

FINANCIAL IMPACT

None.

RECOMMENDATION

The Planning Commission recommends the City Council:

- Conduct a Public Hearing;
- Introduce and conduct the first reading of the attached Ordinance regarding the First Amendment to Development Agreement between the City and Landmark Marriott Suites, LLC (Development Agreement No. DA-189-12); and
- Authorize the City Manager to execute the Agreement, and make minor modifications as appropriate thereto, on behalf of the City.



SUSAN EMERY
Community Development Director



By: Karl Hill
Planning Services Manager

Attachment 1: Planning Commission Resolution No. 5788-12
Attachment 2: First Amendment to Development Agreement
Attachment 3: Proposed Ordinance

Approved for Agenda Listing



Matthew Fertil
City Manager

RESOLUTION NO. 5788-12

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GARDEN GROVE RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT NO. DA-189-12 FOR PROPERTY LOCATED AT 12015 HARBOR BOULEVARD, ASSESSORS PARCEL NUMBER 231-481-17.

BE IT RESOLVED that the Planning Commission of the City of Garden Grove, in regular session assembled on November 15, 2012, does hereby recommend City Council approval of Development Agreement No. DA-189-12, for land located at 12015 Harbor Boulevard in the City of Garden Grove, California (Assessor's Parcel No. 231-481-17).

BE IT FURTHER RESOLVED in the matter of Development Agreement No. DA-189-12, the Planning Commission of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Landmark Marriott Suites, LLC.
2. The applicant is requesting the Planning Commission recommend approval to City Council of a First Amendment to an existing Development Agreement (DA-189-12) between the City of Garden Grove and Landmark Marriott Suites, LLC for property located at 12015 Harbor Boulevard in the City of Garden Grove, California (Assessor's Parcel No. 231-481-17), in order to add a legal description of the property subject to the Development Agreement.
3. The City of Garden Grove has determined that the proposed project is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
4. The property has a General Plan Land Use designation of International West Mixed Use and is zoned Planned Unit Development No. PUD-122-98.
5. Existing land use, zoning, and General Plan designation of property in the vicinity of the subject property have been reviewed.
6. Report submitted by City staff was reviewed.
7. Pursuant to a legal notice, a public hearing was held on November 15, 2012, and all interested persons were given an opportunity to be heard.
8. The Planning Commission gave due and careful consideration to the matter during its meeting on November 15, 2012 and considered all oral and written testimony presented regarding the project; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Planning Commission are as follows:

FACTS:

The site is currently developed with a Marriott Suites hotel.

The site has a General Plan Land Use designation of International West Mixed Use and is zoned Planned Unit Development No. PUD-122-98.

On September 8, 1998, the City of Garden Grove entered into a Development Agreement with the Landmark Hospitality, LLC, the predecessor in interest to the current property owner. That Development Agreement did not include a legal description for the property that is subject to the Development Agreement. The lack of a legal description results in delays when matters related to title to the property are at issue, such as when the property owner may want to refinance the property. As a result, the current property owner has requested that the Development Agreement be amended to add a legal description to the property. The proposed First Amendment to Development Agreement would amend the 1998 Development Agreement to add a legal description of the property subject to the Development Agreement.

FINDINGS AND REASONS:

1. The proposed amendment to the Development Agreement is consistent with the General Plan.

The subject property is already developed with a Marriott Suites hotel, which is consistent with the property's General Plan Land Use Designation of International West Mixed Use. The proposed First Amendment to the existing Development Agreement would merely add a legal description of the property to clarify title issues pertaining to the property.

INCORPORATION OF FACTS AND FINDINGS SET FORTH IN THE STAFF REPORT

In addition to the foregoing, the Planning Commission incorporates herein by this reference, the facts and findings set forth in the staff report.

BE IT FURTHER RESOLVED that the Planning Commission does conclude:

1. The proposed First Amendment to Development Agreement possesses characteristics that would indicate justification of the request in accordance with Government Code Section 65864 et. seq, provisions for Development Agreements.

ADOPTED this 15th day of November, 2012

/s/ PHAT BUI
CHAIR

I HEREBY CERTIFY that the foregoing resolution was duly adopted at the regular meeting of the Planning Commission of the City of Garden Grove, State of California, held on November 15, 2012, by the following votes:

AYES:	COMMISSIONERS:	BRIETIGAM, BUI, CABRAL, DOVINH, LAZENBY, PAK, SILVA
NOES:	COMMISSIONERS:	NONE
ABSENT:	COMMISSIONERS:	NONE

/s/ ROSEMARIE JACOT
SECRETARY

PLEASE NOTE: Any request for court review of this decision must be filed within 90 days of the date this decision was final (See Code of Civil Procedure Section 1094.6).

A decision becomes final if it is not timely appealed to the City Council. Appeal deadline is December 6, 2012.

RECORDING REQUESTED BY)
 AND WHEN RECORDED MAIL TO:)
)
 City Clerk's Office)
 City of Garden Grove)
 11222 Acacia Parkway)
 Irvine, CA 92612)
)

The Above Space for County Recorder's use only

This document is exempt from payment of a recording fee pursuant to Government Code Section 6103

Dated: _____

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

LANDMARK MARRIOTT SUITES, LLC
(Renaissance Hotel – Parcel 2)
SP-223-98, V-234-98, PM-96-196

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (the "First Amendment") is hereby entered into by and between the City of Garden Grove, a municipal corporation (the "City"), and LANDMARK MARRIOTT SUITES, LLC, a Delaware limited liability company (the "Developer"), as of _____.

RECITALS

A. The City and Developer's predecessor in interest, Landmark Hospitality, LLC, entered into a Development Agreement dated September 8, 1998 and recorded in the Official Records of Orange County on September 28, 1998, as Instrument No. 19980650561 (the "Development Agreement"). Capitalized words not defined herein shall have the meaning set forth in the Development Agreement.

B. The City and Developer desire to amend the Development Agreement to add Exhibit A, the legal description for the Disposition Site.

C. The City and Developer therefore desire to amend the Development Agreement by executing and recording this First Amendment.

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties mutually agree as follows:

1. Amendment. Paragraph 1 of the Development Agreement is hereby amended and restated in its entirety to read as follows:

"The Garden Grove Agency for Community Development, OWNER of the subject property and DEVELOPER have previously entered into a Disposition and Development Agreement (DDA) dated April 28, 1998, which provides for the development of that certain real property located on the west side of Harbor Boulevard, south of Chapman Avenue, the "Disposition site," as described on **Exhibit A** attached hereto and incorporated herein."

2. Ratification and Republication. To the extent not otherwise modified by this First Amendment, the terms and conditions of the Development Agreement are hereby ratified and republished.

3. Counterparts. This First Amendment may be executed in any number of counterparts, each of which shall be an original, but all of which counterparts shall together constitute one and the same instrument.

[THE REST OF THIS PAGE IS PURPOSELY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the date set forth above.

"CITY":

CITY OF GARDEN GROVE,
a municipal corporation

By: _____

Name: _____

Its: _____

ATTEST:

CITY CLERK

Date: _____

APPROVED AS TO FORM:

Garden Grove City Attorney

Date: _____

"DEVELOPER":

LANDMARK MARRIOTT SUITES, LLC,
a Delaware limited liability company

By: _____

Name: _____

Its: _____

STATE OF _____)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY

STATE OF _____)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

SIGNATURE OF NOTARY

EXHIBIT A

LEGAL DESCRIPTION – DISPOSITION SITE

ALL THAT CERTAIN REAL PROPERTY IN THE CITY OF GARDEN GROVE, CA
KNOWN AS:

PARCEL A AS DESCRIBED IN EXHIBIT "A" AND AS SHOWN ON EXHIBIT "B"
ATTACHED TO LOT LINE ADJUSTMENT LL-200 RECORDED AUGUST 30, 2000, AS
INSTRUMENT NO. 20000453105 OF OFFICIAL RECORDS OF ORANGE COUNTY,
CALIFORNIA

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
ADOPTING A FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (DEVELOPMENT
AGREEMENT NO. DA-189-12) BETWEEN LANDMARK MARRIOTT SUITES, LLC AND
THE CITY OF GARDEN GROVE

City Attorney Summary

This Ordinance approves a First Amendment to a previously recorded Development Agreement between the City of Garden Grove and the current property owner, Landmark Marriott Suites, LLC, for property located at 12015 Harbor Boulevard in the City of Garden Grove, California (Assessor's Parcel No. 231-481-17), in order to add a current legal description of the property subject to the Development Agreement.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE FINDS AND
DETERMINES AS FOLLOWS:

WHEREAS, the City of Garden Grove and Landmark Hospitality, LLC previously entered into a Development Agreement, dated September 8, 1998 and recorded in the Official Records of Orange County on September 28, 1998, as Instrument No. 19980650561 (the "Development Agreement"), covering property located at 12015 Harbor Boulevard in the City of Garden Grove, California and currently identified as Assessor's Parcel No. 231-481-17); and

WHEREAS, Landmark Marriott Suites, LLC, the current owner of the property subject to the Development Agreement, has requested the City enter into a First Amendment to the Development Agreement to add a current legal description of the property subject to the Development Agreement; and

WHEREAS, the proposed First Amendment to Development Agreement is referred to herein as Development Agreement No. DA-189-12; and

WHEREAS, pursuant to Resolution No. 5788-12, the Planning Commission, following a duly noticed Public Hearing held on November 15, 2012, recommended approval of Development Agreement No. DA-189-12; and

WHEREAS, pursuant to a legal notice, a Public Hearing was held by the City Council on December 11, 2012, and all interested persons were given an opportunity to be heard; and

WHEREAS, Development Agreement No. DA-189-12 is consistent with the General Plan and Planned Unit Development No. PUD-122-98, including the goals and policies of the Garden Grove General Plan; and

WHEREAS, the City of Garden Grove has determined that the proposed First Amendment to Development Agreement is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The City Council finds that the above recitations are true and correct.

Section 2. Approval. The First Amendment to Development Agreement between the City of Garden Grove and Landmark Marriott Suites, LLC (Development Agreement No. DA-189-12) is hereby adopted for property located at 12015 Harbor Boulevard in the City of Garden Grove, California and identified as Assessor's Parcel No. 231-481-17. A copy of the First Amendment to Development Agreement (Development Agreement No. DA-189-12) is attached to this Ordinance and is on file in the City Clerk's Office.

Section 3. Recording. Pursuant to California Government Code Section 65868.5, the City Clerk shall record a copy of the First Amendment to Development Agreement with the County Recorder for the County of Orange within 10 days after the Development Agreement is executed.

Section 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words, or portions thereof be declared invalid or unconstitutional.

Section 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.