



COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
950 MAIDU AVENUE, SUITE 170, NEVADA CITY, CA 95959-8617
(530) 265-1222 FAX (530) 478-5799 <http://mynevadacounty.com>

Sean Powers, Agency Director

Agricultural Commissioner

Building Department

Environmental Health

Planning Department

Dept. of Public Works

NEVADA COUNTY BOARD OF SUPERVISORS

Board Agenda Memo

MEETING DATE: October 24, 2017

TO: Board of Supervisors

FROM: Daniel Chatigny, CFAO

SUBJECT: Resolution approving an agreement with ZALANTA RESORT AT THE VILLAGE, LLC to accept an in-lieu fee in exchange for release of affordable housing restrictions on 18 parcels in the DarkHorse Subdivision.

RECOMMENDATION: Adopt the resolution.

FUNDING: Revenue from this agreement will come from ZALANTA RESORT AT THE VILLAGE, LLC ('ZALANTA') and will be deposited into the Housing & Community Services fund (\$331,200) and the Community Development Agency fund (\$8,800 for past and current administrative fees). Funds are going into Housing & Community Services in accordance with past practices; those funds will be restricted pending further discussion and direction from the Board of Supervisors on use of the funds. There is no budget amendment required and no impact on the General Fund.

BACKGROUND: The Final Maps for the DarkHorse Subdivision in south Nevada County were approved by the Board of Supervisors by resolutions 02-253 on October 1, 2002 (Phase II) and 04-178 on May 4, 2004 (Phase III). Subject to Nevada County's General Plan, the subdivision was required to have an inclusionary affordable housing component of ten percent (10%) of the total lots created. These final maps approved 223 residential lots and were allowed to go to record because the owner executed Declarations of Inclusionary Housing Restrictions. The Owner precluded the sale or transfer of twenty (20) lots for this requirement until a permanent inclusionary housing agreement could be reached.

On April 11, 2006 the Board of Supervisors, by Resolution 06-163, approved an Affordable Rental Housing Development Agreement (Agreement) with the Developer. The terms of the Agreement summarized, were that the Developer agreed to construct at least twenty-three (23), and up to thirty

(30) affordable units on a separate parcel owned by the Developer, known as Phase IV. The Developer would record a deed of trust in favor of the County to insure completion of the affordable housing units. The original 20 lots restricted by the Declarations of Inclusionary Housing Restrictions would become “Released Lots” as part of this Agreement. As each of these 20 lots sold an amount of \$67,777 would be set aside in an escrow account to be used for the construction of the infrastructure for the Phase IV development. The amount of \$67,777 was calculated by the total estimate of the Phase IV infrastructure improvements divided by 20 (the number of restricted lots). The County would release each restriction at the time the funds from each sale made it to the escrow account.

In 2006, The Board of Supervisors declared that the Developer was in default of the Subdivision Improvement Agreements. The County stepped in, received Improvement Bond settlements and orchestrated the completion of the infrastructure for Phases II and III. Additionally, the Developer failed to meet any of the terms of the Agreement. Owens Financial, now known as the legal entity ZALANTA RESORT AT THE VILLAGE, LLC (‘ZALANTA’) foreclosed on the Developer and assumed ownership of 75 residential lots.

Eighteen (18) of these 75 lots are identified as “Released Lots” and have a restriction against each of them for an amount of \$67,777. The remaining two (2) lots were owned by private entities and each has had its restriction previously released by the County because of ownership issues with the parcels at the time the restrictions were recorded. ZALANTA has approached the County to request that the restrictions be removed in order to make the lots more marketable. The restrictions were proving to be an obstacle to selling the lots due mostly to the dramatic decrease in value of the lots after the Great Recession. The average sales price for the first thirty-three lots (33) was \$289,118. The \$67,777 restriction amounts to 23% of that average sales price which made the Agreement palatable to the Developer. Currently, the most recent three (3) lot sales have averaged only \$115,000 and the restriction accounts for 60% of the value. The eighteen (18) lots owned by ZALANTA have an approximate average assessed value of \$80,000. ZALANTA and the County have negotiated the sum of \$331,200 to buyout the affordable housing restriction. The \$331,200 is calculated by taking the approximate average assessed value of the eighteen (18) lots of \$80,000 and multiplying it by 23% for \$18,400 per lot. County staff believes this is a fair and justifiable offer. County staff negotiated the total amount of the agreement to be \$340,000 to also cover past and current County administrative costs on this issue (\$8,800 estimated costs).

The Board of Supervisors is being asked to exercise its discretionary power to approve an agreement amending the amount of the per lot affordable housing contribution and satisfy an existing condition of approval for the DarkHorse Final Map. Environmental impact associated with satisfaction of this condition was studied when the original project was approved. The owner has a right to build the same house before the proposed action as it will after the action is taken. Therefore, there are no new or reasonably foreseeable impacts associated with this action.

The County will restrict the \$331,200 non-administrative related funds from this agreement, pending further discussion and direction from the Board of Supervisors.

Item Initiated by: Daniel Chatigny, CFAO
Approved by: Sean Powers, CDA Director

Submittal Date: October 6, 2017

Revision Date: