

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

An Ordinance of the City of Lafayette, California to)	Ordinance 607
enter into a Development Agreement between)	
Branagh Development, Inc. to construct a new)	
two-story office building located on vacant)	
property at the northwest corner of Risa Road and)	
Mt. Diablo Blvd., APNs 241-010-031, 241-010-002,)	
and public right-of-way.)	

The City Council of the City of Lafayette does ordain as follows:

Section 1. Findings. The City Council finds the following:

WHEREAS, in 2010 and 2011, the City Council discussed a request from Branagh Development, Inc. to purchase the public right-of-way at the northwest corner of Mount Diablo Blvd. and Risa Road. Staff, the City Attorney, and the developer initiated discussions and developed draft deal points to eventually include within a Development Agreement ("DA") between the City and the developer. The goal of the DA is to develop the adjacent parcels and right-of-way with small office building(s) and public parking. The parking lot would serve as overflow parking for the Veterans Building, Temple Isaiah, and for long-distance Reservoir walkers; and

WHEREAS, on October 11, 2011, the City Council expressed an interest in reviewing preliminary designs prior to entering into a DA and allocated \$5,000 towards the design. The Council requested a Joint Meeting as a development agreement is proposed and the proposed development involves use of public property, pursuant to the adopted Joint Meeting guidelines. The intent of the Joint Meeting is for the Council and Commissions to ensure that the proposed development complements and does not detract from existing development, particularly the Veteran's Memorial Building; and

WHEREAS, on November 14, 2011 and January 23, 2011, the Design Review Commission conducted two study sessions. The Design Review Commission was generally supportive of a building in this location and provided recommendations to help the building blend better into the surrounding landscape and not compete with adjacent Veteran's Memorial Building. Primary recommendations involve utilizing asymmetry, shifting buildings away from Mount Diablo Blvd., modifying the east elevation to be similar to the south elevation, maintaining use of natural materials, and screening the parking areas. The project plans begin to address the Design Review Commission's recommendations; however, the plans are still preliminary in nature and further modifications are warranted; and

WHEREAS, on February 13, 2012, the City Council, Planning Commission, and Design Review Commission conducted a Joint Meeting. The Council and Commission expressed concerns about the bulk and mass of the building and a minority concern was expressed about the third story. The Council and Commissions directed the applicant to provide the parking behind or underneath the building. Staff was directed to work with the applicant to prepare the Development Agreement and continue to work with the applicant to refine the project; and

WHEREAS, on March 26, 2012, the Design Review Commission conducted a study session. The Design Review Commission was generally supportive of a building in this location and provided recommendations to help the building blend better into the surrounding landscape and not compete with adjacent Veteran's

Memorial Building. The Design Review Commission commended the applicant for the improvements to the project design and responsiveness to their recommendations; and

WHEREAS, Planning staff conducted environmental review of the project in accordance with the California Environmental Quality Act (CEQA). Staff prepared an initial study and found potential impacts on air quality. To mitigate against long term exposure to air pollutants from the surrounding environment, the project will be required to install filters, on both the intake and recirculation ducting, and dual pane windows; and

WHEREAS, Staff concluded that the project would not have a significant impact on the environment because of mitigation measures already incorporated into the project design or standard imposed as conditions of approval. A Mitigated Negative Declaration (MND) was prepared outlining mitigations required to reduce the impact of the project to a less-than-significant level; and

WHEREAS, on August 20, 2012, the Planning Commission, following notification to the public in the prescribed manner, conducted a public hearing where it received written and oral testimony, including a staff report. The Commission found Mitigated Negative Declaration adequately evaluated the project's environmental impacts and mitigated any potential impacts to a less-than-significant level. The majority of the Planning Commission was supportive of the development agreement, particularly the public parking provided in the West End. The Commission evaluated the findings required to approve the requested permits and took the following two actions; and

WHEREAS, on August 20, 2012, the Planning Commission of the City of Lafayette conducted a duly notices public hearing pursuant to Government Code section 65854, at which time all persons wishing to testify in connection with the subject application were heard and the matter was fully studied; and

WHEREAS, on October 22, 2012 and November 13, 2012, the City Council of the City of Lafayette conducted a duly notices public hearing pursuant to Government Code section 65854, at which time all persons wishing to testify in connection with the subject application were heard and the matter was fully studied; and

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

NOW THEREFORE BE IT RESOLVED THAT

Section 2. Adoption of Ordinance. Based on the record before the City Council, all written and oral evidence presented to the City Council, and the findings made in this Ordinance, the City Council hereby adopts Ordinance 607.

Section 3. CEQA. Based on the record before the City Council, all the facts contained in the Mitigated Negative Declaration and the Initial Study / Environmental Checklist, both dated August 1, 2012, are hereby adopted as the Commission's own findings of fact and incorporated into this resolution by reference.

The City Council hereby determines in accordance with the provisions of the California Environmental Quality Act that the proposed project could have a significant effect on the environment but that each potential impact is reduced to a less than significant level through mitigations incorporated into the design of the project or through mitigation measures imposed upon the project and required as conditions of

approval. The project sponsor has agreed to said revisions and mitigation measures by signing the Mitigation Monitoring & Reporting Program.

The City Council hereby finds the Mitigated Negative Declaration adequately assesses the potential impacts associated with air quality, and that mitigation measures reduce the level of said impacts to a less than significant level.

The City Council hereby adopts the Mitigated Negative Declaration and the Mitigation Monitoring & Reporting Program at a meeting on November 13, 2012 by the following vote:

AYES: M. Anderson, B. Andersson, Federighi, Tatzin
NOES: None
ABSENT: Anduri
ABSTAIN: None
RECUSE: None

Section 4. Development Agreement Findings. Pursuant to California Government Code Section 65867 and based on the entire record before the City Council and all written and oral evidence presented to the Council, the City Council hereby makes the following findings and forwards a recommendation to the City Council to adopt the Development Agreement:

- A. That the Development Agreement promotes the public health, safety, and welfare of the community.
The Development Agreement promotes the public health, safety and welfare of the community because it requires the developer, among other things, to install a public parking lot and pedestrian circulation amenities. The project has been evaluated by the California Environmental Quality Act (CEQA) and it has been determined that the project with mitigations will not have any significant impacts on the environment.

- B. That the Development Agreement is consistent with the City's General Plan.
The Development Agreement is consistent with the City's General Plan because it (1) increase the availability of off-street parking, (2) encourage office uses that are well designed, ad (3) requires new developments to pay their "fair share" of capital improvements and the cost of public services to maintain adequate levels of service. The project has been further evaluated in detail in the staff report.

Section 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

Section 6. Public Records. The location and custodian of the documents and any other material which constitute the record of proceedings upon which the Planning Commission based its decision is as follows: City Clerk, City of Lafayette, 3675 Mt. Diablo Blvd. #210, Lafayette, California 94549.

Section 7. Publication. The City Clerk shall either (a) have this Ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, including the names of the city council members voting for and against its passage, or (b) have a summary of this Ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption, including the names of the city council members who voted for and against its passage.

Section 8. Effective Date. This Ordinance becomes effective thirty (30) days after its adoption.

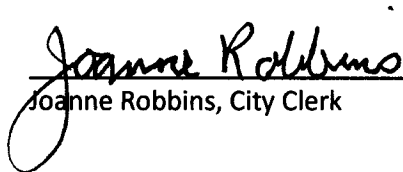
Section 9. Certification. The Secretary shall certify to the adoption of this Ordinance.

PASSED AND ADOPTED by the City Council of the City of Lafayette at a regular meeting on November 13, 2012, by the following vote:

AYES: M. Anderson, B. Andersson, Federighi, Tatzin
NOES: None
ABSENT: Anduri
ABSTAIN: None
RECUSE: None

ATTEST:

APPROVED:



Joanne Robbins, City Clerk



Carol Federighi, Mayor

Contra Costa Times

PO Box 4147
Walnut Creek, CA 94596
(925) 935-2525

LAFAYETTE, CITY OF
ATTN: ACCOUNTS PAYABLE, 3675 MT. DIABLO BLVD.,
#210
LAFAYETTE CA 94549-3793

PROOF OF PUBLICATION

FILE NO. PHN 607

In the matter of

Contra Costa Times

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter.

I am the Principal Legal Clerk of the Contra Costa Times, a newspaper of general circulation, printed and published at 2640 Shadelands Drive in the City of Walnut Creek, County of Contra Costa, 94598

And which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Contra Costa, State of California, under the date of October 22, 1934. Case Number 19764.

The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:



I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.
On this 28th day of November, 2012.

Signature

Legal No.

0004684138



MENT AGREEMENT BETWEEN BRANAGH DEVELOPMENT, INC. & THE CITY OF LAFAYETTE FOR DEVELOPMENT OF THE NORTHWEST CORNER OF RISA ROAD & MOUNT DIABLO BLVD.

Notice is given that on Tuesday, November 13, 2012 the City Council of the City of Lafayette will conduct a public hearing commencing at 7:00 p.m. in the Community Hall at the Lafayette Library & Learning Center, 3491 Mt. Diablo Blvd. Ordinance 607 (DR12-12), if adopted, will include the following provisions:

Branagh Development, Inc. ("BDI") will agree to:
-Acquire the Jackson property.

-Submit applications and pay all required processing fees for the following actions:

-Lot line adjustment that will reconfigure the current property line to a roughly east/west alignment, with BDI owning the southern parcel (BDI property) and City owning the northern parcel (City property). To the extent practical, each new lot will be drawn to be the same gross size (as measured in square feet) and approximate value as the existing parcels.

-Planning and design review for a project.

-Develop the building(s), parking, and other improvements at BDI's sole cost.

-Develop the building(s), parking, and other improvements meeting all City codes and requirements, including consistency with the General Plan and Zoning Ordinance.

-Develop the project to meet all the requirements of the City's Off Street Parking Ordinance (Chapter 6-6).

-All spaces located on the city-owned parcel will be public, available to both office users and the public at all times.

-Enter into a separate parking agreement with the City to include terms regarding maintenance and long-term ownership.

-Pay for relocation of any and all utilities on if required by utility companies.

The City will agree to:

-Promptly complete the environmental review document that will be used for the DA and subsequent actions resulting from the implementation of the Development Agreement.

-Promptly process abandonment of the right-of-way.

-Promptly process a Lot Line Adjustment application.

-Process a Design Review application for a building or buildings not less than a total of 8,500 square feet that meets all City requirements, including design review findings, unless a smaller building is warranted to meet the parking requirements.

-Process a Zoning Ordinance amendment to allow medical uses in all office zoning, including the C-zone.

-Enter into a separate parking agreement with BDI to include terms regarding maintenance and long-term ownership.

-Use its relationships with the utility companies to assist in any relocations and/or improvements to onsite utilities.

Note: The above is a summary of the major highlights of the ordinance. A reading of the entire ordinances is necessary to obtain a full understanding of the ordinances. Certified copies of the full text of the ordinances are posted in the City Clerk's office at 3675 Mt. Diablo Boulevard, Lafayette, California 94549. A copy may be obtained from that office upon payment of the fee based on the City's actual cost of providing the copy.

Publish Date:
November 9, 2012
Joanne Robbins
City Clerk

CCT#4684138
Nov. 9, 2012

Contra Costa Times

PO Box 4147
Walnut Creek, CA 94596
(925) 935-2525

LAFAYETTE, CITY OF
ATTN: ACCOUNTS PAYABLE, 3675 MT. DIABLO BLVD.,
#210
LAFAYETTE CA 94549-3793

PROOF OF PUBLICATION

FILE NO. Ordinance 607

In the matter of

Contra Costa Times

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter.

I am the Principal Legal Clerk of the Contra Costa Times, a newspaper of general circulation, printed and published at 2640 Shadelands Drive in the City of Walnut Creek, County of Contra Costa, 94598

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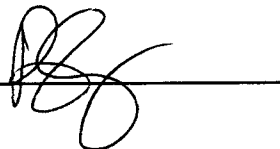
The notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

11/23/2012

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.
On this 29th day of November, 2012.

Signature



Legal No.

0004693482

CITY COUNCIL OF THE CITY OF LAFAYETTE

At its regular meeting on Tuesday, November 13, 2012 the City Council of the City of Lafayette adopted Ordinance 607. The recorded vote of the City Council was as follows:

Ayes: Federighi, M. Anderson, B. Anderson and Tatzin
Noes: None
Abstain: None
Absent: Anduri

The following is a summary: Ordinance 607 (DR12-12), a Development Agreement between Branagh Development, Inc. and City of Lafayette to construct a new two-story office building located on vacant property at the northwest corner of Risa Road and Mt. Diablo Blvd., APN'S 241-010-031, 241-010-002 and public right-of-way.

Note: The above is a summary of the major highlights of the ordinance. A reading of the entire ordinances is necessary to obtain a full understanding of the ordinances. Certified copies of the full text of the ordinances are posted in the City Clerk's office at 3675 Mt. Diablo Boulevard, Lafayette, California 94549. A copy may be obtained from that office upon payment of the fee based on the City's actual cost of providing the copy.
Publish Date: November 23, 2012
Joanne Robbins, City Clerk

CCT# 4693482
Nov. 23, 2012