



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: July 19, 2022

DATE: June 17, 2022

TO: Board of County Commissioners

FROM: Trevor Lloyd, Planning Manager, Community Services Department,
Planning & Building, 775.328.3617, tlloyd@washoecounty.gov

THROUGH: Dave Solaro, Assistant County Manager
775.328.3619, dsolaro@washoecounty.gov

SUBJECT: Public Hearing: Appeal of the Community Services Department (CSD) Director's rejection of the submittal entitled "Merger and Re-subdivision TM of St. James Village—May 2022" which constitutes the first final map submittal for Sierra Reflections (Tentative Map Case Number TM06-001). The submittal was rejected due to the timing of submittal and substantive issues. The appellant is World Properties, Inc.

The project is a 938-lot, single-family residential subdivision. The project site is located in the Pleasant Valley area, and is bordered on the north by Pagni Lane, on the east by US Highway 395 South and to the south is Little Washoe Lake. The project encompasses 29 parcels that total approximately 759.6 acres. (APNs 046-060-45, 47 & 55; 046-080-40; 046-090-01, 04 through 18, and 23 through 26; and 046-100-02 through 04, 07 and 10).

Appeals of CSD Director's decisions involving final maps are authorized in Section 110.610.50(f) of the Washoe County Code. The Board of County Commissioners (Board) may affirm, reverse or modify the decision of the CSD Director. (Commission District 2.)

SUMMARY

World Properties, Inc. ("The appellant") is appealing the Director of the Community Services Department's rejection of the submittal of the first final map for Sierra Reflections, a 938-lot single-family residential, common open space subdivision. This submittal was rejected by the Director on May 31, 2022, as the submittal was untimely and had multiple substantive deficiencies. See Attachment A.

Prior to this final map submittal, appellant submitted an "Amended and Restated Development Agreement" ("proposed 2022 DA") for the purpose of entering into a fifth development agreement in order to extend the time to record the first final map for Tentative Subdivision Map Case Number TM06-001 for the Sierra Reflections

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subdivision. This proposed 2022 DA was heard by the Board of County Commissioners (“Board”) on April 26, 2022, and the first reading of the ordinance to approve the proposed 2022 DA was not introduced by the Board. Following the Board’s decision to not introduce the first reading of the proposed 2022 DA, the appellant submitted a first final map for the Sierra Reflections subdivision to the Community Services Department (“CSD”) on May 25, 2022. *See Attachment B.*

The most recent development agreement for Sierra Reflections was approved by the Board on April 28, 2020 (“2020 DA”) through adoption of Ordinance No. 1649. *See Attachment C.* The 2020 DA was in effect until June 14, 2022, and provides that the tentative map will expire unless the first final map is recorded on or before the expiration date of the 2020 DA, being June 14, 2022. Specifically, section 2.1.9 of the 2020 DA, which is provided below, provides that the first final map must be recorded on or before June 14, 2022.

2.1.9 The next final map, to be a minimum of five lots, shall be recorded on or before the date of expiration of this Agreement [June 14, 2022]. All successive final maps, if the Landowner chooses to record in a series, must include a minimum of five lots. Unless otherwise provided herein, the deadlines for any final maps shall be governed by NRS 278.360.

In addition to the deadline for recording the first final map for Sierra Reflections subdivision set forth in the 2020 DA, Washoe County Code provides a deadline for submission of first final maps. Washoe County Code (“WCC”) 110.610.45(a) required the appellant to submit the first final map (“the preliminary submittal”), along with the items required by WCC 110.610.45(a)(1)-(5), a minimum of 60 days prior to the deadline for recordation. Appellant did not submit the preliminary submittal of the first final map for Sierra Reflections subdivision to CSD until May 25, 2022—which is only 20 days prior to the recordation deadline and the expiration of the 2020 DA. Accordingly, appellant’s submittal missed the deadline set forth in Washoe County Code by 39 days, and the Director reasonably rejected this untimely submittal.

Furthermore, the Director rejected the final map submittal because the plans did not conform with Section 2.1.9 of the 2020 DA, and the submittal was determined to be incomplete. As noted above, section 2.1.9 of the 2020 DA required the first final map to include a minimum of five lots. The final map submittal packet received by CSD contains six (6) common open spaces, two (2) utility parcels and one (1) road parcel. These divisions of land do not meet the 2020 DA requirements as they do not qualify as “a minimum of five lots”. Further, there are infrastructure requirements under WCC 110.610.45(a) and requirements in the conditions of approval for the tentative map, including utilities, street improvements, etc. that are not identified with the plans, specifications, and the necessary details for a complete review. Accordingly, the Director appropriately rejected the appellant’s submittal on substantive grounds as well.

Washoe County Strategic Objective supported by this item: Economic Impacts.

PREVIOUS ACTION

On April 26, 2022, the Board of County Commissioners (Board) voted to not introduce an ordinance to approve the “Amended and Restated Development Agreement” (“proposed 2022 DA”) between Washoe County and World Properties, Inc. for Sierra Reflections, a residential subdivision originally approved in 2006 (Tentative Map TM06-001).

On April 28, 2020, the Board enacted Ordinance No. 1649, which approved a fourth amendment and restatement of the 2008 development agreement (“2020 DA”), thereby extending the deadline for recording a final map until June 14, 2022.

On March 5, 2020, the applicant presented an update to the South Truckee Meadows/Washoe Valley CAB regarding the applicant’s desire to renew the development agreement to extend the deadline to record a final map until June 14, 2022, and to update the original conditions of approval. The CAB recommended approval of these proposals.

On May 13, 2014, the Board approved a third amendment and restatement of the 2008 development agreement, thereby extending the deadline for recording a final map until June 14, 2018. The filing deadline was further extended in accordance with that agreement by the Director of Planning and Building until June 14, 2020.

On May 25, 2010, the Board approved a second amendment and restatement of the 2008 development agreement, thereby extending the deadline for recording a final map until June 14, 2012. The filing deadline was further extended in accordance with that agreement by the Director of Planning and Building until June 14, 2014.

On March 18, 2008, the Board approved a development agreement extending the deadline for recording a final map until June 14, 2009. The filing deadline was further extended in accordance with that agreement by the Director of Planning and Building until June 14, 2010.

On June 14, 2006, the project received final approval from the Truckee Meadows Regional Planning Commission, as a project of regional significance, due to the number of lots approved.

On May 2, 2006, the Washoe County Planning Commission unanimously approved the Tentative Subdivision Map for Sierra Reflections, Case Number TM06-001.

BACKGROUND

Appellant is appealing the CSD Director’s decision to reject the submission of the first final map for Sierra Reflections. Appellant contends that the decision to reject the final map was in error and that the Board should approve the final map. Appellant has provided a written argument entitled “Supplement to Appeal of Denial by Washoe County Community Services Department” for its position that the first final map submittal was timely submitted, and that it complies with the 2020 DA’s five-lot requirement”. Appellant is incorrect.

The tentative subdivision map for Sierra Reflections was approved on May 2, 2006, and has received four extensions over the past 16 years. The approval was for a 938-lot, single-family residential development. Lot sizes range from 8,000 square feet to 43,445 square feet, with an average of 13,722 square feet for detached homes. Included in the 938 lots are 147 townhouses with a footprint of 1,102 square feet. As noted above, the

appellant has applied for the original 2008 Development Agreement and three extensions. This has resulted in the approval of four development agreements which were entered into on March 18, 2008, May 25, 2010, May 13, 2014 and April 28, 2020. The most recent DA was valid until June 14, 2022.

Timeliness of the First Final Map Submittal

The approved 2020 DA, as adopted by Washoe County Ordinance No. 1649, establishes an expiration date for the tentative map of June 14, 2022, and provides that the first final map must be recorded by that date.

Section 1 of the 2020 DA is labeled “General” and describes the history of prior development agreements as well as other background information. In describing the prior development agreements, section 1.4 of the 2020 DA states: “The Prior Agreements among other things provides for an extension of time for Landowner to record the first final map (“the Final Map”) to June 14, 2020.” Thus, the 2020 DA recognizes that the three prior agreements provided the Landowner with extensions of the deadline to record the first final map. In describing the next final map requirement, section 1.5 of the 2020 DA recognizes that: “[U]nless the parties have entered into this agreement [meaning the 2020 DA] . . . the Landowner must cause a final map (“the Final Map”) to be submitted prior to the expiration of the current recorded Development Agreement [which was the 2014 DA] by June 14, 2020.” So, section 1.5 of the 2020 DA recognizes that if the Board decided not to adopt the 2020 DA, then the Landowner would have to submit the first final map prior to the expiration of the 2014 DA. How much time prior (60 days) is governed by WCC 110.610.45(a).

Section 2 of the 2020 DA is labeled “Agreement Concerning Development of Land” and describes the terms of the 2020 DA. Section 2.1.3 of the 2020 DA states: “This agreement shall terminate . . . upon recordation of the final map or the first final map in a series.” Thus, recordation is the event which fulfills completion of the 2020 DA. Finally, section 2.1.9 provides that the first final map must be recorded on or before June 14, 2022, as set forth below:

2.1.9 The next final map, to be a minimum of five lots, shall be recorded on or before the date of expiration of this Agreement [June 14, 2022]. All successive final maps, if the Landowner chooses to record in a series, must include a minimum of five lots. Unless otherwise provided herein, the deadlines for any final maps shall be governed by NRS 278.360.

In appellant’s written argument, appellant claims the 2020 DA states: “the Landowner must cause a final map (the “Final Map”) to be **submitted** prior to the expiration of the current recorded Development Agreement by June 14, 2022.” See written argument, pgs. 3 & 6. However, that is *not* what the 2020 DA says, and this quote is an inaccurate representation of the language in the 2020 DA. Appellant also argues that its final map submission complies with the statutory requirements in NRS 278.360 requiring that a final map be “presented” to the County without any mention of recordation of the final map. Thus, appellant argues that there is no statutory requirement to record the first final map before the June 14, 2022 expiration of the 2020 DA. However, in making this argument, appellant ignores the plain language of NRS 278.360, as provided below:

NRS 278.360 Requirements for presentation of final map or series of final maps; extensions of time.

1. Unless a longer time is provided in an agreement entered into pursuant to NRS 278.0201 or 278.350:

(a) Unless the time is extended, the subdivider shall present to the governing body, or the planning commission or the director of planning or other authorized person or agency if authorized to take final action by the governing body, within 4 years after the approval of a tentative map:

Thus, NRS 278.360 provides that unless the time is extended by the parties through adoption of a development agreement, the subdivider shall present the final map to the county within four years of the approval of the tentative map. Here, the parties entered into the 2020 DA, so the presentation provisions of NRS 278.360 that normally apply when there is no development agreement are not applicable. This development agreement specifically provides that the deadline for recording the first final map has been extended to June 14, 2022.

Finally, pursuant to WCC 110.610.45(a), a final map submission which meets the preliminary submittal requirements must be provided to the Engineering Division not less than sixty (60) days prior to filing with the Community Services Department, i.e., prior to the deadline for recordation. The deadline to submit the first final map to the County to begin its review was Friday, April 15, 2022. However, the final map submission for Sierra Reflections was not provided to the County until May 25, 2022. Accordingly, the Sierra Reflections submittal missed the deadline set forth in Washoe County Code.

Substantive Issues with the First Final Map Submittal

The final map was further rejected because the contents of the submittal packet did not comply with the submission requirements of the 2020 DA. Specifically, section 2.1.9 of the 2020 DA states that the first final map must include a minimum of five (5) lots. The final map submission packet contains six (6) common open spaces, two (2) utility parcels and one (1) road parcel. It does not include any of the 938 residential lots associated with the Sierra Reflections tentative map. The Director determined that these divisions of land do not meet the 2020 DA's requirements as they do not qualify as "a minimum of five lots".

A "lot" is defined in WCC 110.902.15 as "a distinct part or parcel of land divided with the intent to transfer ownership or for building purposes, which abuts upon a permanent means of access and is assigned a single parcel number by the Washoe County Assessor's Office".

Appellant argues that the rationale used to reject the final map based on the definition of a "lot" is incorrect, stating: "there is no statutory or code requirement that a "lot" be a residential lot intended to be purchased by a residential buyer. Instead, both provisions simply require a "transfer of ownership." While the definition of "lot" in WCC 110.902.15 doesn't specifically refer to residential lots, the 2020 DA contemplates lots as residential lots in sections 1.2 and 2.1.4. Section 1.2 provides that the total number of

“residential dwelling units” allowed within the tentative map boundaries is 938. Section 2.1.4 provides that the permitted use of the tentative map property is for a “938-lot single family dwelling development.” Thus, the 938 “residential dwelling units” refers to the 938 lots, of which a minimum of five lots must be recorded with the first final map. *See* section 2.1.9 of the 2020 DA.

Appellant contends that the final map contains one lot consisting of a “superpad” comprised of a “greater than five-acre lot upon which five future one-acre lots will be comprised upon further subdivision”. *See* written argument, p. 7. Further, appellant contends that four lots should be construed from common open space since “the common area parcels have been offered for dedication to Washoe County for the common-space public trail planned pursuant to Section 2.1.6 and 2.1.11 of the 2020 Development Agreement.” *See* written argument, p. 7. However, section 2.1.6 merely provides that the Landowner will grant the County a non-exclusive public trail easement as generally depicted on the tentative map, with the Landowner having the right to relocate the easement as development proceeds. A non-exclusive public trail easement is not a transfer of ownership to the County. Further, section 2.1.11 does not concern offers of dedication nor transfers of ownership.

The areas of land proposed by appellant as common open space parcels are not considered “lots” within the meaning of Washoe County Code Chapter 110 and are not considered for the five (5) lot requirement in section 2.1.9 of the 2020 DA.

Finally, as noted above, there are infrastructure requirements under WCC 110.610.45(a) and requirements in the conditions of approval for the tentative map, including utilities, street improvements, etc. that are not identified with the plans, specifications, and necessary details for a complete review. Accordingly, the Director appropriately rejected the appellant’s submittal on substantive grounds.

Staff believe that the Director’s decision is well-reasoned. However, should approval of the first final map be granted by the Board, conditions of approval are provided that require appropriate plans and documentation be provided to all relevant County agencies. Compliance with all generally applicable code provisions would be also required. Refer to Attachment D (TM06-001 Action Order).

FISCAL IMPACT

No fiscal impact.

RECOMMENDATION

It is recommended that the Board of County Commissioners review the whole of the record and take one of the following actions:

1. Affirm the decision of the Director of the Community Services Department to reject the submittal of the first final map and deny the appeal; or

2. Reverse the decision of the Director of the Community Services Department to reject the submittal of the final map and deny the appeal. Should the Board select this option, the Board should provide instructions to CSD on the timeline for appellant to submit remaining required documentation and to record the first final map.

POSSIBLE MOTION

Should the Board agree with the action taken by the Director of the Community Services Department, a possible motion would be:

“Move to affirm the decision of the Director of the Community Services Department to reject the submittal of the final map and deny the appeal.

or

Should the Board disagree with the action taken by the Director of the Community Services Department, a possible motion would be:

“Move to reverse the decision of the Director of the Community Services Department to reject the submittal of the final map and approve the appeal. I further direct the Community Services Department to proceed with the review and recordation of the final map submission in compliance with all conditions of approval as amended by the Board on April 28, 2020 with the additional following instructions [insert specific guidance].

ATTACHMENTS / RECORD ON APPEAL:

Attachment A: Letter Rejecting Final Map Submittal Dated May 31, 2022

Attachment B: Appeal to the Board of County Commission Application

Attachment C: Ordinance 1649, which approved the 2020 Development Agreement

Attachment D: TM06-001 Action Order

Attachment E: Conditions of Approval Amended April 2020

Attachment F: Final Map Submission

cc:

Appellant: World Properties, Inc. c/o Fred Woodside
fred.woodside@att.net

Appellant Counsel: Lemons, Grundy & Eisenberg; Attn: Douglas R. Brown, Esq.
6006 Plumas St., Suite 300, Reno, NV 89519
drb@lge.net