

Council/Agency Meeting Held: _____ Deferred/Continued to: _____ <input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	_____ City Clerk's Signature
Council Meeting Date: May 7, 2012	Department ID Number: PL 12-010

**CITY OF HUNTINGTON BEACH
REQUEST FOR CITY COUNCIL ACTION**

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Fred A. Wilson, City Manager

PREPARED BY: Scott Hess, AICP, Director of Planning and Building

SUBJECT: Approve for introduction Ordinance No. 3950 approving a 5-year extension of time to the existing Amended and Restated Development Agreement with Mayer Financial, LP and The Waterfront Hotel, LLC for the Waterfront Development adopted on October 21, 1998

Statement of Issue:

Transmitted for your consideration is a request to amend the existing Waterfront Development Agreement between the City of Huntington Beach, Mayer Financial, L.P., and The Waterfront Hotel, LLC, by permitting a 5-year extension of time to the existing Amended and Restated Development Agreement adopted on October 21, 1998. The Planning Commission reviewed Development Agreement No. 11-02 on March 27, 2012 and forwarded the request with a recommendation for approval. Staff recommends approval of the request because it complies with the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) and ensures the mutually beneficial development of the approved project.

Financial Impact: Not Applicable

Planning Commission and Staff Recommended Action:

Approve for introduction Ordinance No. 3950, "An Ordinance of the City of Huntington Beach Adopting The First Amendment to Amended and Restated Development Agreement By and Between City of Huntington Beach, Mayer Financial, L. P., and the Waterfront Hotel, LLC" approving a 5-year extension of time to the existing Amended and Restated Development Agreement for the Waterfront Development adopted on October 21, 1998. The existing Development Agreement is set to expire on October 21, 2013 and the 5-year extension would permit the Development Agreement to expire on October 21, 2018.

Planning Commission Action on March 27, 2012:

The motion was made by Delgleize, seconded by Sheir Burnett, to approve Development Agreement No. 11-002 with findings for approval (ATTACHMENT NO. 1) and forward the Draft Ordinance to the City Council for adoption carried by the following vote:

AYES: MANTINI, PETERSON, RYAN, DELGLEIZE, SHIER BURNETT, BIXBY
NOES: NONE
ABSENT: FARLEY
ABSTAIN: NONE

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MOTION PASSED

Alternative Action(s):

The City Council may make the following alternative motions:

1. "Continue Development Agreement No. 11-002 and direct staff accordingly."
2. "Deny Development Agreement No. 11-002 with findings for denial."

Analysis:

A. PROJECT PROPOSAL:

Applicant Shawn Millbern, The Robert Mayer Corporation, 8951 Research Drive, Irvine, CA 92618

Property Owner: City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648

Location: 21100 Pacific Coast Highway, 92648 (bounded on the north by Pacific Avenue, on the east by Twin Dolphin Drive, on the south by Pacific Coast Highway, and on the west by the existing Hilton Waterfront Beach Resort)

Development Agreement No. 11-002 represents a request for a minor amendment to the existing Amended and Restated Development Agreement adopted on October 21, 1998. The request is only to extend the period of time for which the final phase of The Waterfront Project may be completed before the existing Development Agreement expires (ATTACHMENT NO. 4). The existing Development Agreement is set to expire on October 21, 2013, and the 5-year extension would permit the Development Agreement to expire on October 21, 2018. The approved Development Agreement contains terms dealing with the land use approvals and covenants applicable to the site, vesting of rights, subsequent discretionary approvals, and public improvements and utilities to be provided. Sections 2.3, 3.1.1, and 3.1.3.1 establishes that the applicable code provisions for the project are those in existence as of the effective date of the original development agreement, which was November 2, 1988. No other amendments are proposed.

The proposed extension to the term of the Development Agreement will make the agreement co-terminus with the extensions provided in the Fifth Implementation Agreement to the Disposition and Development Agreement that the City Council previously approved on May 16th, 2011. The Fifth Implementation Agreement provides for extensions of time to commence the expansion of the Hilton hotel up to no later than end of year 2016, plus a maximum 24 month period of construction, for completion no later than end of 2018. Thus, by extending the term of the Development Agreement by five years to October 21, 2018, this request brings the timing of the Development Agreement in conformance with what the Council already approved for the Hilton expansion project last year.

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B. BACKGROUND

The original Development Agreement for the Waterfront Development project was originally approved by City Council in 1988 to provide certainty for the City and the applicant as to the desired land use, intensity, vesting of rights, and provisions for mutual benefits. The Development Agreement was last amended by City Council in 1998 as part of the Hyatt Regency development.

C. PLANNING COMMISSION MEETING:

On March 27, 2012, the Planning Commission held a public hearing to consider Development Agreement No. 11-002 in conjunction with Coastal Development Permit No. 11-002, Conditional Use Permit No. 09-011, and Special Permit No. 12-001 to permit the expansion of the existing twelve-story Hilton Waterfront Beach Resort by adding a new nine-story tower with 156 guestrooms, meeting facilities, restaurants, spa, and other related amenities. Staff gave an overview of the project and the applicant provided verbal testimony in support. Several other members of the public spoke in support during the public hearing and none were in opposition. The Planning Commission had no questions for staff, and motioned to approve the project and forward the development agreement to the City Council with a recommendation to approve.

The Planning Commission's action on Coastal Development Permit No. 11-002, Conditional Use Permit No. 09-011, and Special Permit No. 12-001 is final and no appeals were filed.

D. STAFF ANALYSIS AND RECOMMENDATION:

The objective of a development agreement is to provide assurances that an applicant may proceed with a project in accordance with existing policies and standards in place at the time of project approval. The Development Agreement provides certainty for the City and property owner as to the land use, density and intensity of development and provides the City with benefits, including development which is of the aesthetic and economic quality desired by the community. The request is to extend the period of time for which the final phase of The Waterfront Project may be completed before the existing Development Agreement expires. The existing Development Agreement is set to expire on October 21, 2013 and the proposed 5-year extension would permit the Development Agreement to expire on October 21, 2018. The approved Development Agreement contains terms dealing with the land use approvals and covenants applicable to the site, vesting of rights, subsequent discretionary approvals, and public improvements and utilities to be provided.

Section 1.4 of the existing Development Agreement (ATTACHMENT NO. 4) memorializes that the City has previously found and determined that the findings required under Chapter 246.12 of the City's Zoning & Subdivision Ordinance for development agreements have been satisfied. Below are those findings contained within the Development Agreement with additional commentary provided:

1. The Development Agreement is consistent with the General Plan, the Specific Plan, and the Local Coastal Program.

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The proposed 5-year extension does not change the Development Agreement's consistency with the General Plan, Downtown Specific Plan, and the Local Coastal Program. Although these plans have been amended from time to time following the adoption date of the Development Agreement, there has not been a change in any of these plans that affect the site in a manner that would cause the Development Agreement to be inconsistent with these plans.

2. The Development Agreement is consistent with Chapter 246 of the Zoning Ordinance, the Municipal Code, and the State Subdivision Map Act.

The proposed 5-year extension does not change any provision within the Development Agreement that would lead to an inconsistency with the referenced ordinance, code and act. Further, the final phase of The Waterfront project (the expansion of the existing Hilton hotel) will be developed on a separate legal parcel previously subdivided in conformance with the State Subdivision Map Act.

3. The Development Agreement will not be detrimental to the health, safety and general welfare; and will not adversely affect the orderly development of property.

The proposed 5-year extension does not change the allowed uses at the site; further, there have been no material changes to the land uses surrounding the site that could affect this prior determination.

4. The City Council has considered the fiscal effect of the Development Agreement on the City and the effects on the housing needs of the region in which the City is situated and has balanced these needs against the public service needs of its residents and available fiscal and environmental resources.

The proposed amendment does not change the allowed uses at the site for which this determination has previously been made by the City. Further, the City Redevelopment Agency's Five Year Implementation Plan identifies the completion of The Waterfront development as a priority objective, and the expansion of the existing Hilton hotel is expected to provide new property tax increment, additional transient occupancy taxes, sales taxes, business license taxes and utility user tax revenues to the City.

Implementation Program I-LU 7 of the General Plan regarding development agreements provides that, "Where appropriate, the City may use Development Agreements as binding implementation tools. Development Agreements are authorized by State law to enable a city to enter into a binding contract with a developer that assures the city as to type, character, and quality of development and additional "benefits" that may be contributed and assures the developer that the necessary development permits will be issued regardless of changes in regulations."

Section 1.3 of the Development Agreement states in part, "As a result of the development of the Site in accordance with the Original Development Agreement as amended and restated in this Agreement, the City will receive substantial benefits, including: commercial and residential development of an intensity or density and aesthetic quality desired by the community, additional employment opportunities, increased property and sales tax revenues, and the provision of desired public facilities. In consideration of those benefits, the City

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herein provides Developer assurance that during the term of this Agreement, it may develop, maintain and use the Property in accordance with the terms and conditions of this Agreement.”

The City by this language has previously made the determination that the Development Agreement is in compliance with Implementation Program I-LU 7 of the General Plan. No changes to the Development Agreement are proposed which would change this determination and therefore the Development Agreement is in compliance with this policy.

E. SUMMARY:

Staff recommends the City Council approve the proposed Minor Amendment to the Waterfront Development Agreement (Development Agreement No. 11-002) because it conforms to the provisions of Chapter 246 – Development Agreements of the Huntington Beach Zoning and Subdivision Ordinance to ensure the City will receive benefits with regard to design, employment opportunities, increased property and sales tax revenue and desired facilities.

Environmental Status:

The development agreement was included in the scope of The Waterfront Development Project, Supplemental Environmental Impact Report (SEIR No. 82-2) certified by the City Council on August 15, 1988 and subsequent Addendums to SEIR No. 82-2 as identified in the March 13, 2012, Planning Commission Staff Report.

Strategic Plan Goal: Enhance Economic Development

Attachment(s):

No.	Description
1.	Findings for Approval – Development Agreement No. 11-002
2.	Ordinance No. 3950, “An Ordinance of the City of Huntington Beach Adopting The First Amendment to Amended and Restated Development Agreement By and Between City of Huntington Beach, Mayer Financial, L. P., and the Waterfront Hotel, LLC”
3.	Planning Commission Staff Report dated March 13, 2012
4.	Existing Amended and Restated Development Agreement – adopted October 21, 1998
5.	Development Agreement No. 11-002, Coastal Development Permit No. 09-011, Conditional Use Permit No. 09-037, and Special Permit No. 12-001– Notice of Action dated March 28, 2012 Findings and Conditions of Approval
6.	Power Point Presentation