

**BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BENITO**

AN ORDINANCE OF THE SAN BENITO COUNTY )  
BOARD OF SUPERVISORS APPROVING THE FIRST )  
AMENDMENT TO THE SAN JUAN OAKS )  
DEVELOPMENT AGREEMENT. )  
COUNTY FILE PLN190013. )

ORDINANCE NO. \_\_\_\_\_

**The Board of Supervisors of the County of San Benito, State of California, does ordain as follows:**

**SECTION 1.**

- A. San Jan Oaks, LLC, a California limited liability company (“San Juan Oaks”), and Pulte Home Corporation, a Michigan corporation (“Pulte”, and together with San Juan Oaks, referred to as the “Previous Owners”) were the owners collectively of the parcels identified as APN's 018-190-023, 018-190-033, 018-190-034, 018-200-058, 021-140-046, 021-140-053, 018-200-056, 018-200--057, 021-140-054, 021-190-017, 021-190-006, 021-090-030, 021-190-031, 021-190-032, and 023-010-074 ("Project Site") which is described in and shown on the attached **Attachment 1**, which is incorporated herein by reference; and
- B. The County of San Benito (“County”) and Previous Owners previously entered into a Development Agreement (“San Juan Oaks Development Agreement”) on December 3, 2015 (“Effective Date”), which is attached hereto and incorporated herein by reference as **Attachment 2**, pursuant to the Development Agreement Statute and the County Development Agreement Procedures. Development of the San Juan Oaks Project on the Project Site shall be governed by the terms of the San Juan Oaks Development Agreement and the Specific Plan. The Project Site is subject to the San Juan Oaks Development Agreement insofar as such development implements the terms of the Specific Plan and all other County Approvals and subsequent approvals, as set forth more fully in the Development Agreement. To the extent any conflict may exist between the provisions reflected in County Code, Title 19, Chapter 19.11 and the provisions reflected in the Development Agreement, the Board ordained for purposes of the San Juan Oaks Specific Plan Project, that the provisions in the San Juan Oaks Development Agreement prevail and amend Chapter 19.11 accordingly; and
- C. Pursuant to section 2.6 of the Agreement, Previous Owners agreed to pay County a “Community Benefit Fee” in installments totaling \$5,559,000; and
- D. Pursuant to section 3.2 and Exhibit 9 of the Agreement, Previous Owners agreed to pay certain “Development Impact Fees,” the amounts of which were to be fixed for a term of seven and one-half years (hereinafter “Lock Term”) measured from the Effective Date; and
- E. Pursuant to section 2.7 of the Agreement, San Juan Oaks agreed to offer to dedicate to County an approximately two (2) acre site to be used by County for a “Public Safety Facility Site,” with such offer of dedication terminating and the Public Safety Facility Site reverting to Owner if County has not accepted said offer of dedication and commenced construction of a public safety facility within fifteen (15) years of the offer of dedication; and

- 1 F. Pulte has transferred all of its right, title and interest in the portion of the Project Site owned and  
2 controlled by Pulte to San Jan Oaks and is no longer a party to the Agreement, which has  
3 resulted in a delay of the development of the Project contemplated by the Agreement; and
- 4 G. San Juan Oaks anticipates contracting with a developer to replace Pulte in the near future; and
- 5 H. San Juan Oaks and County desire to amend the Agreement to account for the development delay,  
6 ensure the County receive the Community Benefit Fee in a timely manner and compensate the  
7 County for this amendment; and
- 8 I. The First Amendment to the San Juan Oaks Development Agreement by and between the County  
9 Of San Benito, and San Juan Oaks, LLC ("First Amendment") (**Attachment 3**) is entered into by  
10 and between the County of San Benito, a political subdivision of the State of California (referred  
11 to therein as "County") and San Juan Oaks, LLC, a California limited liability company (referred  
12 to therein as "Owner") as of this 16th day of April, 2019; and
- 13 J. Pursuant to the First Amendment, at San Juan Oak's sole discretion, San Juan Oaks may elect to  
14 pay the entire Community Benefit Fee upon the date the first residential building permit is  
15 pulled, or March 31, 2021, whichever date occurs first ("Trigger Date"). If San Juan Oaks  
16 makes such an election, then Owner shall pay an additional Five Hundred Thousand Dollars  
17 (\$500,000.00) to the County, bringing the total Community Benefit Fee to Six Million Fifty-Nine  
18 Thousand Dollars (\$6,059,000.00); and
- 19 K. San Juan Oaks shall advise the County of its election regarding the Community Benefit Fee no  
20 later than sixty (60) days prior to pulling the first building permit, and in no event later than sixty  
21 days prior to March 31, 2021 (Trigger Date). If Owner makes the election to pay the entire  
22 Community Benefit Fee at once, pursuant to subparagraph (ii) above, that election shall be final;  
23 and
- 24 L. If San Juan Oaks makes such an election, then County shall extend the Fee Vesting Time Period  
25 for the Development Impact Fees to run seven and one-half years, commencing six months  
26 following the Trigger Date. This would run the Fee Vesting Time Period to March 31, 2029; and
- 27 M. This First Amendment to the San Juan Oaks Development Agreement does not alter San Juan  
28 Oaks's obligations with respect to the payment of school impact fees, if any, which may be owed  
29 as a result of project development. School impact fees are not included in any increased Lock  
30 Term.

## 31 **SECTION 2. Findings**

- 32 A. The application to consider the First Amendment to the San Juan Oaks Development Agreement  
33 was filed with the Director of Planning, in accordance with County Code section 19.11.007 on  
34 March 5, 2019. The complete application included all the required content under County Code  
35 section 19.11.007(b), including, without limitation, the proposed First Amendment; sufficient  
36 documentation to facilitate CEQA review; and the required fee deposit to facility review by San  
37 Benito County. The application is on file at the San Benito County Resource Management  
38 Agency, Building and Planning Division (File PLN190013).
- 39 B. The First Amendment to the San Juan Oaks Development Agreement is consistent with the  
40 General Plan, the Specific Plan and the remaining portions of the County Code, for the  
41 reasons set forth in **Planning Commission Resolution No. 2019-\_\_\_**, incorporated herein  
42 by reference.

1 C. The First Amendment to the San Juan Oaks Development Agreement is compatible with the uses  
2 authorized in, and the regulations prescribed for, the applicable zoning of the Project Site (as  
3 amended pursuant to the Specific Plan). As part of its 2015 approval of County Code  
4 Amendments, the Board of Supervisors, among other things, made determinations regarding the  
5 compatibility of the Project with the uses authorized in, and the regulations prescribed for, the  
6 applicable zoning.

7 D. The First Amendment to the San Juan Oaks Development Agreement is consistent with public  
8 health; safety and general welfare and good land use practice in that it does not modify the  
9 components of the specific plan development already determined in 2015 to be complementary  
10 to public health, safety and general welfare and good land use practices. Among other things, it  
11 provides for public benefits beyond those benefits that would be forthcoming through  
12 conditions of development project approvals as set forth herein.

13 The original Project was prepared in accordance with the New Community Study Area Designation  
14 and other relevant policies in the County's 2035 General Plan Update. The New Community  
15 Study Area Designation is intended to allow higher levels of development as a means of directing  
16 anticipated growth to certain areas in San Benito County determined appropriate and able to provide  
17 adequate facilities and infrastructure to serve that increased growth, which, in turn, serves to  
18 protect and preserve more environmentally sensitive areas and more productive agricultural lands.  
19 In addition, the Project includes: the development of employment sites to promote County work  
20 opportunities by providing for approximately 65,000 square feet in neighborhood commercial  
21 development, as well as additional hotel and assisted living/skilled nursing/memory care uses  
22 which could provide new employment opportunities; the construction and dedication of open  
23 space, parks and recreational facilities (as well as related funding for ongoing operation and  
24 maintenance) in excess of current requirements by including 114 acres of common area open  
25 space, approximately seven acres of private parks, approximately 16 acres of public community  
26 parks, approximately 41 acres of on-site agricultural preserve, approximately 1,243 acres of  
27 on-site permanent wildlife habitat and the provision for approximately 153 acres of agricultural  
28 preserve off-site throughout the Project Site and interconnects with the regional network; the  
29 facilitation of alternative modes of transportation (e.g., non-motorized travel, use of public transit)  
30 through provision of an onsite neighborhood-serving commercial center for convenient shopping  
31 and services, a network of bicycle and pedestrian pathways connecting residential and commercial  
32 areas, bus turnouts and permitted home occupation uses; implementation of numerous  
33 sustainable design, siting and building features that include roof colors and materials that meet  
34 or exceed Energy Star requirements to reduce the heat island effect; energy and water-efficient  
35 appliances, fixtures, lighting, and windows that meet or exceed state energy performance  
36 standards; high-efficient air conditioners; Energy Star bath fans in each home. In addition,  
37 among others, the Project would encourage the following features: energy-efficient windows;  
38 rooftop solar panels, solar films, small-scale wind turbines, and other similar features to generate  
39 energy; small scale wind turbines and solar heating and energy production panels and films;  
40 Energy Star qualified (or equivalent rating system) models of mechanical equipment; and  
41 energy-efficient, low voltage exterior lighting.

42 The Project also includes the formation of a Geologic Hazard Assessment District (GHAD) to  
43 effectively respond to and abate any identified geologic hazards within the Property; the formation  
44 of a Community Facilities District (CPD) or other financing district(s) / mechanisms to provide  
45 funding to County to be used to fund various public safety infrastructure, facilities, improvements  
46 and services as well as maintenance and operation of the Community Parks; payment of a  
47 Community Benefit Fee to the County totaling \$5,559,000, which shall be used in County's sole and  
48 absolute discretion as it deems appropriate for the benefit of the County, including, without

1 limitation: general community benefits, street improvements, affordable housing, public safety  
2 services, library services, and communications; and an offer to dedicate to the County an  
3 approximately two (2) acre Public Safety Facility Site.

4 E. The First Amendment to the San Juan Oaks Development Agreement will not adversely affect  
5 the orderly development of the surrounding community. In approving the original project in  
6 2015, the Board of Supervisors determined that development of the Project Site with the  
7 Project will implement the New Community Study Area Designation and related General Plan  
8 policies, which are intended to allow higher levels of development as a means of directing  
9 anticipated growth to certain areas in San Benito County determined appropriate and able to  
10 provide adequate facilities and infrastructure to serve that increased growth, as described more  
11 fully in the Specific Plan and the SEIR (Supplemental Environmental Impact Report).

12 F. The development project associated with the First Amendment to the San Juan Oaks  
13 Development Agreement should be encouraged in order to meet important economic, social,  
14 environmental or planning goals of San Benito County. With regard to planning goals, the  
15 Project was prepared in accordance with the New Community Study Area Designation and  
16 related General Plan policies, which are intended to allow higher levels of development as a  
17 means of directing anticipated growth to certain areas in San Benito County determined  
18 appropriate and able to provide adequate facilities and infrastructure to serve that increased  
19 growth, which, in turn, protects and preserve other areas in the County that are more  
20 environmentally sensitive or productive agricultural land. With regard to economic and social  
21 goals, the San Juan Oaks Development Agreement also facilitates the development of  
22 approximately 65,000 square feet of neighborhood commercial development as well as  
23 additional mixed uses, which will help to satisfy goals of San Benito County to provide for more  
24 employment opportunities and generate sales tax revenue, and impose obligations on the San  
25 Juan Oaks in connection with payment of a substantial Community Benefit Fee and other  
26 monetary obligations. Moreover, the dwelling units proposed under the Project, numbering up to  
27 1,084, will help to address goals by San Benito County to provide more housing options to  
28 residents.

29 G. The subject development project and First Amendment to the San Juan Oaks Development  
30 Agreement are consistent with Chapter 19.11. The purpose of Chapter 19.11: Development  
31 Agreements is to strengthen the public planning process, to encourage private participation in  
32 comprehensive, long range planning and to reduce the economic costs of development by  
33 enabling the county and a developer seeking county approval of a development project to enter  
34 into a development agreement which vests certain development rights and which requires a  
35 developer to provide additional public benefits. The appropriate use of development agreements  
36 will reduce uncertainty in the development review process, will promote long-term stability in  
37 the land use planning process and will result in significant public gain.

### 38 **SECTION 3. General Provisions**

39 A. Severability: If any section, subsection, sentence, clause, or phrase of this ordinance is for any  
40 reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision  
41 shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors  
42 hereby declares that it would have enacted this ordinance and each section, subsection, sentence,  
43 clause or phrase thereof, irrespective of the fact that any one or more sections, subsections,  
44 sentences, clauses or phrases be declared invalid or unconstitutional.

1 B. Captions: The titles and headings to the sections hereunder are not part of this ordinance and  
2 shall have no effect upon the construction or interpretation of any part hereof.

3 C. Effective Date and Codification: This ordinance shall not be codified. This ordinance shall take  
4 effect thirty (30) days after its adoption. The effective date of the First Amendment to the San  
5 Juan Oaks Development Agreement shall be the effective date of this Ordinance, so long  
6 as the First Amendment to the San Juan Oaks Development Agreement has been signed by the  
7 San Juan Oaks and County pursuant to section 19.11.008(D) of the San Benito County Code.

8 D. Publication: Within fifteen (15) days after its adoption, this ordinance shall be published  
9 pursuant to California Government Code 25124 in its entirety in a newspaper of general  
10 circulation which is printed, published and circulated within the County of San Benito, State of  
11 California.

12 E. No Duty of Care: This ordinance is not intended to and shall not be construed or given effect in a  
13 manner that imposes upon the County, or any officer or employee thereof, a mandatory duty  
14 of care towards persons or property within the County or outside of the County so as to provide a  
15 basis of civil liability for damages, except as otherwise imposed by law.  
16

17 **SECTION 4: Effective Date and Term.**

18  
19 NOW, THEREFORE, BE IT RESOLVED, that the San Benito County Board of Supervisors hereby  
20 adopts this Ordinance approving the First Amendment to the San Juan Oaks Development Agreement  
21 and authorizes Chair to execute same.  
22

23 PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN  
24 BENITO THIS 16th DAY OF APRIL, 2019 BY THE FOLLOWING VOTE:  
25

26 AYES: SUPERVISORS:

27 NOES: SUPERVISORS:

28 ABSENT: SUPERVISORS:

29 ABSTAIN: SUPERVISORS:

30 By: \_\_\_\_\_  
31 Mark Medina, Chair  
32  
33

**ATTEST:**  
Janet Slibsager, Clerk of the Board

**APPROVED AS TO LEGAL FORM:**  
Barbara Thompson, County Counsel

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **Attachment 1 to the Ordinance**

Legal description for subject property, Assessor's Parcel Number

## **Attachment 2 to the Ordinance**

The 2015 Negotiated DEVELOPMENT AGREEMENT BY AND AMONG THE COUNTY OF SAN BENITO,  
PULTE HOMES CORPORATION AND SAN JUAN OAKS, LLC.

### **Attachment 3 to the Ordinance**

The First Amendment of the Development Agreement by and among the County Of San Benito,  
and San Juan Oaks, LLC.  
(Applicant Proposal)