

ORDINANCE NO. 869-C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA APPROVING DEVELOPMENT PLAN DP-83-21 TO AUTHORIZE A MASTER USE LIST FOR THE FAIRMONT SHOPPING CENTER LOCATED AT THE INTERSECTION OF HICKEY BOULEVARD AND GATEWAY DRIVE (APN 009-440-070, 009-440-080, 009-440-090, 009-440-110, AND 009-440-120) (FILE NO. 2021-003).

WHEREAS, the Title 9 of Chapter 4 of Article 22 of the Pacifica Municipal Code (“PMC”) sets forth the zoning provisions applicable to the P-D (Planned Development) zoning district; and

WHEREAS, the zoning provisions applicable to the P-D (Planned Development) zoning district require City Council approval of a Development Plan to set forth the uses permitted on property within the P-D (Planned Development) zoning district; and

WHEREAS, the City Council has not approved a Development Plan for the Fairmont Shopping Center, located at the intersection of Hickey Boulevard and Gateway Drive, and known by several addresses including but not limited to 705-799 Hickey Blvd. and 200-250 Fairmont Shopping Center (APN 009-440-120, 009-440-070, 009-440-090, 009-440-080, and 009-440-110) (“Project Site”); and

WHEREAS, the lack of an approved Development Plan has created uncertainty for prospective businesses and Owner; and

WHEREAS, GRI Fairmont, LLC (“Owner”) has submitted an application for approval of a Development Plan containing a master use list to specify allowable permitted and conditional uses for the Project Site; and

WHEREAS, the Planning Commission of the City of Pacifica did hold a duly noticed public hearing and adopted Resolution No. 2021-011 recommending City Council approval of DP-83-21 on September 7, 2021; and

WHEREAS, the City Council of the City of Pacifica held a duly noticed public hearing on October 11, 2021, and introduced Ordinance No. 869-C.S..

NOW, THEREFORE, the City Council of the City of Pacifica does ordain as follows:

Section 1. Recitals. The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Findings. Specific findings of fact for approval of Development Plan DP-83-21 are contained in Planning Commission Resolution No. 2021-011 adopted on September 7, 2021, including without limitation the finding that the C-2 (Community Commercial) zoning district is the zoning district most similar in nature and function to the Project Site, and findings related to the consistency of the Development Plan with the General Plan and other findings as required by PMC Section 9-4.2206, and the City Council concurs with said findings and incorporates the findings herein by reference.

Section 3. Development Plan. The approved Development Plan DP-83-21 for the Project Site is described in Exhibit A to this Ordinance and shall apply to the property described in Exhibit B to this Ordinance.

Section 4. Expiration. The approval of Development Plan DP-83-21 conferred in this Ordinance shall not expire unless and until this Ordinance is repealed, notwithstanding any requirement in the PMC establishing a time limit for the filing of a Specific Plan application subsequent to approval of a Development Plan.

Section 5. Prior Ordinances. By adoption of this Ordinance, the City Council intends to repeal any prior ordinances authorizing uses that are not consistent with those identified herein.

Section 6. Compliance with CEQA. The project qualifies for a Class 1 exemption under California Environmental Quality Act (“CEQA”) Guidelines Section 15301, as described below:

Section 15301 states in part:

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The types of “existing facilities” itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of use.

The proposed Development Plan including a master use list would primarily enable the ongoing operation of the FSC with the variety of existing commercial uses. It would also allow certain additional commercial uses to operate within the existing facilities of the shopping center. The Development Plan would not physically modify the Fairmont Shopping Center. All proposed uses within the master use list that is part of the Development Plan would be consistent with the General Plan, and reflect land uses typically found in similar shopping centers. The approval of the proposed Development Plan would result in only a negligible expansion of use at the FSC because it would allow a similar mix of retail uses, personal services, banks and financial institutions, restaurants, outdoor seating areas, and other uses that have already operated within the FSC since its initial construction. Therefore, there is sufficient evidence to support application of a Class 1 categorical exemption.

Section 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 8. Publication. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published once in The Pacifica Tribune, a newspaper of general circulation, published and circulated in the City of Pacifica, California.

* * * * *

PASSED AND ADOPTED this 25th day of October, 2021, by the following vote:

AYES, Councilmembers: Beckmeyer, Bier, Bigstych, O'Neill, Vaterlaus.

NOES, Councilmembers: n/a.

ABSENT, Councilmembers: n/a.

ABSTAIN, Councilmembers: n/a.



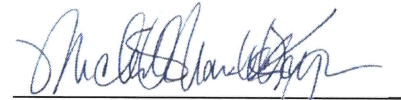
Sue Beckmeyer, Mayor

ATTEST:



Sarah Coffey, City Clerk

APPROVED AS TO FORM:



Michelle Kenyon, City Attorney

EXHIBIT A
DEVELOPMENT PLAN DP-83-21

Standards	Approved
Lot Size	5,000 square feet
Lot Width (min.)	Fifty (50) feet
Lot Coverage (max.)	Ninety (90%) percent of lot area
Density	<p>No maximum floor area ratio shall be applicable.</p> <p>Mixed-use development including one or more residential dwelling units may be constructed in the same building as commercial uses above the ground floor (vertical mixed use) or in other locations on the same site (horizontal mixed use) in accordance with the purpose, intent and density permitted in the General Plan, subject to approval of a use permit and specific plan (if applicable).</p>
Landscaping (min.)	Ten (10%) percent of lot area
Property Line Setbacks (Front, Side, and Rear)	None, unless established by an approved specific plan.
Height	Thirty-five (35') feet
Off-street Parking	<p>As set forth in PMC Title 9, Chapter 4, Article 28, except as follows:</p> <ol style="list-style-type: none"> 1. A minimum of eight (8) parking spaces and a maximum of twelve (12) parking spaces shall be dedicated to 15-minute temporary parking spaces for curbside pickup, app-based delivery services, and rideshare services. 2. The Planning Director shall have the authority to require that Owner prepares a parking study not more than once every two years in the event the Planning Director has determined that the combination of uses authorized in Development Plan DP-83-21 is creating conditions detrimental to surrounding uses in terms of off-street parking demand. The parking study shall focus on existing parking supply and demand and determine if any transportation demand management solutions or active parking management measures need to be implemented by the Owner. The Owner shall implement any transportation demand management solutions or active parking management measures as determined to be necessary by the Planning Director, at the Owner's expense.
Uses – General Provisions	<p>The following general provisions shall be applicable to permitted and conditional uses within the area subject to Development Plan DP-83-21:</p> <ol style="list-style-type: none"> 1. All uses shall be conducted entirely within an enclosed structure, except as otherwise provided in the Outdoor Seating Standards. 2. The area subject to Development Plan DP-83-21 shall be operated in accordance with all laws applicable to commercial shopping centers including but not limited to Pacifica Municipal Code Title 6, Chapter 5, Article 6 “Litter Containers for Commercial Properties.”

	<p>3. The Planning Director shall have the authority to determine whether any use that is not listed as a permitted or conditional use is so similar in its nature and function to a listed permitted or conditional use that the standards applicable to that permitted or conditional use shall apply. All other uses shall be prohibited within the area subject to Development Plan DP-83-21. The Planning Director’s determination in this regard is final and is not subject to appeal.</p>
<p>Uses – Permitted</p>	<p>The following uses shall be permitted in the area subject to Development Plan DP-83-21:</p> <ol style="list-style-type: none"> 1. Retail uses, including, but not limited to, food markets, drug stores, liquor stores, household appliance and furniture sales, indoor vehicle and boat retail sales, but excluding firearms sales and any cannabis operation. 2. Personal services, such as, but not limited to, shoe repair, barber and beauty shops, laundries and dry-cleaning establishments. 3. Massage establishments under six hundred forty (640) square feet of treatment floor space (see licensing requirements in PMC Title 5, Chapter 19). 4. Banks and financial institutions but not including alternative financial services as defined in Section 9-4.2317 of the PMC. 5. Family entertainment uses including but not limited to arcades, board game rooms, and miniature golf, not exceeding 5,000 square feet in gross floor area. 6. Art galleries; instructional studios for dance, arts, or crafts; and craft production shops. 7. Pet care and retail sales establishments, including grooming. 8. Child care facilities up to 30 students per operation and not more than two child care facilities of any size for the entire shopping center. 9. Health/fitness clubs with gross floor area of 5,000 square feet or less per operation and up to 25,000 square feet total for the entire shopping center. 10. Educational facilities, including, but not limited to, tutoring centers. 11. Professional offices, including, but not limited to, chiropractor, physician, dentist, urgent care and outpatient operations, and optometry. 12. Business and administrative offices. 13. Restaurants, retail restaurants, fast food restaurants, and bars, up to 20,000 square feet for the entire shopping center. 14. Veterinary hospitals and clinics. 15. Specialty auto service, such as oil changing facilities (only allowed at existing Sanford Firestone building location at 705 Hickey Blvd., APN 009-440-110). 16. E-commerce pick-up facilities within enclosed buildings only, including, but not limited to secure lockers. 17. Renewable Energy Structures, including, but not limited to, solar panels, energy storage, and electric vehicle charging stations. 18. Outdoor seating areas that comply with all standards provided in the Outdoor Seating Standards.

<p>Uses – Conditional</p>	<p>Conditional uses allowed in the area subject to Development Plan DP-83-21, subject to obtaining a use permit, shall be as follows:</p> <ol style="list-style-type: none"> 1. Dog and cat boarding. 2. Health/fitness clubs with over 5,000 square feet of gross floor area and up to 25,000 square feet total for the entire shopping center. 3. Child care facilities with over 30 concurrent children per space. Child care facilities beyond two for the entire shopping center may be approved with a use permit. 4. Family entertainment uses including but not limited to arcades, board game rooms, and miniature golf, exceeding 5,000 square feet in gross floor area. 5. Cannabis retail operation or cannabis testing operation, subject to the provisions of PMC Title 9, Chapter 4, Article 17.5 and Article 48). A cannabis activity permit shall be required in lieu of a use permit prior to establishment of a cannabis retail operation or cannabis testing operation, as provided in PMC Title 9, Chapter 4, Article 48. 6. Car washes. 7. Social halls, clubs, theaters, and nightclubs. 8. Massage establishments with six hundred forty (640) square feet or more of treatment floor space (see licensing requirements in PMC Title 5, Chapter 19) 9. Drive-thru operations associated with any permitted or conditional use. 10. One or more residential dwelling units, which may be constructed in the same building as commercial uses above the ground floor (vertical mixed use) or in other locations on the same site (horizontal mixed use) in accordance with the purpose, intent and density permitted in the General Plan. 11. Outdoor seating areas that do not comply with all standards provided in the Outdoor Seating Standards.
<p>Outdoor Seating Standards</p>	<p>Businesses selling pre-packaged or prepared food or beverages (“Food Businesses”) may establish and operate an outdoor seating area subject to the following standards as a permitted use. Outdoor seating areas that do not comply with all of the following standards, or outdoor seating areas for businesses other than Food Businesses may be permitted subject to approval of a use permit.</p> <ol style="list-style-type: none"> 1. Hours of Operation. Hours of operation shall be limited to the hours of 7am to 10pm daily. 2. Design. <ol style="list-style-type: none"> a. Roofs, awnings or umbrellas may be used in conjunction with an outdoor area, although permanent shelters over an outdoor seating area are prohibited. Awnings shall be adequately secured, retractable, and shall comply with the Building Code. b. The design of all improvements and furniture shall be of a quality to sustain foul weather and wear and shall be of commercial grade materials. Interior furniture shall not be used in conjunction with an outdoor seating area. c. Signage on any outdoor furniture, including but not limited to, umbrellas, awnings, and chairs, is prohibited. d. Sunscreens shall be a durable fabric and retractable.

	<p>e. Furniture and appurtenances shall be kept clean and in good condition. Umbrellas shall be kept secure in windy conditions, and fire treated.</p> <p>3. Operation.</p> <p>a. The outdoor seating area shall not obstruct the sidewalk abutting the storefront and shall maintain a minimum width of access of four feet. No outdoor seating area shall obstruct any points of building ingress and/or egress, any required disabled path of travel, or obstruct any utility cabinet, pole, or vent.</p> <p>b. The outdoor seating area shall not utilize any designated parking spaces.</p> <p>c. No entertainment or use, operation, or playing of any musical instrument, loudspeaker, sound amplifier, or other machine or device for the production or reproduction of sound is permitted in the outdoor seating area.</p> <p>d. No electrical appliances, heating or cooking of food or open flames shall be allowed in the outdoor seating area. Use of portable heating devices other than cooking devices may be permitted with approval from the Fire Marshal.</p> <p>e. Litter containers and/or 3-Compartment Discard Waste Containers as required by Pacifica Municipal Code Title 6, Chapter 5, Article 6 “Litter Containers for Commercial Properties” shall be installed and maintained in conjunction with the operation of all outdoor seating areas.</p> <p>f. No trash or garbage shall be placed on or adjacent to the public sidewalk or public right-of-way.</p> <p>g. Designated outdoor areas shall not exceed 150 square feet in floor area or 250 square feet in floor area for corner suites.</p> <p>h. The area dedicated to an outdoor seating area shall not be counted toward any calculation of minimum required off-street parking and shall not require any additional parking.</p> <p>4. Maintenance.</p> <p>a. The operator of the outdoor seating area and the property owner shall maintain the outdoor seating area and the adjoining street, curb, gutter, and sidewalk in a neat, clean and orderly condition at all times, regardless of the source of the refuse and litter.</p> <p>b. Activities involving the outdoor seating area shall be conducted in a manner that does not interfere with pedestrians, parking, or traffic.</p> <p>c. If necessary, the operator or the property owner shall clean the surface of the sidewalk by washing or buffing to remove any stains, marks, or discoloration and in accordance with prevailing stormwater and water quality regulations.</p>
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EXHIBIT B

LEGAL DESCRIPTION OF PROJECT SITE SUBJECT TO DEVELOPMENT PLAN DP-83-21

LEGAL DESCRIPTION

A PORTION OF PARCEL "C", AS SHOWN ON THAT CERTAIN MAP ENTITLED, "FAIRMONT UNIT NO. 1, PACIFICA, SAN MATEO COUNTY, CALIFORNIA", FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SAN MATEO, STATE OF CALIFORNIA ON OCTOBER 19, 1962 IN BOOK 57 OF MAPS AT PAGES 2, 3 AND 4 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF PARCEL "C", AS SAID CORNER BEING THE INTERSECTION OF THE LINE COMMON TO PARCEL "B" AND "C" WITH THE NORTHEASTERLY LINE OF GATEWAY DRIVE, AS SHOWN ON THE AFORESAID MAP OF FAIRMONT UNIT NO. 1; THENCE FROM SAID POINT OF BEGINNING ALONG THE EXTERIOR BOUNDARY LINE OF SAID PARCEL "C" SOUTHEASTERLY, THE FOLLOWING COURSES FROM A TANGENT BEARING SOUTH 11° 59' 17" EAST, ON THE ARC OF A CURVE TO THE LEFT, WITH A RADIUS OF 1120.00 FEET, SUBTENDING A CENTRAL ANGLE OF 34° 34' 50", AN ARC DISTANCE OF 675.97 FEET TO A POINT OF COMPOUND CURVATURE; THENCE FROM A TANGENT BEARING SOUTH 46° 34' 07" EAST ON THE ARC OF A CURVE TO THE LEFT WITH A RADIUS OF 20.00 FEET, SUBTENDING A CENTRAL ANGLE 90° 55' 25", AN ARC DISTANCE OF 31.74 FEET TO A POINT OF REVERSE CURVATURE IN THE NORTHWESTERLY LINE OF HICKEY BOULEVARD; THENCE ALONG THE LAST SAID LINE FROM A TANGENT BEARING NORTH 42° 30' 28" EAST, ON THE ARC OF A CURVE TO THE RIGHT, WITH A RADIUS OF 1294.00 FEET SUBTENDING A CENTRAL ANGLE OF 6° 57' 16", AN ARC DISTANCE OF 157.06 FEET; THENCE LEAVING SAID EXTERIOR BOUNDARY LINE OF PARCEL "C", NORTH 49° 15' EAST, 264.72 FEET; THENCE NORTH 18° 27' 17" WEST 133.12 FEET; THENCE NORTH 25° 19' 22" WEST 59.99 FEET; THENCE TANGENT TO THE LAST SAID COURSE, ON THE ARC OF A CURVE TO THE LEFT, WITH A RADIUS OF 1952.17 FEET, SUBTENDING A CENTRAL ANGLE OF 2° 41' 54" AN ARC DISTANCE OF 91.94 FEET TO A POINT IN THE EXTERIOR BOUNDARY LINE OF SAID PARCEL "C", SAID LINE BEING ALSO THE SOUTHWESTERLY LINE OF PARCEL "A", THENCE ALONG SAID LINE, FROM A TANGENT BEARING NORTH 29° 42' 35" WEST, ON THE ARC OF A CURVE TO THE LEFT, WITH A RADIUS OF 3352.30 FEET, SUBTENDING A CENTRAL ANGLE OF 4° 10' 25", AN ARC DISTANCE OF 244.19 FEET; AND NORTH 33° 53' WEST 96.57 FEET TO THE MOST NORTHERLY CORNER OF SAID PARCEL "C"; THENCE ALONG THE LINE COMMON TO PARCELS "B" AND "C", SOUTH 56° 07' WEST 452.88 FEET TO THE POINT OF BEGINNING.