

ORDINANCE NO.

AN ORDINANCE APPROVING TERMINATION OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND OPEN WINDOW PROJECT LLC, FOR THE OPEN WINDOW PROJECT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION 1. FINDINGS AND INTENT

On February 23, 2016, the City Council approved the Open Window project, which proposed mixed-use development for revitalization and redevelopment of 11.88 acres and is comprised of 51 properties within an approximately 15 square block area of Downtown Stockton. As of 2021, only 34-units have been constructed within the Project boundary); and

On October 18, 2021, the Applicant, Zac Cort with Open Window, LLC., requested that the City of Stockton revoke an existing Master Development Plan and Terminate the Development Agreement (DA) for Open Window Project. The Applicant has verbally stated there is no benefit to either the DA or MDP for attracting development of the Project site; and

After consideration of the request, staff agrees that there is little benefit in the agreement and MDP beyond what is already required per local standards; and

On November 18, 2021, the Stockton Planning Commission meeting voted 7-0, recommending the City Council mutually terminate the Open Window Project DA and MDP; and

On December 7, 2021, the City Council conducted a public hearing on the application, in compliance with SMC Section 16.108.030 (A) (3), at which point all persons wishing to be heard were provided such opportunity; now, therefore,

The City Council of the City of Stockton finds that termination of the Development Agreement would:

1. The Applicant has indicated the current housing market is increasingly competitive and somewhat cost prohibitive, and that potential developers are not finding benefit in the existing DA or MDP. Termination is request for the project approval, to allow the Applicant to market and develop the project without the existing DA construction timeline obligations and to remove the DA and MDP from title to allow the sale of properties. Since staff agrees that there is little benefit in the DA or MDP for the Applicant or City, staff recommends Termination of the DA and revocation of the MDP; and

2. The revocation request for the MDP has been made by the Applicant and accepted by the City. The MDP is being revoked in accordance with the DA termination, to remove both items to accommodate changes in the housing market and to make the development of the project area more marketable to future buyers; and
3. While the conditions of approval have not been violated, as of 2021, the Applicant has been found to be in noncompliance with the terms of the DA. This includes the inability to purchase City property and the sale of property within the DA boundary to others with City notification or assignment agreements to transfer DA responsibility to the new owners; and
4. While the 2020 DA compliance review indicated a few building permits required completion, no evidence of a violation to any federal, state, or statute was found as the Project does not pose a threat to public health and safety. The Revocation of the MDP and Termination of the DA, will not result in a physical change to the project area, as all future projects will still have to comply with all federal, state, and local standards for health and safety; and
5. The Termination of the DA will not result in a physical change to the project area, as all future projects will still have to comply with all federal, state, and local standards for health and safety. The Project will maintain its Commercial General Plan designation and Commercial-Downtown (CD) zoning, as new development will be subject to the City's existing design standards.

SECTION II. DEVELOPMENT AGREEMENT

The City Council hereby approves the termination of the Development Agreement requested by Open Window Project LLC, based on the above Findings and illustrated in Exhibit 1 (DA).

Pursuant to Stockton Municipal Code Section 16.128.120 (C) and Government Code section 65868, the City Council of the City of Stockton conducted a public hearing on December 7, 2021, and hereby terminates a Development Agreement, a copy, in substantially the form to be executed, is attached hereto as Exhibit 1, and incorporated by reference.

SECTION III. SEVERABILITY

If any part of this Ordinance is held invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance, if such invalid portion thereof had been deleted.

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SECTION IV. EFFECTIVE DATE

This Ordinance shall take effect and be in full force thirty (30) days after its passage.

ADOPTED: _____

EFFECTIVE: _____

ATTEST:

KEVIN J. LINCOLN II
Mayor of the City of Stockton

ELIZA R. GARZA, CMC
City Clerk of The City of Stockton