

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF LAGUNA HILLS, CALIFORNIA, DENYING THE
REQUEST BY MGP FUND X LAGUNA HILLS, LLC FOR
APPROVAL OF A DEVELOPMENT AGREEMENT FOR
THE VILLAGE AT LAGUNA HILLS PROJECT.

The City Council of the City of Laguna Hills, California, hereby finds, determines, and declares as follows:

1. MGP Fund X Laguna Hills, LLC (“Applicant”) is the owner of and/or has an equitable interest in, the existing approximately 68-acre former Laguna Hills Mall site generally located along the southerly side of El Toro Road and the westerly side of Avenida de la Carlota in the City of Laguna Hills, located at 24155 Laguna Hills Mall (the “Property”).

2. In March 2016, the City approved Site Development Permit, Master Sign Program, Conditional Use Permit, Parking Use Permit, Vesting Tentative Tract Map, and Precise Plan No. 2-15-3114 for the Property, which authorized redevelopment of the existing Laguna Hills Mall and the Property with a mixed-use retail and residential project branded “Five Lagunas.”

3. On July 18, 2018, the City Council approved the first phased final map for a portion of the Five Lagunas Project.

4. The Applicant has now filed an application (Case No. USE-0010-2019) for approval of a Development Agreement and related discretionary development permits, which, if approved, would permit modifications to the approved 2016 Five Lagunas Project and provide the Applicant with vested rights to develop the proposed modified project for a term that is longer than the Applicant would otherwise be entitled under state and local law (the “Village at Laguna Hills Project” or the “Modified Project”). The discretionary development permits requested in conjunction with the Development Agreement include: a site development permit for the proposed Modified Project; a master sign program for various on-site signs; conditional use permits for a new health club facility and a hotel; a conditional use permit to allow shared parking; a vesting tentative tract map to re-subdivide the Property into 16 lots; and, a precise plan for mixed use development of the Property (collectively, the “Development Permits”).

5. The City Council serves as, and is, the Planning Agency of the City pursuant to Government Code Section 65100.

6. Under the Laguna Hills Municipal Code, applicants are not required to apply for or enter into a development agreement in conjunction with requests for approval of discretionary development permits; however, the Applicant has voluntarily applied for and requested the City enter into a Development Agreement in conjunction with and as part of its application for approval of the Development Permits because approval of a

Development Agreement would provide the Applicant with greater development rights than would otherwise be allowed under state and local law. These greater development rights include, but are not limited to, the right to develop the Modified Project beyond the term otherwise provided by applicable law and more flexibility in the order and sequencing of development than the Applicant would otherwise be entitled to by right. The Development Agreement and related Development Permits were processed as, presented as, and consistently treated as a single development application, and are inextricably intertwined, such that approval of the Development Permits is dependent on approval of the Development Agreement. At no time during the application process has the City been requested to consider approval of the Development Permits and/or accompanying related conditions of approval separately from the Applicant's request for approval of the Development Agreement. The recommended conditions of approval associated with the Development Permits were prepared in conjunction with negotiation of the proposed Development Agreement, through concurrent processing, and with the understanding that the Development Agreement would be approved as a necessary and indispensable part of the overall Modified Project, as requested by the Applicant. For example, in many cases, the proposed conditions of approval specifically refer to terms in the proposed Development Agreement. If the Applicant had not applied for approval of the Development Agreement in conjunction with its request for Development Permits, City staff would have recommended different conditions of approval for the Development Permits.

7. On April 2, 2021 and April 5, 2021, the City caused public notice to be given of the City Council's intention to consider the proposed Development Agreement and related Development Permits. The public notice described the Development Agreement and related Development Permits as a single application.

8. On April 27, 2021, June 24, 2021, June 29, 2021, and March 8, 2022, the City Council held a public hearing on the proposed Development Agreement and related Development Permits.

9. At its meeting of June 29, 2021, a majority of the City Council members expressed disagreement with many of the terms and conditions of the proposed Development Agreement for the Village at Laguna Hills Project as presented and directed that the City engage in further negotiations with the Applicant regarding the terms of the Development Agreement.

10. In accordance with the City Council's direction, the City has continued to negotiate with the Applicant in good faith regarding the terms of the proposed Development Agreement.

11. Despite these good faith negotiations, the City and the Applicant have been unable to reach a meeting of the minds on terms of the Development Agreement that are mutually acceptable to both the Applicant and the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. The terms of the proposed Development Agreement presented to the City Council are unacceptable to the City; therefore, the Applicant's request for approval of a Development Agreement for the proposed Village at Laguna Hills Project is hereby denied.

SECTION 3. Because the Applicant voluntarily applied for and requested the City enter into a Development Agreement in conjunction with and as an integral part of its application for approval of the Development Permits, and approval of the Development Agreement is denied, the City is unable to take action regarding the Development Permits.

SECTION 4. Adoption of this Resolution is exempt from the California Environmental Quality Act (CEQA) pursuant to the provisions of Article 19, Section 15270 of the CEQA Guidelines.

SECTION 5. The advisory ad hoc committee established on September 28, 2021, for the single-purpose of directing further development agreement negotiations for the Village at Laguna Hills Project is hereby dissolved.

DENIED AND ADOPTED this 8th day of March, 2022.

DAVE WHEELER, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. PA2022- adopted by the Planning Agency and City Council of the City of Laguna
Hills, California, at a Regular Meeting thereof held on the 8th day of March, 2022, by the
following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

MELISSA AU-YEUNG, CITY CLERK