

Planning Commission Resolution 2022-02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HEALDSBURG RECOMMENDING THAT THE CITY COUNCIL APPROVE THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR THE NORTH VILLAGE PROJECT (DA 2020-01.01)

WHEREAS, the City of Healdsburg, a California municipal corporation (the “City”) and CCS Healdsburg, LLC, a Delaware limited liability company are Parties to that certain Development Agreement, dated May 6, 2020; a Memorandum of Development Agreement was recorded in the Official Records of Sonoma County on June 1, 2020, as Document No. 2020041464 (“Development Agreement”); and

WHEREAS, the Development Agreement governs the development of approximately 32-acre property located at 16977 Healdsburg Avenue with a Senior Living Community with 221 independent living units (including 11 density bonus units), ancillary facilities (including dining facilities, meeting rooms, and administrative offices) and a total of 54 assisted living and memory care beds; 30 multi-family apartments; a 108-key hotel with a restaurant/bar, fitness facility and spa, meetings rooms and other amenities; and 45 multi-family units, five live-work units, and 12,000 square feet of commercial/retail space in a mixed use development; and

WHEREAS, on August 20, 2020, pursuant to authority provided by Section 9.1 of the Development Agreement, CCS Healdsburg, LLC ("Assignor") and Kendal at Sonoma, A Zen Inspired Community ("Developer") entered into a Partial Assignment of Rights and Assumption of Obligations Under Development Agreement which was recorded in the Official Records of Sonoma County on August 20, 2020, as Instrument No. 2020071885 (“Partial Assignment”); and

WHEREAS, Section 5.4 of the Development Agreement was assigned to the Developer under the Partial Assignment. This Section 5.4 calls for the development of thirty (30) units of Senior Living Community Affordable Housing within the Senior Living Community component of the Project, with twenty (20) units designated as Very Low Income, which were restricted to use by employees and volunteers of the Senior Living Community, and who qualified for the age restrictions of the Residential Care Facility for the Elderly ("RCFE") license. An additional 10 Moderate income units were made available to the public, subject to local preference requirements defined in Development Agreement Section 5.3(a); and

WHEREAS, City staff and Developer have prepared a proposed First Amendment to the Development Agreement ("First Amendment") for consideration by the Healdsburg Planning Commission and the Healdsburg City Council and the First Amendment is intended to align the affordability requirements for the Senior Living Community Affordable Housing that is restricted to employees and volunteers of the Senior Living Community who are qualified for the age restrictions of the RCFE license with the incomes of those employees and volunteers; and

WHEREAS, in accordance with Sections 65864 through 65869.5 of the California Government Code (“State Development Agreement Law”), the City adopted Ordinance No. 1097

to add Chapter 17.20 to the Healdsburg Municipal Code authorizing the use of, and imposing additional requirements on, development agreements; and

WHEREAS, Chapter 17.20.060 requires the Planning Commission to conduct a public hearing on an amendment to a development agreement; and

WHEREAS, pursuant to the California Environmental Quality Act (Pub. Res. Code § 21000, et seq.) ("CEQA"), the City prepared and, on May 20, 2019, the City Council certified the Final Environmental Impact Report ("EIR") for the North Entry Area Plan (State Clearinghouse No. 2018062041) and adopted related findings, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations which can be found in the Planning Department's files for the North Village Project at 401 Grove Street, Healdsburg, CA 95448; and

WHEREAS, the Planning Commission held a noticed public hearing on February 23, 2022, for the purpose of receiving oral testimony on the proposed First Amendment, reviewed written and oral staff reports, and received into the record all pertinent documents related to the First Amendment, before making its decision.

NOW, THEREFORE BE IT RESOLVED that the Healdsburg Planning Commission hereby recommends to the City Council that the First Amendment to the Development Agreement by and between the City of Healdsburg and CCS Healdsburg LLC (DA 2020-01.01) be approved as presented in Attachment A to this resolution based upon the facts and findings as set forth below:

1. The Development Agreement and its First Amendment are consistent with the Healdsburg 2030 General Plan, the North Entry Area Plan, and the Land Use Code. The City Council made findings of consistency in its action to adopt Ordinance No. 1202, approving the Development Agreement, and the First Amendment does not modify the Development Agreement in any way that would conflict with the goals and policies of the Healdsburg 2030 General Plan and the North Entry Area Plan, and requirements of the City's Land Use Code.
2. The Development Agreement and its First Amendment will provide Healdsburg with tangible benefits including: 105 units of Affordable and Middle Income Housing; a \$2,000,000 contribution for construction of a Fire Substation; contribution of \$250,000 to the City for connectivity improvements; annual payments to the City of approximately \$334,000 per year from the Senior Living Community for lost tax revenue and increased demands for services; remittance of a 1/2% Hotel Add-On Fee (beginning 10 years after issuance of a certificate of occupancy for the hotel); and other improvements.
3. Any environmental impacts related to the Development Agreement have been reviewed and considered in accordance with the provisions of the California Environmental Quality Act. On May 20, 2019, the City Council certified the Final Environmental Impact Report ("EIR") for the North Entry Area Plan (State Clearinghouse No. 2018062041) and adopted related findings, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations which can be found in the Planning Department's files for the North Village Project at 401 Grove Street, Healdsburg, CA 95448. In accordance with the California Environment Quality Act (CEQA) Guidelines Section 15162, no further environmental review is required for the First Amendment because (i) there are no changes involving new significant environmental effects or a substantial

increase in the severity of previously identified significant effects/impacts, (ii) there are no changes with respect to the circumstances under which the project is taken which will require major revisions to the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects/impacts, and (iii) there is no new information of substantial importance that was not known at the time the EIR was certified which shows (a) the project will have one or more significant effects not discussed in the EIR, (b) significant impacts/effects will be substantially more severe than shown in the EIR, (c) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects/impacts, or (d) mitigation measures or alternatives which are considerably different from those analyzed in the EIR would substantially reduce one or more significant effects/impacts on the environment.

DULY AND REGULARLY ADOPTED by the Healdsburg Planning Commission on the 23rd day of February 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Jerry Eddinger, CHAIR

Scott Duiven, SECRETARY

ATTACHMENT A

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This First Amendment to Development Agreement (this “**Agreement**”) is entered into this ___ day of _____, 2022, by and between the City of Healdsburg, a California municipal corporation (the “**City**”), and Kendal at Sonoma, a Zen Inspired Community, a California nonprofit public benefit company (“**Developer**”), and has been approved and agreed to by CCS Healdsburg, LLC, a Delaware limited liability company (“**Assignor**”). The City and Developer are referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

A. Under the authority of Ordinance No. 1202, the City and Assignor entered into a Development Agreement (the “**Development Agreement**”), the effective date of which is May 6, 2020. The Development Agreement was recorded in the Official Records of Sonoma County on June 1, 2020, as Instrument No. 2020041464. The Development Agreement governs the development of approximately 32-acre property located at 16977 Healdsburg Avenue (APNs 091-060-009; -019; -022; -025): Senior Living Community with 221 independent living units (including 11 density bonus units), ancillary facilities (including dining facilities, meeting rooms, and administrative offices) and a total of 54 assisted living and memory care beds; 30 multi-family apartments; a 108-key hotel with a restaurant/bar, fitness facility and spa, meetings rooms and other amenities; and 45 multi-family units, five live-work units, and 12,000 square feet of commercial/retail space in a mixed use development. Backbone infrastructure includes the following: a new traffic signal on Healdsburg Avenue at the site entry; Healdsburg Avenue frontage improvements which include curbs, gutters, landscaping and lighting; two private streets including sidewalks, lighting, landscaping, and underground utilities; establishment of a secondary emergency vehicle access; extension of a segment of the Foss Creek Pathway; and establishment of Perimeter Trail (collectively, the “**Project**”).

B. In addition to the Development Agreement, the Project required, and received from the City, certain entitlements, including approval of a Conditional Use Permit, which was approved by the City Council on April 6, 2020, pursuant to findings and subject to conditions of approval (“**CUP Conditions**”).

C. In addition, on August 20, 2020, pursuant to authority provided by Section 9.1 of the Development Agreement, the Assignor and Developer entered into a Partial Assignment of Rights and Assumption of Obligations Under Development Agreement which was recorded in the Official Records of Sonoma County on August 20, 2020, as Instrument No. 2020071885 (“**Partial Assignment**”).

D. Section 5.4 of the Development Agreement was assigned to the Developer under the Partial Assignment. This Section 5.4 calls for the development of thirty (30) units of Senior Living Community Affordable Housing within the Senior Living Community component of the Project, with twenty (20) units designated as Very Low Income, which were restricted to use by

employees and volunteers of the Senior Living Community, and who qualified for the age restrictions of the RCFE license. An additional ten (10) Moderate Income units were made available to the public, subject to local preference requirements defined in Development Agreement Section 5.3(a). To assist with the feasibility of this portion of the Project by aligning the income requirements in the Development Agreement with the actual incomes of the employees and volunteers of the Senior Living Community, Developer has requested and City has agreed to convert five (5) Very Low Income units to Moderate Income, and to convert an additional five (5) Very Low Income units to Low Income units.

E. On _____, 2022, the Planning Commission, after a duly noticed public hearing, recommended approval of this Agreement. On _____, after a duly noticed public hearing, the City Council introduced its Ordinance _____ approving this Agreement and authorizing its execution and adopted that Ordinance _____ on _____. Ordinance _____ became effective on _____.

Now, therefore, the City and Developer, for valuable consideration the receipt of which is hereby acknowledged, agree as follows:

1. This Agreement constitutes a Major Amendment to the Development Agreement for the Project in accordance with Section 6.4(b) of the Development Agreement.

2. **Senior Living Community Affordable Housing.**

a. Sections 5.4(a) and 5.4(b) of the Development Agreement are amended and restated in their entirety as follows:

(a) Developer shall cause construction of a minimum of thirty (30) units of Senior Living Community Affordable Housing within the Senior Living Community component of the Project, affordable to households with very low, low, and moderate incomes, as follows:

i. Ten (10) dwelling units shall be made available for occupancy at an affordable Monthly Housing Fee or rent, adjusted for household size, to Very Low Income Households.

ii. Five (5) dwelling units shall be made available for occupancy at an affordable Monthly Housing Fee or rent, adjusted for household size, to Low Income Households.

iii. Fifteen (15) dwelling units shall be made available for occupancy at an affordable Monthly Housing Fee or rent, adjusted for household size, to Moderate Income Households.

b. Twenty units, comprised of the Senior Living Community Affordable Housing for Very Low, Low and five (5) of the Moderate Income Households shall be reserved for employees and volunteers of the Senior Living Community. The Senior Living Community Affordable Housing for the remaining ten (10) Moderate Income Households shall be subject

to the local preference requirements described in Section 5.3(a) of this Agreement.

3. **Interpretation.** This Agreement shall be interpreted to give each of the provisions their plain and fair meaning. The Recitals set forth above are incorporated into this Agreement. The section headings used herein are solely for convenience and shall not be used to interpret this Agreement. The Parties acknowledge that this Agreement is the product of negotiation and compromise on the part of both Parties, and the Parties agree, that since all have participated in the negotiation and drafting of this Agreement, this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its plain and fair meaning as a whole, as if all Parties had prepared it.

4. **Integration.** This Agreement contains the entire agreement between the Parties with respect to its subject matter and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. This Agreement shall not be amended or modified except by a written agreement executed by each of the Parties.

5. **Inconsistencies.** In the event of any conflict or inconsistency between the provisions of this Agreement and the Development Agreement, the provisions of this Agreement shall control.

6. **Severability.** If any term, provision, condition or covenant of this Agreement or its application to any Party or circumstances shall be held by a court of competent jurisdiction, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition, or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law unless the rights and obligations of the Parties have been materially altered or abridged thereby.

7. **Status of Agreement.** Except as modified by this Agreement, the terms and provisions of the Development Agreement shall remain in full force and effect.

8. **Counterparts.** This Agreement may be signed in counterparts by the Parties hereto and shall be the binding agreement of the Parties upon execution by each of them of one or more copies hereof.

9. **Recording of Memorandum.** Approximately concurrent with the Amendment's effective date, the Parties shall execute, acknowledge and record a Memorandum of Agreement, in the form attached hereto as Exhibit B, in the official records of Sonoma County.

10. **Authority.** Each of the persons signing this Agreement hereby represents and warrants that he or she is fully authorized to sign this Agreement on behalf of the Party for which he or she is signing.

IN WITNESS WHEREOF, the Parties hereto have affixed their signatures to this Agreement as of the date and year indicated below and effective as of the date and year first above written.

[Signatures on Following Page]

DEVELOPER:

KENDAL AT SONOMA, A ZEN
INSPIRED COMMUNITY
a California nonprofit public benefit
company

By: _____

CITY:

CITY OF HEALDSBURG,
a California municipal corporation

By: _____
Jeff Kay, City Manager

ATTEST:

Raina Allan, City Clerk

APPROVED AS TO FORM:

Samantha Zutler, City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The real property situated in the City of Healdsburg, County of Sonoma, State of California, described as follows:

**EXHIBIT B
FORM OF MEMORANDUM OF AGREEMENT**

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of Healdsburg
401 Grove Street
Healdsburg, CA 95448
Attention: City Clerk

EXEMPT FROM RECORDING FEES
PER GOVERNMENT CODE §27383
AND BUILDING HOMES & JOBS
TRUST FUND FEE PER
GOVERNMENT CODE
§27388.1(a)(2)(D)

Space above this line for Recorder's use.

MEMORANDUM OF FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

This Memorandum of First Amendment to Development Agreement (this "**Memorandum**"), dated for reference purposes as of _____, 2022, is executed by and between the CITY OF HEALDSBURG, a California municipal corporation ("**City**"), and KENDAL AT SONOMA, A ZEN INSPIRED COMMUNITY, a California nonprofit public benefit company ("**Developer**") and has been approved and agreed to by CCS HEALDSBURG, LLC, a Delaware limited liability company ("**Assignor**").

WHEREAS, City and Assignor have entered into a Development Agreement (the "**Development Agreement**"), the effective date of which is May 6, 2020, which was recorded in the Official Records of Sonoma County on June 1, 2020, as Instrument No. 2020041464. The Development Agreement pertains to the development of certain property (the "**Property**") located in Healdsburg, California, as more particularly described in Exhibit A, attached hereto; and

WHEREAS, Assignor and Developer have entered into a Partial Assignment of Rights and Assumption of Obligations Under Development Agreement (the "**Partial Assignment**") dated August 20, 2020, which was recorded in the Official Records of Sonoma County on August 21, 2020 as Instrument No. 2020071885; and

WHEREAS, City and Developer have entered into a First Amendment to Development Agreement (the "**[First Amendment]**"), dated _____, 2022.

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The real property situated in the City of Healdsburg, County of Sonoma, State of California, described as follows: