

DRAFT: August 16, 2022

WORKING COPY
INFORMATION ONLY

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT: DELETED LANGUAGE~~

BOLD TEXT: NEW LANGUAGE

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040

Summary: To adopt a Development Agreement for Highland Village II.

BILL NO. _____

ORDINANCE NO. _____

TITLE:

An ordinance pursuant to Nevada Revised Statutes 278.0201 through 278.0207 adopting a development agreement between Washoe County and LC Highland 2, LLC for Highland Village II, which limits the gross density to 4.5 dwelling units per acre for the ±18.3-acre project area (APNs 508-020-04, -42 & -44) for a maximum of 82 total dwelling units.

WHEREAS:

- A. Following a first reading and publication as required by NRS 244.100 (1), and after a duly noticed public hearing, this Board of County Commissioners desires to adopt this Ordinance; and
- C. This Board of County Commissioners has determined that this ordinance is being adopted pursuant to NRS 278.0201, and is therefore not a "rule" as defined in NRS 237.060 requiring a business impact statement.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DOES HEREBY ORDAIN:

SECTION 1.

The Development Agreement for Highland Village II attached hereto as Attachment A-1 is hereby APPROVED by this ordinance. The Chair

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is authorized to execute and deliver it for recording in the official records of Washoe County.

SECTION 2. General Terms.

1. All actions, proceedings, matters and things heretofore taken, had and done by the County and its officers not inconsistent with the provisions of this Ordinance are ratified and approved.
2. The Chair of the Board and the officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance. The District Attorney is authorized to make non-substantive edits and corrections to this Ordinance.
3. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.
4. Each term and provision of this ordinance shall be valid and shall be enforced to the extent permitted by law. If any term or provision of this ordinance or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then it shall be excised from this ordinance. In any event, the remainder of this ordinance, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

Proposed on _____ (month) _____ (day), _____ 2022.

Proposed by Commissioner _____.

Passed _____ (month) _____ (day), _____ 2022.

Vote:

Ayes: Commissioners _____

Nays: Commissioners _____

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Absent: Commissioners _____.

Attest:

Janis Galassini, County Clerk

Vaughn Hartung, Chair
Washoe County Commission

This ordinance shall be in force and effect from and after the 23rd day of the month of September of the year 2022.

DRAFT

Attachment A-1

APNs: 508-020-04, 508-020-42, and
508-202-44

The undersigned hereby affirms that this document, including any exhibit, hereby submitted for recording does not contain the personal information of any person or persons (per NRS 239B.030).

WHEN RECORDED RETURN TO:

LC HIGHLAND 2, LLC
27132 B Paseo Espada, Suite 1226
San Juan Capistrano, CA 92675

SPACE ABOVE FOR RECORDER'S
USE

DEVELOPMENT AGREEMENT
(HIGHLAND VILLAGE PHASE TWO)

THIS DEVELOPMENT AGREEMENT ("**Agreement**") is made by and between LC HIGHLAND 2, LLC, a Nevada limited liability company (the "**Landowner**") and the COUNTY OF WASHOE, a political subdivision of the State of Nevada, ("**County**").

1. **RECITALS.** This Agreement is based upon the statements set forth in this Section, which the parties agree are true and correct, and are incorporated into and made a part of this Agreement.

1.1. **Property.** Landowner owns the real property located in Washoe County, Nevada consisting of approximately 18.408 acres on three parcels in Sun Valley (the "**Property**"), as more particularly described in **Exhibit A**, attached hereto. The Property is to be developed as a single project known as "Highland Village Phase Two" ("**Project**").

1.2. **Application for Rezone.** The Property currently has a mix of two County regulatory zones ("**Regulatory Zones**"): (i) 1.7 acres designated as General Rural (GR); and (ii) 16.7 acres designated as Low Density Suburban (LDS - up to 1 dwelling unit/acre). Landowner submitted a rezoning application to the County on or about September 8, 2021 ("**Rezone Application**"). The Rezone Application adds two acres of General Rural (GR) designated land for a total of 3.7 acres of General Rural (GR) zoning, with the remaining 14.7 acres as High Density Suburban (HDS - up to 7 dwelling units/acre) ("**Regulatory Zone Amendment**"). This Agreement is being required by the County in connection with the Landowner's Rezone Application and associated master plan amendment.

1.3. General. Pursuant to Nevada Revised Statutes (“**NRS**”) 244.195, the County, through its Board of County Commissioners (“**Board**”), has the power and jurisdiction to do and perform all acts and things as may be lawful and necessary to the full discharge of the powers and duties conferred on the Board. The County is also authorized, pursuant to NRS 278.0201 to 278.0207, inclusive, and Article 814 of the Washoe County Development Code (“**Code**”), to enter into binding development agreements with persons having legal or equitable interests in real property subject to such agreements.

2. AGREEMENT CONCERNING DEVELOPMENT OF LAND.

2.1. Compliance with NRS 278.0201 and Code. This Agreement is a development agreement concerning the development of land pursuant to NRS 278.0201 to 278.0207, inclusive, and Article 814 of the Code. As the Landowner is the owner of fee title to the Property, it therefore has a legal interest in the Property. Accordingly, acknowledging the foregoing, and in compliance with NRS 278.0201(1), the parties desire to provide for, among other things, a density cap for the Property as set forth in this Agreement:

2.1.1. The Property which is subject to this Agreement is approximately 18.408 acres in Sun Valley, more particularly described in **Exhibit A** attached hereto (Legal Description).

2.1.2. The duration or term of this Agreement shall begin on the effective date of the ordinance which adopts this Agreement. This Agreement shall be signed by both the Landowner and an authorized representative of the Board and recorded in the Official Records of Washoe County, Nevada. The Agreement shall terminate on the date a final certificate of occupancy for the Property and Project is issued by Washoe County for the very last single-family dwelling to be built on the Property.

2.1.3. The permitted uses on the Property are as provided in the Rezone Application, the Regulatory Zone Amendment and the Code. Although the regulatory zone(s) for the Property may allow a greater density, the maximum density for the Property pursuant to this Agreement is 4.5 dwelling units per gross acre.

2.1.4. The Code will apply to the maximum height and size of the proposed dwelling units or other buildings on the Property.

2.1.5. The provisions for the dedication of any portion of the Property for public use are as provided in the Regulatory Zone Amendment and the Code.

2.1.6. Terms and conditions relating to construction and financing of necessary public improvements and facilities are in accordance with and as provided for in the Regulatory Zone Amendment and the Code, and will also be in accordance with any subdivision improvement agreements and conditions of approval for future final maps.

2.2. Code and Changes to the Law. The parties agree that changes in federal, state or county law concerning public health, safety or welfare will apply to any final map or other permit.

2.3. Public Notice. Any and all public notices required to be given in connection with this Agreement shall be given in accordance with NRS 278.0205 and Section 110.814.40 of the Code.

2.4. Assumption of Risk. The Landowner acknowledges and agrees that the Landowner is proceeding voluntarily and at its own risk in entering into this Agreement and without advice, promises or guarantees of any kind from the County, other than as expressly set forth herein. The Landowner waives any claims for damages against the County that might arise out of, or relate to, a subsequent court determination that this Agreement or any provision in it is invalid and/or unenforceable, including any claim based on NRS 278.0233(1) regarding the requirements, limitations, or conditions imposed pursuant to this Agreement.

2.5. Default and Termination of Agreement. This Agreement shall become null and void, in the event of noncompliance with any term or deadline set forth in this Agreement if the breaching party fails to fully cure such noncompliance after reasonable written notice and opportunity to cure, and all proceedings concerning the Regulatory Zone Amendment shall be terminated, provided that all the terms of this Agreement shall remain binding and enforceable regarding construction or development commenced, and any related permits, on any portion of the Property subject to a Regulatory Zone Amendment, a recorded final map or any use permit in existence at the time of termination of this Agreement.

3. MISCELLANEOUS PROVISIONS.

3.1. Time is of the Essence. Time is of the essence of this Agreement.

3.2. Waivers. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act except those of the waiving party, which shall be extended by a period of time equal to the period of the delay.

3.3. Assignability of the Agreement. This Agreement shall be binding upon and inure to the benefit of all future successors in interest of the Property as described in Exhibit A (Legal Description), and the successor shall assume the duties and obligations under this Agreement.

3.4. Entire Agreement. This Agreement is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto.

3.5. Governing Law. The parties hereto acknowledge that this Agreement has been negotiated and entered into in the State of Nevada. The parties hereto expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of Nevada and venue for any action shall be solely in state district court for Washoe County, Nevada.

3.6. Days of Week. If any date for performance herein falls on a Saturday, Sunday or holiday, pursuant to the laws of the State, the time for such performance shall be extended to 5:00 p.m. on the next business day.

3.7. Written Amendments. Amendments to this Agreement shall be in writing.

3.8. Future Cooperation. Each party shall, at the request of the other, at any time, execute and deliver to the requesting party all such further instruments as may be reasonably necessary or appropriate in order to effectuate the purpose and intent of this Agreement.

3.9. Third Party Beneficiary Rights. This Agreement is not intended to create any third-party beneficiary rights in any person not a party hereto.

3.10. Interpretation. The parties hereto acknowledge and agree that each has been given the opportunity to review this Agreement with legal counsel independently. The parties have equal bargaining power and intend the plain meaning of the provisions herein. In the event of an ambiguity in or dispute regarding the interpretation of the Agreement, the interpretation of this Agreement shall not be resolved by any rule of interpretation providing for interpretation against the party who causes the uncertainty to exist, or against the draftsmen.

3.11. Counterparts. This instrument may be executed in two or more counterparts, which, when taken together, shall constitute one and the same instrument. Any signature page of this instrument may be detached from any counterpart without impairing the legal effect of any signatures thereon, and may be attached to another counterpart identical in form thereto, but having attached to it one or more additional signature pages.

IN WITNESS WHEREOF, the parties hereto have executed this Development Agreement as of the date last written below.

LANDOWNER:

**LC Highland 2, LLC,
a Nevada limited liability company**

By: _____

Date: _____

COUNTY:

**COUNTY OF WASHOE, a political
subdivision of the State of Nevada, by its
WASHOE COUNTY COMMISSION**

By: _____
Vaughn Hartung, Chair

Date: _____

ATTEST:

Janis Galassini, County Clerk

[Notary page for Development Agreement]

STATE OF NEVADA)
)ss.
COUNTY OF WASHOE)

This instrument was acknowledged before me on _____, 2022
by Jeffrey Holbrook, Manager of LC Highland 2, LLC., a Nevada limited liability company

NOTARY PUBLIC: _____

My Commission Expires: _____

STATE OF NEVADA)
)ss.
COUNTY OF WASHOE)

This instrument was acknowledged before me on _____, 2022 by
Vaughn Hartung, Chair, Washoe County Commission

NOTARY PUBLIC: _____

My Commission Expires: _____

EXHIBIT A
LEGAL DESCRIPTION

The South half of the South half of the Southeast Quarter and the North half of the South half of the Southeast Quarter in Section 8, Township 20 North, Range 20 East, M.D.B.&M., Washoe County, Nevada.

EXCEPTING THEREFROM any portion lying Easterly of the Most Western Line of line of HIGHLAND PARKWAY, as it now exists.

EXCEPTING THEREFROM those portions dedicated to the County of Washoe, a political subdivision of the State of Nevada, by instruments recorded December 11, 1997, in Book 5069, Page 775, as Document No. 2161272 and recorded April 8, 1998, in Book 5195, Page 906, as Document No. 2197961, of Official Records.

The above legal description was taken from prior Document No. 4727553.

APN'S: 508-020-04, 508-020-42 and 508-020-44