, 2001 ("*Execution Date*") by and between the CITY OF SAN RAMON, a municipal corporation ("*City*"); SUNSET DEVELOPMENT COMPANY, a California corporation ("*Sunset*"), GRANADA SALES, INC., a California corporation ("*Granada*"), SDC 7, a California general partnership ("*SDC 7*"), ANNABEL INVESTMENT COMPANY, a limited partnership ("*Annabel*"), SUNSET LAND COMPANY, LLC, a California limited liability company ("*Sunset Land*"), and ALEXANDER PROPERTIES COMPANY, a limited partnership ("*Alexander*"). Sunset, Granada, SDC 7, Annabel, Sunset Land, and Alexander shall be collectively referred to as the "*Owners*." The effective date of this Amendment No. 4 shall be the date it is recorded in the Official Records of Contra Costa County, California.

**RECITALS**

A. The City and Owners entered into an Annexation and Development Agreement dated November 24, 1987 and recorded on December 9, 1987 as Instrument No. 87-257496 of the Official Records of Contra Costa County California ("*Annexation and Development Agreement*"), which was amended by the Amendment No. 1 to Annexation and Development Agreement dated September 24, 1991 and recorded on July 28, 1995 as Instrument No. 95-122762 of the Official Records of Contra Costa County California ("*Amendment No. 1*"), Amendment No. 2 to Annexation and Development Agreement dated September 5, 1996 and recorded on September 12, 1996 as Instrument No. 96-171620 of the Official Records of Contra Costa County California ("*Amendment No. 2*"), and Amendment No. 3 to Annexation and Development Agreement dated April 14, 1998 and recorded on June 10, 1998 as Instrument No. 98-0131347-00 of the Official Records of Contra Costa County California ("*Amendment No. 3*") (collectively, the "*Development Agreement*"). Capitalized terms not defined in this Amendment No. 4 shall have the meaning given them in the Development Agreement.

B. The term of the Development Agreement will expire on December 31, 2005 unless the term is otherwise terminated, modified or extended by circumstances set forth in the Development Agreement or by mutual consent of the City and the Owners or their successors or assigns ("*Term*"). Should the Owners not receive the necessary building permits for the

complete development of Bishop Ranch Building BR 3 (which building is described in approvals enumerated in Section 2.6 of Amendment No. 3), the Owners may extend the Term from December 31, 2005 to December 31, 2010 ("*Term Extension*"). The Term Extension has not occurred.

C. Under the Development Agreement, Owners have the right to construct one parking structure containing 725 parking stalls on Bishop Ranch 15 ("*BR-15 Parking Structure*") and one parking structure containing 640 parking stalls on Bishop Ranch 8 ("*BR-8 Parking Structure*").

D. The City and the Owners wish to amend the Development Agreement to extend the Term and to confirm that Owners may proceed with development of the BR-15 Parking Structure and the BR-8 Parking Structure.

NOW THEREFORE, in accordance with Government Code Section 65867.3, Chapter 6 § D5-618 of the San Ramon Zoning Ordinance, and Section 3.4 of the Annexation and Development Agreement, the City and the Owners agree as follows:

**Section 1. Extension to the Term.**

The term of the Development Agreement shall be extended until December 31, 2010 and shall be automatically extended for two additional 5 year extensions until Owners obtain building permits for the BR-8 Parking Structure and the BR-15 Parking Structure, for an outside expiration date of December 31, 2020 unless the term is otherwise terminated, modified or extended by circumstances set forth in the Development Agreement or by mutual consent of the City and the Owners or their successors in interest or assigns. All references to the Term Extension shall be deleted and shall have no further effect.

**Section 2. Parking Structures.**

The City reaffirms that Owners have the vested right to construct the BR-8 Parking Structure and the BR-15 Parking Structure in conformance with the terms and conditions of the Development Agreement, as amended by this Amendment No. 4.

**Section 3. Miscellaneous.**

**3.1 Continuing Effect.** Except as expressly modified by this Amendment No. 4, all other terms, obligations, covenants, conditions and restrictions shall remain unchanged and in full force and effect.

**3.2 Counterparts.** This Amendment No. 4 may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original, but which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Amendment No. 4 is executed by the City and the Owners as of the Execution Date.

**CITY:**

**CITY OF SAN RAMON, a municipal corporation**

\_\_\_\_\_  
Mayor

**Attest:**

\_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
City Attorney

**OWNERS:**

**SUNSET DEVELOPMENT COMPANY, a California corporation**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**GRANADA SALES, INC., a California corporation**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**ANNABEL INVESTMENT COMPANY, a limited partnership**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**ALEXANDER PROPERTIES COMPANY, a limited partnership**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**SDC 7, a California general partnership**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**SUNSET LAND COMPANY, LLC a California limited liability company**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_