

ORDINANCE NO. 574

AN ORDINANCE OF THE CITY OF FOSTER CITY APPROVING THE CHESS HATCH MASTER DEVELOPMENT AGREEMENT BY AND AMONG THE CITY OF FOSTER CITY, THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY AND SEA CLIFF PROPERTIES TO DEVELOP THE CHESS HATCH MASTER PLAN -- IN NEIGHBORHOOD C -- THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY AND SEA CLIFF PROPERTIES -- (APN 094-010-100, -500, 510) - DA-09-002

CITY OF FOSTER CITY

THE CITY COUNCIL OF THE CITY OF FOSTER CITY DOES FIND AND ORDAIN as follows:

WHEREAS, in accordance with California Government Code sections 65864 *et seq.* (the "Development Agreement Statute"), which authorizes cities to enter into agreements for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights, the City of Foster City ("City") enacted Resolution No. 80-73 to implement procedures for the processing and approval of development agreements; and

WHEREAS, the Development Agreement Statute and Resolution No. 80-73 require the City to hold a public hearing and make findings that the provisions of the development agreement and its purposes are consistent with the goals, policies, standards and land use designations specified in the General Plan; and

WHEREAS, the Northwestern Mutual Life Insurance Company and Sea Cliff Properties (collectively, the "Developers") own adjacent real property in Foster City ("Property") and propose a project that entails the development of up to 800,000 square feet of office, biotechnology, or research and development uses and parking structures and at-grade parking lots; accessory uses, such as commercial, industrial or light assembly uses which are incidental or supportive to the primary office, biotechnology or research and development uses; or other uses which, in the opinion of the planning director, are similar to and no more offensive than the above-listed uses; with up to 5,000 sq. ft. of the total project square footage to be used for retail, restaurant or other business-supporting ancillary commercial amenities; except that the following uses are excluded: housing, schools, day care, and other uses primarily serving children ("Project"); and

WHEREAS, Developers and the City desire to enter into a Master Development Agreement ("Master Development Agreement") in order to provide Developers with some certainty in the land use regulatory process and to promote the development of the Property which will provide public benefits to the City, including economic development and needed infrastructure for area growth; and

WHEREAS, the City of Foster City, in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines adopted by the Secretary of Resources, and the City of Foster City Environmental Review Guidelines, prepared an Environmental Impact Report (EIR) which analyzed the

environmental impacts of the proposed Master Plan project (SCH #2008122065, EA-07-001); and

WHEREAS, the City Council certified the Final EIR and adopted a Mitigation Monitoring and Reporting Program by adoption of Resolution No. 2009-91 on November 2, 2009; and

WHEREAS, the City Council adopted findings to support a Statement of Overriding Considerations by adoption of Resolution No. 2009-93 on November 2, 2009; and

WHEREAS, the property owners submitted a revised Chess-Hatch Master Plan for the Project on January 24, 2011; and

WHEREAS, the City prepared an Addendum to the Final EIR to analyze the potential environmental impacts of the changes to the proposal; and

WHEREAS, a Notice of Public Hearing was duly posted, published, and mailed for consideration of the proposed Chess Hatch Master Plan Rezoning and the Chess Hatch Master Development Agreement at the Planning Commission meeting of June 20, 2013, and on said date the Public Hearing was opened, held and closed; and

WHEREAS, the Planning Commission reviewed and considered the Addendum to the Final EIR, the Chess Hatch Master Plan EIR and other written correspondence, verbal testimony, staff reports, and background reports and adopted findings on June 20, 2013 and through its adoption of Resolution No. P-15-13, recommended adoption of the Addendum to the Final EIR by the City Council; and

WHEREAS, the Planning Commission reviewed and considered the Chess Hatch master Plan Rezoning and other written correspondence, verbal testimony, staff reports and background reports and adopted findings on June 20, 2013 and through its adoption of Resolution No. P-16-13, recommended City Council approval of the Chess Hatch Master Plan Rezoning; and

WHEREAS, the Planning Commission reviewed and considered the Master Development Agreement and other written correspondence, verbal testimony, staff reports and background reports and adopted findings on June 20, 2013 and through its adoption of Resolution No. P-17-13, recommended City Council approval of the Chess Hatch Master Development Agreement; and

WHEREAS, a Notice of Public Hearing was duly posted, published, and mailed for consideration of the proposed Chess Hatch Master Plan Rezoning and Chess Hatch Master Development Agreement at the City Council meeting of July 15, 2013, and on said date the Public Hearing was opened, held, closed and the item continued to August 19, 2013; and

WHEREAS, the City Council reviewed and considered the Addendum to the Final EIR, the Chess Hatch Master Plan EIR and other written correspondence, verbal testimony, staff reports, and background reports and adopted the Addendum to the Final EIR on August 19, 2013 through its adoption of Resolution No. 2013-64.

NOW, THEREFORE, BE IT ORDAINED by the City Council as follows:

Section 1. Findings. The City Council hereby makes the following findings:

1. The Chess Hatch Master Plan Project set forth in the proposed Chess Hatch Development Agreement is consistent with the adopted City of Foster City General Plan and all of its goals, policies, standards and land use designations because it will be consistent with the Goal LUC-C to provide for economic development by encouraging the aggregation and redevelopment of under-utilized properties and/or outdated buildings by allowing a substantially increased density and intensity of uses and will develop uses that meet long-term local and regional demand for office space; it will be consistent with the designation of Chess/Hatch Office Research in Policy LUC-25A because it will allow a broader array of uses such as office, biotechnology or research and development uses and will prohibit incompatible uses; will allow mixed use per Policy LUC-81 with up to 5,000 sq. ft. of business support uses, has considered the capacities of the EMID and City infrastructure in the Chess Hatch Master Plan EIR per LUC-82, and requires uses to be in conformance with Chapter 17.68 per Policy LUC-83 and; and
2. The proposed Chess Hatch Master Development Agreement is in the public interest in that it offers the Developers the assurance needed in order to plan, finance, schedule and construct the Chess Hatch Master Plan Project in accordance with approved plans, and the granting of such assurance to Developers will offer the City the best opportunity to secure the Chess Hatch Master Plan Project and its resulting tax, employment and associated economic and public benefits; and
3. The proposed Chess Hatch Master Development Agreement preserves the City's rights to retain, via the City's usual use permit design review process subject to the terms of the proposed Chess Hatch Master Development Agreement, full and complete discretion with respect to design review issues.

Section 2. Development Agreement. The City Council hereby: (i) approves the Development Agreement in the form on file with the City Clerk, subject to minor technical conforming changes as may be approved by the City Attorney; (ii) authorizes the Mayor to execute said Development Agreement; and (iii) authorizes the City Manager to take such further actions and execute such documents, including, without limitation, related agreements as are necessary to carry out the transactions set forth in the Development Agreement.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 4. Taking Effect. This Ordinance shall take effect and be in force thirty (30) days from and after its adoption.

Section 5. Posting. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall have it posted in three (3) public places designated by the City Council.

This Ordinance was introduced and read on the 19<sup>th</sup> day of August, 2013, and passed and adopted on the 3<sup>rd</sup> day of September, 2013, by the following vote:

AYES: Councilmembers Bronitsky, Kiesel, Okamoto, Perez and Mayor Frisella

NOES: None

ABSENT: None

ABSTAIN: None

  
PAM FRISELLA, MAYOR

ATTEST:

  
DORIS L. PALMER, CITY CLERK

## CERTIFICATE OF POSTING

I, Doris L. Palmer, hereby certify as follows:

That I am, and at all time herein mentioned, was the duly acting and qualified City Clerk/District Secretary of the **City of Foster City/Estero Municipal Improvement District**, Foster City, San Mateo County, California.

I further certify to the proper posting of:

Ordinance No. 574, "Approving the Chess Hatch Master Development Agreement by and among the City of Foster City, the Northwestern Mutual Life Insurance Company and Sea Cliff Properties to Develop the Chess Hatch Master Plan - in Neighborhood C - the Northwestern Mutual Life Insurance Company and Sea Cliff Properties - (APN 094-010-100, -500, 510) - DA-09-002 [First Reading August 19, 2013]"

in the following four public places of the **City of Foster City/Estero Municipal Improvement District**, Foster City, San Mateo County, California:

1. Federal Post Office, Charter Square  
1050 Shell Boulevard
2. Recreation Center Lobby  
650 Shell Boulevard
3. Council Chambers (not a mandatory posting site)  
620 Foster City Boulevard
4. Foster City Public Library  
1000 E. Hillsdale Boulevard

Executed at the **City of Foster City/Estero Municipal Improvement District**, Foster City, San Mateo County, California this 4<sup>th</sup> day of September, 2013.



Doris L. Palmer  
City Clerk/District Secretary