

89-11

1 [Development Agreement - Parkmerced]

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3 **Ordinance approving a Development Agreement between the City and County of**

4 **San Francisco and Parkmerced Investors, LLC, for certain real property located in the**

5 **Lake Merced District of San Francisco, commonly referred to as Parkmerced, generally**

6 **bounded by Vidal Drive, Font Boulevard, Pinto Avenue and Serrano Drive to the north,**

7 **19<sup>th</sup> Avenue and Junipero Serra Boulevard to the east, Brotherhood Way to the south,**

8 **and Lake Merced Boulevard to the west; making findings under the California**

9 **Environmental Quality Act, findings of conformity with the City's General Plan and with**

10 **the eight priority policies of Planning Code Section 101.1(b); and waiving certain**

11 **provisions of Administrative Code Chapter 56.**

12 **NOTE:** Additions are *single-underline italics Times New Roman*;

13 deletions are *strike-through italics Times New Roman*.

14 Board amendment additions are double-underlined;

15 Board amendment deletions are ~~strikethrough-normal~~.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. Project Findings. The Board of Supervisors makes the following findings:

18 (a) California Government Code Section 65864 et seq. authorizes any city, county,

19 or city and county to enter into an agreement for the development of real property within the

20 jurisdiction of the city, county, or city and county.

21 (b) Chapter 56 of the San Francisco Administrative Code ("Chapter 56") sets forth

22 certain procedures for the processing and approval of development agreements in the City

23 and County of San Francisco (the "City").

24 (c) Parkmerced Investors LLC, a Delaware limited liability company ("Developer") is

25 the owner of that certain approximately 152 acre site located in the Lake Merced District in

San Francisco and commonly known as "Parkmerced" (the "Project Site"). The Project Site is

1 generally bounded by Vidal Drive, Font Boulevard, Pinto Avenue and Serrano Drive to the  
2 north, 19th Avenue and Junipero Serra Boulevard to the east, Brotherhood Way to the south,  
3 and Lake Merced Boulevard to the west.

4 (d) Developer filed an application with the City's Planning Department for approval  
5 of a development agreement relating to the Project Site under Chapter 56. Developer also  
6 filed applications with the Department to (a) amend the City's Planning Code to create the  
7 Parkmerced Special Use District, (b) amend the City's General Plan to change applicable  
8 height and bulk classifications, and (c) amend applicable zoning maps.

9 (e) Developer has proposed a long-term mixed-use development program to  
10 comprehensively replan and redesign the Project Site (the "Project"). The Project will, upon  
11 completion, increase residential density, provide a neighborhood core with new commercial  
12 and retail services, reconfigure the street network and public realm, improve and enhance the  
13 open space amenities, modify and extend existing neighborhood transit facilities, and improve  
14 utilities within the Project Site, all as further described in the proposed development  
15 agreement, a copy of which is on file with the Clerk of the Board in File No. 110300 (the  
16 "Development Agreement").

17 (f) The Project includes the retention of approximately half of the existing  
18 apartments at the Project Site. The remaining half would be demolished over time, provided  
19 these units will not be demolished until Developer builds new units and relocates the existing  
20 tenants into these new units in accordance with the terms of the Development Agreement.  
21 Upon completion, approximately 5,679 net new residential units would be added to the Project  
22 Site for a total of 8,900 residential units (1,683 existing-to-be-retained units + 1,538 newly  
23 constructed replacement units + 5,679 newly constructed units = 8,900 units).

24 (f) The Project also includes approximately 310,000 square feet of commercial use,  
25 64,000 square feet of recreational/fitness center/community center use, 100,000 square feet

1 of building and property maintenance use, 25,000 square feet of educational use, and net new  
2 off-street parking for up to 6,252 vehicles, all as more particularly described in the plan  
3 documents incorporated into the Development Agreement.

4 (g) Concurrently with this Ordinance, the Board is taking a number of actions in  
5 furtherance of the Project, including the approval of amendments to the City's General Plan  
6 (Board File No. 110303), Planning Code (Board File No. 110301), and Zoning  
7 Maps (Board File No. 110302) (collectively, together with this Ordinance, the  
8 "Project Ordinances").

9 (h) The City has determined that as a result of the development of the Project Site  
10 in accordance with the Development Agreement, clear benefits to the public will accrue that  
11 could not be obtained through application of existing City ordinances, regulations, and  
12 policies, as more particularly described in the Development Agreement. The Development  
13 Agreement will eliminate uncertainty in the City's land use planning for the Project Site and  
14 secure orderly development of the Project Site consistent with the Parkmerced Special Use  
15 District.

16 Section 2. CEQA Findings.

17 (a) On February 10, 2011, at a duly noticed public hearing, the Planning  
18 Commission certified the Final Environmental Impact Report ("Final EIR") for the Project, by  
19 Motion No. 18269 finding that the Final EIR reflects the independent judgment and  
20 analysis of the City and County of San Francisco, is adequate, accurate and objective,  
21 contains no significant revisions to the Draft EIR, and the content of the report and the  
22 procedures through which the Final EIR was prepared, publicized and reviewed comply with  
23 the provisions of the California Environmental Quality Act (California Public Resources Code  
24 Section 21000 et seq., "CEQA"), the State CEQA Guidelines (California Code of Regulations  
25

1 Title 14 Section 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code  
2 ("Chapter 31"). A copy of the Final EIR is on file with the Clerk of the Board in File No.  
3 110300.

4 B. At the same hearing during which the Planning Commission certified the Final  
5 EIR, the Planning Commission adopted findings, as required by CEQA, regarding the  
6 alternatives, mitigation measures, and significant environmental effects analyzed in the Final  
7 EIR, a statement of overriding considerations for approval of the Project, and a proposed  
8 mitigation monitoring and reporting program (collectively, "CEQA Findings").

9 C. The letter from the Department of Planning transmitting the Development  
10 Agreement to the Board of Supervisors, the Final EIR and the CEQA Findings are on file with  
11 the Clerk of the Board in File No. 110300. These and any and all other  
12 documents referenced in this Ordinance have been made available to, and have been  
13 reviewed by, the Board of Supervisors.

14 D. The Board of Supervisors has reviewed and considered the Final EIR and the  
15 CEQA Findings. The Board of Supervisors has adopted the Planning Commission's CEQA  
16 Findings as its own and incorporated them by reference. The Board of Supervisors approves  
17 and endorses the implementation of the mitigation measures for implementation by other City  
18 departments and recommends for adoption those mitigation measures that are enforceable by  
19 agencies other than City departments, all as set forth in the foregoing resolution.

20 Section 3. General Plan and Planning Code Section 101.1(b) Findings.

21 A. The Board of Supervisors finds that the Development Agreement will serve the  
22 public necessity, convenience and general welfare for the reasons set forth in Planning  
23 Commission Resolution No. 18273 and incorporates those reasons herein by  
24 reference.

1 B. The Board of Supervisors finds that the Development Agreement is in conformity  
2 with the General Plan, as amended, and the eight priority policies of Planning Code Section  
3 101.1 for the reasons set forth in Planning Commission Resolution No. 18273. The  
4 Board hereby adopts the findings set forth in Planning Commission Resolution No.  
5 18273 and incorporates those findings herein by reference.

6 Section 4. Development Agreement.

7 A. The Board of Supervisors approves all of the terms and conditions of the  
8 Development Agreement, in substantially the form on file with the Clerk of the Board of  
9 Supervisors in File No. 110300, including but not limited to: (i) one-for-one  
10 replacement of certain rent-controlled dwelling units currently existing on the Project Site with  
11 new units (the "Replacement Units"); (ii) the non-applicability of certain provisions of the  
12 Costa-Hawkins Rental Housing Act (California Civil Code Section 1954.50 et seq.; the "Costa-  
13 Hawkins Act"), and Developer's waiver of any and all rights under the Costa-Hawkins Act and  
14 the Ellis Act (California Government Code Section 7060 et seq.; the "Ellis Act") and any other  
15 laws or regulations so that each Replacement Unit will be subject to rent control and other  
16 provisions protecting tenants under the City's Rent Ordinance, and each below market rent  
17 ("BMR") unit will be subject to the City's BMR requirements as set forth in Planning Code  
18 Section 415; and (iii) the relocation by Developer of existing tenants to the Replacement  
19 Units, with an initial rent and pass through charges equal to the rent and pass through  
20 charges charged to the existing tenant for his or her existing unit at the time of relocation, with  
21 the right to remain in the Replacement Unit for an unlimited term subject to the eviction rules,  
22 procedures and protections set forth in the San Francisco Rent Ordinance, and with no pass  
23 through charges added to rent of the Replacement Unit for the capital costs of the Project.

24 B. The Board of Supervisors also approves the subdivision and condominium map  
25 provisions as set forth in Section 3.10 of the Development Agreement, including the

1 requirements relative to the Recorded Restrictions. The Board of Supervisors understands  
2 and agrees that the Replacement Units shall be rental units for the life of the building, and the  
3 Replacement Units shall be rent controlled for so long as the San Francisco Rent Ordinance,  
4 as amended, supplanted or replaced, remains in effect.

5 C. Without limiting the terms of the Development Agreement, the Board of  
6 Supervisors expressly finds that the items listed in Section 4.A and 4.B above are a material  
7 and important part of the Development Agreement, and the Board would not be willing to  
8 approve the Development Agreement without these provisions.

9 D. The Board of Supervisors approves and authorizes the execution, delivery and  
10 performance by the City of the Development Agreement, subject to the approval of the  
11 Development Agreement by the City's Municipal Transportation Agency and Public Utilities  
12 Commission, each in their sole discretion (the "Subsequent Approvals") and Developer's  
13 payment of all City costs with respect to the Development Agreement. Upon receipt of the  
14 Subsequent Approvals and the payment of City's costs billed to Developer, (i) the Director of  
15 Planning and other listed City officials are authorized to execute and deliver the Development  
16 Agreement, and (ii) the Director of Planning and other applicable City officials are authorized  
17 to take all actions reasonably necessary or prudent to perform the City's obligations under the  
18 Development Agreement in accordance with the terms of the Development Agreement and  
19 Chapter 56, as applicable. The Director of Planning, at his or her discretion and in  
20 consultation with the City Attorney, is authorized to enter into any additions, amendments or  
21 other modifications to the Development Agreement that the Director of Planning determines  
22 are in the best interests of the City and that do not materially increase the obligations or  
23 liabilities of the City or decrease the benefits to the City under the Development Agreement,  
24 subject to the approval of any affected City agency as more particularly described in the  
25 Development Agreement.

1           Section 5. Chapter 56 Waiver; Ratification.

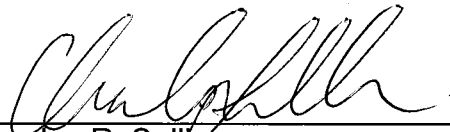
2           A.     In connection with the Development Agreement, the Board of Supervisors finds  
3 that the requirements of Chapter 56 have been substantially complied with, and hereby  
4 waives any procedural requirements of Chapter 56 if and to the extent that they have not been  
5 strictly complied with.

6           B.     All actions taken by City officials in preparing and submitting the Development  
7 Agreement to the Board of Supervisors for review and consideration are hereby ratified and  
8 confirmed, and the Board of Supervisors hereby authorizes all subsequent action to be taken  
9 by City officials consistent with this Ordinance.

10          Section 6. Effective Date. This Ordinance shall become effective on the date that all of  
11 the Project Ordinances are effective.

12  
13 APPROVED AS TO FORM:  
14 DENNIS J. HERRERA, City Attorney

15  
16 By:

  
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17 Charles R. Sullivan  
18 Deputy City Attorney  
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**City and County of San Francisco**  
**Tails**  
**Ordinance**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 110300

**Date Passed:** June 07, 2011

Ordinance approving a Development Agreement between the City and County of San Francisco and Parkmerced Investors, LLC, for certain real property located in the Lake Merced District of San Francisco, commonly referred to as Parkmerced, generally bounded by Vidal Drive, Font Boulevard, Pinto Avenue and Serrano Drive to the north, 19th Avenue and Junipero Serra Boulevard to the east, Brotherhood Way to the south, and Lake Merced Boulevard to the west; making findings under the California Environmental Quality Act, findings of conformity with the City's General Plan and with the eight priority policies of Planning Code Section 101.1(b); and waiving certain provisions of Administrative Code Chapter 56.

May 16, 2011 Land Use and Economic Development Committee - CONTINUED

May 24, 2011 Land Use and Economic Development Committee - REFERRED WITHOUT RECOMMENDATION AS COMMITTEE REPORT

May 24, 2011 Board of Supervisors - PASSED ON FIRST READING

Ayes: 6 - Chiu, Chu, Cohen, Elsbernd, Farrell and Wiener

Noes: 5 - Avalos, Campos, Kim, Mar and Mirkarimi

June 07, 2011 Board of Supervisors - FINALLY PASSED

Ayes: 6 - Chiu, Chu, Cohen, Elsbernd, Farrell and Wiener

Noes: 5 - Avalos, Campos, Kim, Mar and Mirkarimi

File No. 110300

I hereby certify that the foregoing  
Ordinance was FINALLY PASSED on  
6/7/2011 by the Board of Supervisors of the  
City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

  
Mayor Edwin Lee

Date Approved