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**NEVADA COUNTY BOARD OF SUPERVISORS**  
**Board Agenda Memorandum**

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**MEETING DATE:** June 3, 2025

**TO:** Board of Supervisors

**FROM:** **Brian Foss, Planning Director**

**SUBJECT:** A public hearing to consider the Planning Commission's April 24, 2025, unanimous vote (vote 4-0; 1 absent) recommending the Board of Supervisors adopt an Ordinance approving a Development Agreement (MIS24-0015) between the County of Nevada and the Shad C. Skikos Trust, for Phases I and II of the South Woodlands Vesting Tentative Final Map project, located off the north side of Greenhorn Road and east of the Nevada County Airport, within unincorporated western Nevada County, to extend the expiration date of the South Woodlands Vesting Tentative Final Map an additional three years with two potential 3-year extensions of time.

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**RECOMMENDATION:**

The Planning Commission, on April 24, 2025, voted to recommend that the Board of Supervisors take the following action:

1. Introduce, waive further reading, and adopt the attached Ordinance approving the Development Agreement (MIS24-0015), pursuant to Nevada County Code, Section 12.05.180.E, based on the findings contained within the attached Ordinance (*Exhibit A*), to allow the South Woodlands Vesting Tentative Final Map an additional three years with two potential 3-year extensions of time.

**ATTACHMENTS:**

1. Ordinance - Development Agreement
    - a. South Woodlands Development Agreement
  2. Proposed CEQA Determination Section 15162
  3. Project Vicinity, Zoning, and Public Notice Map
  4. South Woodlands Vesting Tentative Final Map – FM14-002
  5. South Woodlands Conditional Approval Letter – FM14-002
  6. April 24, 2025, Draft Planning Commission Minutes
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**BACKGROUND:**

At the regular meeting of March 10, 2016, the Nevada County Planning Commission approved the South Woodlands Vesting Tentative Final Map and Management Plans to subdivide 152.52 acres into 30 residential lots, to be recorded in two phases.

Condition A.2 of the Conditional Approval states, "The Final Map must be recorded within 36 months from the date of Tentative Map approval, unless an extension is filed pursuant to Section

66452 of the Government Code (Subdivision Map Act) and granted by the Planning Commission pursuant to Nevada County Code Section 12.05.100, or is automatically granted by legislative updates to the Government Code. If no extension is granted, the permit shall become null and void, as to the portion of the map not recorded.”

Due to the map’s original expiration date on March 10, 2019, the first three-year extension of time (PLN19-0026) was approved by the Planning Commission which extended the life of the map until March 10, 2022. At the regular meeting of May 26, 2022, the Nevada County Planning Commission approved a second extension of time which extended the projects approval to March 10, 2025 (before considering the State Government Code extensions discussed below).

Pursuant to Section 13.02.120 - Tentative Maps of the Nevada County Code and Section 66452.6 of the California Subdivision Map Act, and as referenced in the previous extensions of time, “the time at which such map expires may be extended by the Advisory Agency authorized to act on the tentative map for a period or periods not exceeding a total of six (6) years, or as may be further specified by Cal. Gov’t Code § 66452.6(e).” Due to the South Woodlands being extended six years, the expiration date of the map can no longer be extended though discretionary extension of time approvals. However, there are still extension options available in the State Government Code discussed below.

Cal. Gov’t Code § 65914.4(a) extends the expiration date for a housing entitlement that was issued prior to January 1, 2024, and will expire prior to December 31, 2025, by 18 months. Pursuant to Cal. Gov’t Code § 65914.4(c)(1)(E), a Vesting Tentative Map is considered a housing entitlement. Therefore, without the approval of the Development Agreement and without an extension offered by Cal. Gov’t Code § 66452.6(e), the expiration of the South Woodlands Tentative Final Map would be September 10, 2026.

Finally, under the provisions of the Development Agreement (California Government Code, Section 65864 et seq.), a developer may request an extension of a Vesting Tentative Map or Final Map tied to a Development Agreement. Tentative maps may be extended for the life of a Development Agreement (Gov. Code, § 66452.6.). Therefore, on December 4, 2024, the developer applied for a Development Agreement to extend the life of the map that would otherwise expire on September 10, 2026.

### **PROJECT DESCRIPTION:**

The project is a proposed request by The Shad C. Skikos Trust, to enter into a Development Agreement with the County of Nevada in order to extend the South Woodlands (FM14-002) Vesting Tentative Final Map expiration. The developers Development Agreement is requesting a period of 10 years with the potential for three 3-year extensions for map recordation, which would otherwise expire on September 10, 2026. The project as proposed does not include a proposal to amend the Tentative Final Map for South Woodlands and only seeks to extend its expiration date and timeline for Map recordation.

The project associated with the proposed Development Agreement is a Vesting Final Map to subdivide 152.52 acres (currently within two lots) into 30 residential lots ranging from 1.7 acres to 20.3 acres in size. All but two of the new residential lots (Lots 20 and 21) would be served by Nevada Irrigation District (NID) treated water. Lots 20 and 21 would be served by individual wells

and would be 19.9 and 12.8 acres in size. All lots would be served by septic systems. The primary access serving the subdivision would be Greenhorn Road approximately 3 miles east of the Greenhorn/Brunswick intersection, via a two-acre property (APN 39-170-10) immediately east of Toby Trail. The secondary access for this project is a future unlocked, gated connection from Sierra Sky Circle to Lee Lane out to Idaho-Maryland Road. This emergency access route has previously been identified as a critical regional emergency access route for residents of Greenhorn Road, as Greenhorn is now a 4+-mile dead-end road. The subdivision map is proposed to be recorded in two phases, with Phase 1 as the larger of the two and requiring the bulk of the subdivision improvements. Phase 1 includes 21 lots fronting on the new access road “South Woodlands Lane” and along the existing portion of Lava Cap Mine Road within the eastern area of the project site. Phase 2 would include 9 lots as well as the construction of the remaining looped portion of the new road “Sierra Sky Circle.”

These improvements are consistent with those improvements identified and analyzed in the adopted Mitigated Negative Declaration (EIS14-010).

### **DEVELOPMENT AGREEMENT BACKGROUND:**

The primary purpose of a Development Agreement as outlined by Nevada County Code, Section 12.05.180– Development Agreements and California Government Code, Section 65864 is to ensure that various operational aspects of the project are clearly understood by all parties and that key elements and features of the project (phasing, infrastructure, fees, approval timelines, etc.) are clearly outlined for all parties involved in the project.

The Development Agreement provides a necessary degree of assurance to the project developer that they may be able to undertake the completion of the project as otherwise contemplated and presented without undue interference or complications resulting from uncertainty about project components or a risk of having entitlements revoked or regulations modified during the course of the project’s completion.

Typically, Development Agreements are adopted in conjunction with the processing of a development project. The development project is typically designed to incorporate a public benefit in exchange for the assurance provided by the Development Agreement. Although an after-the-fact Development Agreement is not the usual, it does not prevent the County from entering into the agreement.

To enter into the agreement, findings must be made that it “is consistent with the public convenience, general welfare, and good land use practice, making it in the public interest to enter into the Development Agreement with the applicant.” The demonstration of entering into a Development Agreement being in the public interest has typically been achieved by providing a benefit to the public that is more than the minimum required by the County Code.

The proposed South Woodlands Development Agreement does not offer additional public benefit beyond what was required with the original project approval. However, the original project did include the installation of wooden privacy fences at two locations along the project entrance off Greenhorn Road and the installation of a 4-foot-wide roadside trail for pedestrian use, which aligns with County guidelines and is above the minimum required by the County Code to approve a project. The proposed South Woodlands Development Agreement states the “County will benefit

from the substantial staff time, environmental studies, public involvement, and public hearings, including the environmental and neighborhood protections included in the project approval, including the Project's construction of an emergency access road between Greenhorn Road, a dead-end road, and Idaho Maryland Road." The original project provides additional large lots for likely above median income housing and an emergency secondary access route, but this does not provide an additional incentive to enter into a Development Agreement which would extend the map beyond the timelines allowed by County Code and the California Subdivision Map Act because those project elements are inherent with the project approval. The County's choice to enter into the Development Agreement is discretionary and allows the County to negotiate terms to demonstrate entering into the Development Agreement is in the public interest.

While processing the Development Agreement application, staff corresponded with the developer's representative to negotiate terms such as the installation of a fire hydrant along Greenhorn and/or installation of fire hydrants within 1,000 feet of all parcels (as recommended by the Nevada County Consolidated Fire District), enhanced mitigation fees, donation of a substantial endowment or land to a local land trust or community organization for the public benefit, or establishment of an open space conservation area within the County. During a meeting with the developer's representative, staff also suggested developing the roads to meet current county standards rather than the lower standards that are vested with the approval or the inclusion of affordable or workforce housing with the development. The developer's representative declined to provide the County with any public benefit for entering into the Development Agreement and stated the benefit provided by the original project is adequate.

Additionally, it should be noted that a County or City has the ability to impose new conditions on an extension of time to a tentative map (*See Rossco Holdings, Inc v. State of California* (1989) 212 Cal.App.3d. 642; see also *County of Imperial v. McDougal* (1977) 19 Cal.3d 505). If a subdivider does not agree to a new condition, a County can deny the extension within its discretion under the reasonable exercise of the police power. If the County does so, the Tentative Map will expire, and the subdivider will have to obtain a new Tentative Map that may have new conditions (see *McMullan v. Santa Monica Rent Control Board* (1985) 168 Cal.App.3.d 960). Nevada County has approved two extensions of time for the South Woodlands Tentative Final Map and did not impose new conditions with either extension.

Expiration dates for Tentative Final Maps are built into the Subdivision Map Act because over time, there may be changes in laws or regulations. Vested tentative maps establish certain rights for developers, such as being able to develop based on the rules in effect at the time the map was approved. However, land-use regulations can change (e.g., new zoning laws, environmental standards, or building codes), and expired maps ensure that developments comply with up-to-date rules. Expiration of maps encourages developers to act within a reasonable time frame to begin construction. Without expiration, land could remain undeveloped for extended periods, leading to potential land speculation where developers might hold onto land in anticipation of future changes or improvements, rather than developing it to meet current needs.

#### **STAFF COMMENT:**

In order to approve the Development Agreement, a Finding must be made that the Agreement is consistent with the General Plan and Zoning Regulations and that entering into the proposed

Agreement is in the public interest. As proposed, the developer is not proposing any changes to the previously approved project or the Conditions of Approval with their submitted Development Agreement (MIS24-0015) and only seeks to extend the Vesting Tentative Final Map approval for a period not to exceed 10 years with a potential for three 3-year extensions for Map recordation. Further, the developer's representative has declined to entertain any of staff's recommendations to help support the Finding that entering into the Development Agreement is in the public interest and has elected to not provide any additional public benefit to justify their request for an additional 19 years of time to meet their original Conditions of Approval and Mitigation Measures. If the Development Agreement is approved as proposed by the developer's representative, the developer will be provided with up to 29.5 years from the original approval date. If the Development Agreement is not approved, the project approval will expire on September 10, 2026. The developer submitted the proposed Development Agreement on December 4, 2024, prior to the expiration date of the Vesting Tentative Final Map. The developer has not made progress in completing the project and has not recorded any phases of the map at this time.

Although the developer has not followed the staff's recommendation to provide a public benefit for entering into the Development Agreement, there is merit to extending the life of the map.

There is a housing shortage in the County and the County is not projected to meet its Regional Housing Needs Allocation. Electing to not enter into the Development Agreement to extend the life of the map would result in a loss of potential housing. Even though this project is very likely to result in above moderate-income housing, which is the most common type of new housing development in the County and doesn't directly provide affordable housing, a map approved today in that location would likely result in the same style of residential development. Since the approval of the South Woodlands map, the site has not been rezoned to allow higher density or more affordable development. Furthermore, it is unlikely that this parcel would be rezoned to higher density zoning due to it being located further away from the urban clusters where higher density development is encouraged. The subdivision may result in homeowners eventually building accessory dwelling units so overall, the potential for additional housing is greater with the subdivision than without.

The standards to which the project is vested are similar to the standards to which it would be held if it were approved today. The main difference is the required road widths: the emergency access road from Sierra Sky Circle to Lee Lane would be required to be constructed to a Fire-Safe Road Standard. The Fire-Safe Road Standards to which the map is vested include two 9-foot-wide lanes with 1-foot shoulders. The current Fire Standard Access Road standards include two 10-foot-wide lanes with 2-foot-wide shoulders.

One of the reasons why maps expire is to prevent land speculation and to encourage timely development of projects the community needs now, such as housing. However, the developer is waiting for land to become more valuable before developing. The County understands that a project has to be economically feasible, but delaying the development of housing for potentially 29.5 years for real estate speculation does not address the housing needs of today. The County has extended the map as long as the County Code allows while not requesting any concessions.

Therefore, the Planning Department recommended that the Planning Commission recommend the Board of Supervisors to approve the Development Agreement to extend the expiration of the South Woodlands subdivision for the amount of time a new map would be approved for, which is 36

months with up to six years of extensions, due to the original South Woodlands project undergoing environmental review and public input during the Planning Commission hearings that is substantially in alignment with the standards of today; the opportunity to develop new rural residential parcels with public water; and the development of an important emergency access connection between Greenhorn Road and Idaho-Maryland Road.

### **ENVIRONMENTAL REVIEW:**

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162, when a Final Environmental Impact Report or negative declaration has been adopted for a project, no subsequent EIR/MND shall be prepared for that project under certain circumstances as outlined in *Attachment 2*. Since there has been no change to the physical environment following the approval in 2016 and the location, design and intensity of the proposed project is the same as previously approved, the Planning Department has determined that based on the proceeding legal standards and as discussed in further detail in *Attachment 2*, the proposed approval does not trigger the requirements for a subsequent Environmental Impact Report or Mitigated Negative Declaration. The approval of this project reveals neither previously undisclosed significant environmental impacts nor a substantial increase in the severity of previously disclosed impacts. Therefore, the original environmental document fulfills the environmental review requirements of the current project as provided for in CEQA Guidelines Section 15162.

### **PLANNING COMMISSION ACTION:**

On April 24, 2025, the Nevada County Planning Commission held a duly noticed public hearing to consider the South Woodlands Development Agreement.

The developer's representative requested the term of the Development Agreement be for 10 years, with the potential for nine years of additional extensions. The Planning Department recommended the term of the Development Agreement be the length a newly approved map would be for, which is three years with up to six years of extensions. The developer's representative stated that the South Woodlands Map is being treated unfairly compared to other projects with associated Development Agreements.

Planning Department staff explained that the circumstances of the projects and the Development Agreements associated with them are unique and the public benefit proposed with each project is different. Deer Creek Park II and Harmony Ridge Estates were focused on specifically.

The Development Agreement for Harmony Ridge Estates was developed and negotiated concurrently with the processing and approval of the subdivision. This is the standard way a Development Agreement is approved.

Deer Creek Park II was the first project with a Development Agreement that was applied for after the original project was approved. However, this project provided many concessions to incentivize the County to approve the project initially, including payment of special mitigation fees to the City of Nevada City for Boulder Street impacts, gift deeding over 40 acres of watershed property to the City of Nevada City for water quality protection, donation of a 330 acre timber management conservation easement to the Bear Yuba Land Trust along with the additional donation of a substantial endowment fund, and the construction of public access trails.

Like Deer Creek Park II, the South Woodlands Development Agreement was applied for after the approval of the original project. However, South Woodlands does not provide the same level of public benefit with the original project approval as Deer Creek Park II does. Providing secondary access for a development that is beyond dead end road standards is a requirement of the County Code. The concession by Deer Creek Park II to gift deed hundreds of acres of land exceeded the requirements of the County Code and demonstrated the additional public benefit that is required to enter into a Development Agreement.

As discussed above, the circumstances and public benefit offered by each subdivision are unique. The idea that the approval of one after-the-fact Development Agreement for one exceptional project (Deer Creek Park II) sets a precedent that obligates the County to enter into after-the-fact Development Agreements for every map previously approved, regardless of circumstances and even when no additional public benefit is offered, is incorrect and tries to establish a precedent that conflicts with the purpose of expiration dates for maps within the County Code and the Subdivision Map Act.

During negotiations with the Planning Department, the developer's representative declined to provide any additional public benefit to justify the Development Agreement and stated that the already required secondary access is adequate public benefit.

On April 24<sup>th</sup>, 2025, the Planning Commission recognized the importance of the secondary access from Greenhorn and asked the developer's representative if the secondary access can be constructed within a shorter time period, such as five years. The representative declined this request as well.

The Commission unanimously (4-0 Vote), one absent, recommended that the Board of Supervisors approve the Development Agreement to allow the South Woodlands Vesting Tentative Final Map an additional 3-years with two potential 3-year extensions of time.

### **SUMMARY:**

In order to approve the Development Agreement, a Finding must be made that entering into the proposed Agreement is in the public interest. Historically, this has meant providing public benefit beyond meeting the minimum standards required to approve the project initially. County staff recommended to the developer's representative that additional public benefit should be provided to justify entering into the Development Agreement. Although the developer has not followed staff's recommendation to provide a public benefit for entering into the Development Agreement, there is merit to extending the life of the map.

Therefore, the Planning Commission recommended the Board of Supervisors approve the Development Agreement to extend the expiration of the South Woodlands subdivision for the amount of time a new map would be approved for, which is 36 months with up to six years of extensions.

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**RECOMMENDATION:** The Planning Commission has recommended that the Board of Supervisors take the following action:

1. Introduce, waive further reading, and adopt the attached Ordinance approving the Development Agreement (MIS24-0015), pursuant to Nevada County Code, Section 12.05.180.E, based on the findings contained within the attached Ordinance (Attachment 1), to allow the South Woodlands Vesting Tentative Final Map an additional 3-years with two potential 3-year extensions of time.

**Item Initiated by:** David Nicholas, Associate Planner

**Approved by:** Brian Foss, Planning Director