



# WASHOE COUNTY

Integrity Communication Service

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## STAFF REPORT

BOARD MEETING DATE: May 28, 2019

**DATE:** Wednesday, April 24, 2019

**TO:** Board of County Commissioners

**FROM:** Roger Pelham, MPA, Senior Planner, Planning and Building Division  
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**THROUGH:** Mojra Hauenstein, Arch., Planner, Division Director, Planning & Building,  
Community Services Dept., 328-3619, [mhauenstein@washoecounty.us](mailto:mhauenstein@washoecounty.us)

**SUBJECT:** Public Hearing: Second reading and adoption of an ordinance pursuant to NRS 278.0201 through 278.0207 approving a Development Agreement as required by the Warm Springs Specific Plan at WSSP.8.1 to utilize the land use designation specified on the Warm Springs Specific Plan – Land Use Plan for:

Tentative Parcel Map Case Numbers WTPM17-0015, WTPM17-0017, WTPM17-0018, WTPM17-0019 and WTPM17-0020 (Palomino Ranch Estates #1, #2, #3, #4 & #5) – Which were a series of tentative parcel maps which approved the division of a 67.60 acre parcel into fifteen total lots ranging from 2.5 acres to 5 acres in size.

In order to develop any property in the WSSP more densely than General Rural (1 dwelling unit / 40 acres), the specific plan requires that these development agreements be approved. Among other things, the development agreements adopt the development standards handbook for the properties in question, which specifies the denser development potential available on affected properties, which in this case would result in individual residential parcels of 2.5 acres or 5 acres in size. Additionally, the agreements would specify other aspects of allowable development on the properties, including uses allowed, density and intensity of those uses, building sizes, setbacks, building heights, and other matters concerning the development of the land. The allowable density in the High Density Rural zone is one dwelling per 2.5 acres.

The applicant and property owner is LW Land Company, the subject site is approximately 67.6 acres in size and is located at the south end of Grass Valley Road, approximately ½ mile south of Whiskey Springs Road, the Assessor's Parcel Number is 077-130-23, the Master Plan Category is Rural Residential and the Regulatory Zone is High Density Rural. And,

If approved, authorize the Chair of the Board of County Commissioners to sign the Agreement. (Commission District 5.)

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AGENDA ITEM # \_\_\_\_\_

## **SUMMARY**

Possible second reading and adoption of an ordinance pursuant to NRS 278.0201 through 278.0207 approving a Development Agreement as required by the Warm Springs Specific Plan at WSSP.8.1 to utilize the land use designation specified on the Warm Springs Specific Plan – Land Use Plan for Palomino Ranch Estates.

Washoe County Strategic Objective supported by this item: Stewardship of our Community

## **PREVIOUS ACTION**

On February 8, 2018, the Washoe County Parcel Map Review Committee approved a series of five tentative parcel maps for Palomino Ranch Estates, subject to certain conditions of approval. Condition number 1 (Q) (viii) requires that the developer, “Shall obtain approval of a Development Agreement in accordance with WSSP.8.1 and WSSP Appendix G”.

On February 12, 2019, the Board of County Commissioners (Board) held a hearing on this development agreement. The Board chose not to introduce and conduct a first reading, but rather, instructed staff to take this item to the Warm Springs / Rural Citizen Advisory Board (WS/R CAB) and bring the comments from that board back to the BCC.

On April 23, 2019, the BCC held a hearing on this development agreement. The BCC introduced Bill Number (insert bill number) and conducted a first reading of an ordinance pursuant to NRS 278.0201 through 278.0207 approving a Development Agreement as required by the Warm Springs Specific Plan at WSSP.8.1 to utilize the land use designation specified on the Warm Springs Specific Plan – Land Use Plan for Palomino Ranch Estates, and required the applicant to submit amended and corrected documents, prior to the second reading of the ordinance, and to set the public hearing and second reading of the Ordinance for possible adoption during the County Commission meeting of May 28, 2019.

## **BACKGROUND**

The Warm Springs Specific Plan encompasses an area near the center of the Warm Springs Area Plan (the Warm Springs area is also known as Palomino Valley). The vision for the area includes low-density residential development that maintains a rural character.

The applicant has received initial approval of a series of tentative parcel maps to divide land in that area into a total of 15 lots, 3 of which are 2.5 acres in size, with the remainder being approximately 5 acres in size. Parcel maps which result in the creation of five or more lots are subject to the same development standards as a subdivision. Appropriate conditions of approval were imposed upon the approved tentative parcels maps by the Parcel Map Review Committee.

One of the conditions of approval requires the approval of a Development Agreement, in accordance with the Warm Springs Specific Plan, prior to recordation of any final map. The relevant parts of the Specific Plan are:

**PLAN ADMINISTRATION POLICIES AND ACTION PROGRAMS**

**WSSP.8.1 REQUIRE A DEVELOPMENT AGREEMENT BETWEEN ANY PROPERTY OWNER AND THE COUNTY AS A CONDITION OF PROJECT APPROVAL IN ORDER TO UTILIZE THE LAND USE DESIGNATION(S) SPECIFIED ON THE WARM SPRINGS SPECIFIC PLAN - LAND USE PLAN**

WSSP.8.1.1 The Washoe County Department of Development Review shall verify that a development agreement has been recorded for all projects requiring discretionary approvals prior to the issuance of any building permits. The development agreement shall be the legal instrument necessary to effectuate the increased land use development potential identified on the Warm Springs Specific Plan - Land Use Plan.

WSSP.8.1.2 The development agreement shall include, but is not limited to the following items:

- a. Provision for the collection of any fees necessary to pay for the construction of community infrastructure that benefits the Specific Plan area, provision for the construction of community infrastructure, and options for the crediting of any fees paid for infrastructure which is ultimately not constructed;

*Staff Comment:* Appendix G – Financing Plan, of the WSSP was adopted in March 1995, subsequent to the adoption of the WSSP itself in 1992. The Development Agreement submitted by the applicant does not include any provision for collection of fees for infrastructure. It should be noted that the Financing Plan provides specific amounts and methods of fees and payments for certain types of infrastructure. The Financing Plan was adopted with the Warm Springs Specific Plan in 1995. The Financing Plan has been found to be unworkable and financial resources specified in the Financing Plan at that time are no longer sufficient for development at this time.

In 2018, the County was involved in a lawsuit concerning the refund of the collected development fees. As part of that lawsuit, the Courts have determined that the development fees are impact fees as regulated within NRS Chapter 278B. Impact fees must be refunded to current property owners if the fees have not been used within a 10 year period. In a separate action, the Board directed staff to refund collected WSSP development fees to current property owners.

Staff was directed, by the BCC, to amend the WSSP to remove the financing plan. That amendment was approved by the Board of County Commissioners on March 14, 2019. Refund of those fees to property owners is underway at this time.

- b. Covenant, Conditions and Restrictions (CC&Rs) that implement the standards identified in the Warm Springs Specific Plan - Development Standards Handbook

Framework and/or specific development standards adopted with the project approval;

*Staff Comment:* The Development Agreement submitted by the applicant includes Covenant, Conditions and Restrictions (CC&Rs), and a Development Standards Handbook that includes the standards and concepts included in the Warm Springs Specific Plan - Development Standards Handbook Framework.

- c. Provision for the participation of any future property owner in any assessment district that provides services, facilities and/or maintenance for the mutual benefit of the Specific Plan area residents and property owners; and

*Staff Comment:* Section 5 of the Development Agreement submitted by the applicant is, “SADs and GIDs. Owners offers to and hereby agrees to waive protest in any special assessment or general improvement district proceedings and agrees to cooperate fully therewith.”

- d. Provision for credit against the construction of capital improvements, or related dedication of land for capital improvements listed in the financing plan when required to serve the new development.

*Staff Comment:* The Development Agreement submitted by the applicant does not make any provision for credit against the construction of capital improvements, or related dedication of land for capital improvements listed in the financing plan required to serve the new development. The new development will, instead, be required to construct capital improvements in accordance with all generally applicable requirements of Washoe County, in conjunction with the approval and recordation of any final map.

### **FISCAL IMPACT**

No fiscal impact.

### **RECOMMENDATION**

It is recommended that the Board of County Commissioners conduct a second reading and adopt an ordinance pursuant to NRS 278.0201 through 278.0207 approving a Development Agreement as required by the Warm Springs Specific Plan at WSSP.8.1 to utilize the land use designation specified on the Warm Springs Specific Plan – Land Use Plan for:

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development potential available on affected properties, which in this case would result in individual residential parcels of 2.5 acres or 5 acres in size. Additionally, the agreements would specify other aspects of allowable development on the properties, including uses allowed, density and intensity of those uses, building sizes, setbacks, building heights, and other matters concerning the development of the land. The allowable density in the High Density Rural zone is one dwelling per 2.5 acres.

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**POSSIBLE MOTION**

"I move to adopt Ordinance Number (insert ordinance number as provided by the County Clerk) based on the following findings:

1. That the Development Agreement as required by the Warm Springs Specific Plan at WSSP.8.1 to utilize the land use designation specified on the Warm Springs Specific Plan – Land Use Plan for Palomino Ranch Estates is in the best interests of the County in order to promote the health, safety and general welfare of the County's residents, by helping to provide some public services, uses and infrastructure, for which the Owner of the land voluntarily offers to pay.
2. The Development Agreement would promote the public interest and welfare of the County by helping to provide some public services, uses and infrastructure within the Warm Springs Specific Plan Area.
3. The Development Agreement sufficiently addresses the terms and conditions intended to protect the interests of the public, residents, and owners of the land subject to the Development Agreement and maintain the integrity of the Warm Springs Specific Plan."

Attachments: A. Development Agreement Application  
B. Development Agreement (amended and corrected)  
C. Ordinance  
D. Agency Comments

cc: Brian Murphy, LW Land LLC  
John Munson, Venture Engineering  
Mike Talonen, MST Surveying