

**ORDINANCE NO. 1155**

**AN UNCODIFIED ORDINANCE OF THE LOS BANOS CITY COUNCIL APPROVING A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LOS BANOS AND ANDERSON HOMES, A CALIFORNIA CORPORATION FOR DEVELOPMENT OF APPROXIMATELY 80.4 ACRES GENERALLY LOCATED ON THE SOUTH OF THE FUTURE CARDOZA ROAD EXTENSION, WEST OF THE FUTURE BADGER FLAT ROAD EXTENSION AND NORTH OF PIONEER ROAD MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBERS: 430-060-008, 430-060-016, 430-060-017, 430-060-018 [Dove Hollow Stonecreek VII]**

WHEREAS, Government Code § 65864, *et seq.*, authorizes the City of Los Banos to enter into development agreements which will provide certainty, definition and commitment to developers as well as to necessary public improvements required by development; and

WHEREAS, Anderson Homes, a California corporation ("Developer") submitted an application to the City of Los Banos for a Final Development Plan and Vesting Tentative Tract Map for approximately 80.4 acres generally located on the south of the future Cardoza Road Extension, west of the future Badger Flat Road Extension and north of Pioneer Road in the City of Los Banos (Assessor's Parcel Numbers: 430-060-008, 430-060-016, 430-060-017, 430-060-018) (the "Property"); and

WHEREAS, the proposed applications would allow development of the Property, which includes 343 low density detached single family homes as a part of the Stonecreek South Planned Development (the "Project"); and

WHEREAS, in connection with the Project, the Developer and City staff have, in good faith, negotiated a proposed development agreement attached to this Ordinance as Exhibit A the terms of which carry out the legislative purpose of Government Code § 65864, *et seq* and will assure the parties to this Agreement of mutually desirable development of the Property. Developer has agreed to provide the following significant public benefits as consideration for this Agreement:

- a. Continuation of the Planned Development known as Stonecreek South.
- b. Formation or annexation of the Property to a Community Facilities District created for the purpose of funding public safety.
- c. Formation or annexation of the Property to a Lighting and Landscaping district created for the purpose of maintaining public landscape areas, signage, and public lighting and traffic signal maintenance.

WHEREAS, in accord with the California Environmental Quality Act (CEQA) and State and City guidelines, City has accepted and previously approved and certified the Stonecreek Area Plan Environmental Impact Report, on April 21, 2004; and

WHEREAS, on March 8, 2017, the Planning Commission of the City of Los Banos held a public hearing at which time the Planning Commission reviewed the Development Agreement prepared for the Project and recommended approval by the City Council; and

WHEREAS, the City Council of the City of Los Banos scheduled and duly noticed a public hearing in accordance with California Government Code Section 65091 by

advertisement and notices by mail to property owners within a 300 foot radius of the project boundaries; and

WHEREAS, on April 19, 2017, and on May 17, 2017 the City Council held a public hearing at which time interested persons had an opportunity to testify either in support or opposition to the proposed Development Agreement; and

WHEREAS, the City Council, having duly considered this Agreement and having held the noticed public hearing, finds and declares that the provisions of this Agreement are consistent with the maps and text of the City's General Plan.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CITY OF LOS BANOS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct.

SECTION 2. This Ordinance incorporates, and by this reference makes a part hereof, the Development Agreement attached hereto as Exhibit A.

SECTION 3. This Ordinance is adopted under the authority of Government Code Section 65864 et seq.

SECTION 4. The City Council hereby finds and determines, as follows:

- (a) The Agreement will provide significant public benefits;
- (b) The Agreement is consistent with the objectives, policies, general land uses and programs specified in the General Plan;
- (c) The Agreement is compatible with the uses authorized in, and the general plan designations which will apply to the Property;
- (d) The Agreement is in conformity with public convenience, general welfare and good land use practice;
- (e) The Agreement will not be detrimental to the public health, safety and general welfare; and
- (f) The Agreement will not adversely affect the orderly development of property or the preservation of property values.

SECTION 5. The foregoing findings and determinations are based upon the following:

- (a) The Recitals set forth in this Ordinance, which are deemed true and correct;
- (b) Resolution No. 5858, approved by the City Council on April 19, 2017, approving FDP 2017-01, which Resolution and exhibits are incorporated herein by reference as if set forth in full;
- (c) Resolution No. 2017-07, approved by the Planning Commission on March 8, 2017, approving VTTM 2017-01, which Resolution and exhibits are incorporated herein by reference as if set forth in full;
- (d) The City's General Plan;
- (e) All City staff reports (and all other public reports and documents) prepared for the Planning Commission, City Council, or others relating to the Stonecreek Area Plan Environmental Impact Report – approved and certified on April 21, 2004, the Final Development Plan, Vesting Tentative Tract Map, the Development Agreement, and other actions relating to the Property;
- (f) All documentary and oral evidence received at public hearings or submitted to the Planning Commission, or City during the comment period relating to the Stonecreek Area Plan Environmental Impact Report, the Final Development Plan, Vesting Tentative Tract Map, the Development Agreement, and other actions relating to the Property; and
- (g) All other matters of common knowledge to the City Council, including, but not limited to the City's fiscal and financial status; City general ordinances, policies and regulations.

SECTION 6. The City Council hereby approves the Development Agreement, attached hereto as Exhibit A, and subject further to such minor, conforming and clarifying

changes consistent with the terms thereof as may be approved by the City Manager, in consultation with the City Attorney prior to execution thereof.

SECTION 7. Upon the effective date of this Ordinance as provided in Section 9 hereof, the Mayor and City Clerk are hereby authorized and directed to execute the Agreement on behalf of the City of Los Banos.

SECTION 8. The City Manager is hereby authorized and directed to perform all acts authorized to be performed by the City Manager in the administration of the Agreement pursuant to the terms of the Agreement.

SECTION 9. This Ordinance shall be in full force and effect thirty (30) days after its passage and adoption; provided, however, that if the actions referred to in Section 5 hereof are not effective on such date, then the effective date of this Ordinance shall be the date on which all of said actions become effective, as certified by the City Clerk and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member Silveira and seconded by Council Member Faria on the 19<sup>th</sup> day of April, 2017.

Passed on the 17<sup>th</sup> day of May, 2017 by the following vote:

AYES: Council Members Faria, Johnson-Santos, Lewis, Silveira,  
Mayor Villalta  
NOES: None  
ABSENT: None

APPROVED:

  
Michael Villalta, Mayor

ATTEST:

  
Lucille L. Mallonee, City Clerk

**EXHIBIT A**

**Development Agreement**

*[to be inserted by Staff]*

