



# WASHOE COUNTY

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## STAFF REPORT

**BOARD MEETING DATE: February 12, 2019**

**DATE:** Friday, January 11, 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,  
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**SUBJECT:** Introduction and 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 (WSSP) 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 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,

Set the public hearing and second reading of the ordinance for March 12, 2019. (Commission District 5.)

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

## **SUMMARY**

February 12, 2019: The Washoe County Commission may introduce and hold the first reading of an ordinance pursuant 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. The County Commission may also set a public hearing and second reading of the ordinance for March 12, 2019.

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”.

## **BACKGROUND**

The Warm Springs Specific Plan encompasses an area near the center of the Warm Springs Area Plan, this 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 approximately 15 lots, 3 of which are 2.5 acres in size, with the remainder being approximately 5 acres in size. Series of parcel maps 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. Refund of those fees to property owners is underway at this time.

Staff has been directed to amend the WSSP to remove the financing plan. That item is tentatively scheduled to be heard by the Board of County Commissioners on February 26, 2019.

- 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. Owner 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. Staff of the Planning and Development Division are currently in the process of bringing a Master Plan Amendment before the Board of County Commissioners, at their direction, to remove Appendix G – Financing Plan from the Warm Springs Specific Plan, as the financing plan has been found to be unworkable, as noted above. That item is tentatively scheduled to be brought before the Board of County Commissioners on February 26, 2019.

The Development Agreement has been reviewed by appropriate agencies and several inconsistencies and required corrections have been noted including:

Washoe County Planning and Building:

- The Development Agreement and all attachments must be submitted to Washoe County in a standard electronic format that allows editing, such as Microsoft “Word” document, to allow the creation of an acceptable ordinance document.
- The cover page of the Development Standards Handbook shall be edited to include only Washoe County Assessor’s Parcel Number 077-130-23. This shall be consistent throughout the entire document
- Section 9.9 of the agreement and throughout the entire document: “Department of Community Development, Current Planning Division” must be changed to “Community Services Department, Planning and Building Division.”
- Exhibit C of the Development Agreement, the Development Standards Handbook, has no page numbers. All pages shall be numbered and shall be consistent with the Table of Contents.
- The development agreement includes a number of incorrect references to NRS 5278 and WCC 5110. The references should be to NRS chapter 278 and WCC chapter 110. This shall be consistent throughout the document.

Washoe County Regional Parks and Open Space:

- The suggested tree list in Appendix A includes Russian Olive (*Elaeagnus angustifolia*) Russian Olive may become invasive and outcompete native vegetation, replace Russian Olive in the suggested tree list and landscaping plans with the closely related native species Silver Buffaloberry (*Shepherdia argentea*).

Washoe County Engineering and Capital Projects:

- Exhibit C of the Development Agreement consists of the Development Standards Handbook. The title page of the Development Standards Handbook references Palomino Ranch Estates, while the Residential Design Guidelines section of the Handbook references Tumbleweed Estates. The project name shall be clarified and consistent throughout the Development Standards Handbook.
- Section 6.d. on page 6 of the CC&Rs (Exhibit D of the Development Agreement) may conflict with the Mailboxes section of the Development Standards Handbook (Exhibit C of the Development Agreement). The documents shall be edited to remove any conflict.
- Section 11 on page 12 of the CC&Rs (Exhibit D of the Development Agreement) relating to the undergrounding of utilities appears to conflict with the Utilities section of the Development Standards Handbook (Exhibit C of the Development Agreement). The documents shall be edited to remove any conflict.
- The Development Agreement shall be edited to include the following provisions
  1. In addition to the grading plan requirements in the Irrigation section of the Development Standards Handbook, all grading shall be in compliance with Washoe County Code Article 438 Grading Standards.
  2. All traffic control signage shall be in compliance with the current edition of the Manual on Uniform Traffic Control Devices (MUTCD).

The Palomino Valley General Improvement District noted some of the same corrections previously mentioned as well as the following:

- Exhibit E, Disclosure Statement refers to an update of the Warm Springs Area Plan in 2006. That section must be corrected.
- Exhibit D, CC&R's, page 15 of 19, requires that, "In the event a project does not have an architectural control committee, then applicants will be required to submit an application to the citizen advisory board with definitive design, materials and color combinations for their review and recommendation prior to submittal to the County of Washoe." The Citizen Advisory Board does not review architecture. This section must be removed.
- Section 6.3 of the Development Agreement reads, "6.3 Subsequent Actions "Owner acknowledges and agrees this Agreement does not relieve the from compliance ..." and must be edited to read, "Owner acknowledges and agrees this Agreement does not relieve the **owner** from compliance ..."
- The Road Maintenance Agreement, a part of the Conditions, Covenants and Restrictions shall be corrected from "The properties served by and begetting from use ..." to "The properties served by and **benefiting** from use ..."

The Palomino Valley GID also expressed concern over the adequacy and nature of roadways that are proposed to serve the project (*see Attachment D, p7-8*). Conditions of approval have been included with the previously-approved series of tentative parcel maps to require construction of roadways to serve the project that comply with generally applicable Washoe County standards. Those conditions are under the purview of the County Engineer.

### **FISCAL IMPACT**

No fiscal impact.

### **RECOMMENDATION**

It is recommended that the Board of County Commissioners introduce and conduct 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:

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**Require the applicant to submit amended and corrected documents addressing each of the bulleted items on pages 4 and 5 of this report, prior to the second reading of the ordinance.** And,

Set the public hearing and second reading of the ordinance for March 12, 2019.

### **POSSIBLE MOTION**

Should the Board agree with staff's recommendation, a possible motion would be:

“Move to introduce Bill Number (*insert bill number as provided by the County Clerk*) and conduct 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 require the applicant to submit amended and corrected documents addressing each of the bulleted items on pages 4 and 5 of this report, 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 March 12, 2019”.

Attachments:

- A. Development Agreement Application
- B. Development Agreement
- C. Ordinance
- D. Agency Comments

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