



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

December 12, 2023

SUBJECT: Second Reading and adoption of the Draft City of Wheatland Ordinance, approving the proposed Amendment No. 3 to Third Amended and Restated City of Wheatland Development Agreement Concerning Caliterra Ranch (formerly Jones Ranch) Subdivision and Dale Investments LLC.

PREPARED BY: Tim Raney, Community Development Director

Recommendation

Staff recommends that the City Council (1) waive the full second reading of the ordinance approving the proposed Amendment No. 3 to Third Amended and Restated City of Wheatland Development Agreement Concerning Caliterra Ranch (formerly Jones Ranch) Subdivision and Dale Investments LLC; and (2) adopt the attached ordinance.

Background and Discussion

The Caliterra Ranch Subdivision (formerly known as Jones Ranch) is an approximately 193-acre site consisting of 552 single-family residential units, located on the south side of Wheatland Road, between the existing High School and Ace Hardware.

On November 25, 2014, the City of Wheatland approved the Third Amended and Restated Development Agreement with Dale Investments regarding the Caliterra Ranch (formerly known as Jones Ranch) Subdivision (recorded by Yuba County in 2015). Since 2014, the Third Amended and Restated Caliterra Ranch Development Agreement has been amended two additional times. Amendment No. 1, which was approved by the Wheatland City Council on June 30, 2017, provided development impact fee protections and extended the deadline for the recording of the final map for the first 50 lots. Amendment No. 2, which was approved by the Wheatland City Council on December 8, 2020, reduced the development impact fees by 50 percent for the first 145 units and included the following additional terms:

- Requires the Caliterra Ranch property owner to record the sale of the phase 1 site of 145 lots to a home builder by March 31, 2021;
- Requires home builder to enter into a new subdivision improvement agreement with the City of Wheatland and begin construction by September 30, 2021;

- Requires completion of the subdivision improvements for the 145 lots in phase 1 and acceptance by the City by September 30, 2022; and
- Requires the home builder to receive approval and fund building permits for a minimum of 10 of the 145 units by December 31, 2022.

On July 25, 2023, the Wheatland City Council approved a Resolution of Intent providing staff direction to continue negotiating the deal points for a third amendment to the Third Amended and Restated Development Agreement with the property owner, Dale Investments, LLC.

Pursuant to State law, the adoption of an ordinance requires a first reading and second reading for City Council approval. On November 28, 2023, the Wheatland City Council held a public hearing and upon close of the public hearing, voted to introduce and waive the first reading of the attached ordinance approving Amendment No. 3 to Third Amended and Restated City of Wheatland Development Agreement Concerning Caliterra Ranch Subdivision (Jones Ranch) and Dale Investments, LLC. Please reference the November 28, 2023 Wheatland City Council staff report for additional background details.

Conclusion

Based on the information contained in the staff report, staff recommends that the City Council waive the second reading of, and adopt the ordinance approving the proposed Amendment No. 3 to the Third Amended and Restated City of Wheatland Development Agreement to the Caliterra Ranch (formerly known as Jones Ranch) Subdivision and Dale Investments, LLC.

Attachments

1. Ordinance approving Amendment No. 3 to Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision.

Exhibit 1: Proposed Amendment No. 3 to Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision

ORDINANCE NO. 494

AN ORDINANCE OF THE CITY OF WHEATLAND APPROVING AMENDMENT NO. 3 TO THIRD AMENDED AND RESTATED CITY OF WHEATLAND DEVELOPMENT AGREEMENT CONCERNING CALITERRA (FORMERLY JONES) RANCH SUBDIVISION

The City Council of the City of Wheatland does ordain as follows:

Section 1. Purpose and Authority. The purpose of this Ordinance is to approve Amendment No. 3 to Third Amended and Restated City of Wheatland Development Agreement Concerning Caliterra (Jones) Ranch Subdivision. This ordinance is adopted pursuant to Government Code sections 65864 through 65869.5 and other applicable law.

Section 2. Findings. The City Council hereby finds and declares:

- A. The City of Wheatland and Lakemont Overland Crossing, LLC entered into the *City of Wheatland Development Agreement Concerning Jones Ranch Subdivision*, which was recorded in the Yuba County Recorder's Office on April 18, 2006. That Agreement was amended by Amendment No. 1 (recorded in the Yuba County Recorder's Office on September 11, 2008). That Agreement was further amended by the City of Wheatland and RBC Real Estate Finance, Inc. (recorded in the Yuba County Recorder's Office on November 24, 2010), which was amended again on February 3, 2015 by the City of Wheatland and Dale Investments, LLC. (Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision). On September 13, 2017 the City recorded Amendment No. 1 to Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision. On January 27, 2021 the City recorded Amendment No. 2 to the Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision. For reasons listed in the recitals of the Amendment, the parties desire to further amend the Development Agreement.
- B. The Planning Commission conducted a duly noticed public hearing concerning the proposed Development Agreement on November 7, 2023, and recommended City Council approval of Amendment No. 3 to Third Amended and Restated City of Wheatland Development Agreement, a copy of which is attached Exhibit 1.
- C. The City Council has conducted a duly noticed public hearing in accordance with law, and now desires to approve Amendment No. 3 to Third Amended and Restated City of Wheatland Development Agreement.
- D. The City Council has evaluated the Amendment No. 3 and the City General Plan and has determined that the Amendment No. 3 is consistent with the General Plan.
- E. There have been no substantial changes to the project through the Development Agreement. Therefore, the Jones Ranch program-level Environmental Impact Report and the Jones Ranch project-level Mitigated Negative Declaration are the appropriate environmental documents for the proposed project.
- F. The Agreement is consistent with and conforms to the requirements of Government Code Sections 65864-65869.5.

G. The Agreement is consistent with the provisions of the City Council Establishing Procedures for Consideration of Development Agreements.

Section 3. Approval of Development Agreement. The City Council hereby approves Amendment No. 3 to Third Amended and Restated City of Wheatland Development Agreement attached hereto as Exhibit 1 and incorporated herein by reference. The City Manager is authorized and directed to execute the Amendment No. 3 on behalf of the City of Wheatland.

The City Clerk shall cause the Development Agreement to be recorded in the Official Records of Yuba County upon execution, but in no event prior to the effective date of this ordinance.

Section 4. Effective Date and Notice. This ordinance shall take effect thirty (30) days after its adoption. Within fifteen (15) days from the passage of this ordinance, the City Clerk shall post a copy of it in at least three public places in the City of Wheatland.

INTRODUCED by the City Council on the 28th day of November 2023.

PASSED AND ADOPTED by the City Council of the City of Wheatland this ____ day of _____, 2023 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

MAYOR

Attest:

Lisa J. Thomason, City Clerk

EXHIBIT 1

**AMENDMENT NO. 3 TO THIRD AMENDED AND RESTATED CITY OF WHEATLAND
DEVELOPMENT AGREEMENT CONCERNING JONES RANCH SUBDIVISION**

Recording requested by, and when
recorded return to:

City of Wheatland
111 C Street
Wheatland, CA 95692

Exempt from recording fees (Government Code §§ 6103, 27383)

**AMENDMENT NO. 3 TO THIRD AMENDED AND RESTATED
CITY OF WHEATLAND DEVELOPMENT AGREEMENT
CONCERNING JONES RANCH SUBDIVISION**

This Amendment No. 3 to the Third Amended and Restated Development Agreement (the “Amendment”) is made and entered into this 12th day of December, 2023 by and between the City of Wheatland, a general law city (“City”), and Dale Investments, LLC, a California limited liability company (“Developer”) (“collectively the “Parties”), who agree as follows:

1. Recitals. This Amendment is made with reference to the following background recitals:

- 1.1. On November 25, 2014, the parties entered into the *Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision* (the “Agreement”), a copy of which is on file in the City Clerk’s office. The Agreement was recorded in the Yuba County Recorder’s Office on February 3, 2015 as Document No. 2015-001148.
- 1.2. On June 30, 2017, the parties entered into an Amendment No. 1 to the Agreement, a copy of which is on file in the City Clerk’s office. That amendment was recorded in the Yuba County Recorder’s Office on December 14, 2017 as Document No. 2017-016375.
- 1.3. On December 8, 2020, the parties entered into Amendment No. 2 to the Agreement, a copy of which is on file in the City Clerk’s Office. That amendment was recorded in the Yuba County Recorder’s Office on January 27, 2021 as Document No. 2021-001587.
- 1.4. At Developer’s request, City and Developer have agreed to amend the Agreement’s provisions related to park facilities, as set forth below.

2. Amendment to Agreement. The Parties amend the Agreement as follows:

2.1. Section 2.2.1. is amended to read as follows:

- 2.2.1.1. Section Commencement; Expiration. The term of this Agreement shall commence upon the date set forth above and shall expire on December 31, 2030, unless the term is terminated, modified or extended as provided by this Agreement or by mutual written consent of the

Parties. Developer agrees that a final subdivision map for a first phase of a minimum of 50 parcels must be recorded prior to April 30, 2018 or this Agreement will be terminated on that date. If litigation is filed against City and/or Developer challenging the approval of this Agreement and/or the Entitlements, then the term of this Agreement shall be extended for the period of time from the date of filing the complaint until the date that the litigation is dismissed or otherwise finally concluded. If a federal or state agency with jurisdiction issues an order that prohibits development of the Project, then the term of this Agreement shall be extended for the period of time that the order and prohibition are in effect. If there is uncertainty regarding the date of final conclusion of any litigation or the time period that a federal or state agency order and prohibition are in effect, then that uncertainty shall be decided by the City Attorney.

2.2. Section 2.7.2. is amended to read as follows:

2.7.2 Development Fees. The parties acknowledge that at the time of the initial development agreement City had recently begun preparation of a thorough study, review and update of City development fees, impact fees, capital facilities fees and connection charges (collectively “**City Development Fees**”). At the time of the initial development agreement, the final amount of and details concerning the City Development Fees were uncertain because of the need to first complete development fee studies and adopt the fees. As a condition of this Agreement, it is important to City that Developer commit to pay the future City Development Fees or some other agreeable amount, and it is important to Developer that its obligation to pay City Development Fees be certain and finite through December 31, 2026. Consequently, the Parties have negotiated a flat rate amount to be paid by Developer as City Development Fees for all City Development Fees incurred on or before December 31, 2026, and Sections 2.7.2.1. through 2.7.4.4. shall apply to all City Development Fees incurred on or before December 31, 2026.

2.3. Existing Section 2.8 of the Agreement is renumbered Section 2.9, and Section 2.8 is added to the Agreement, as follows:

2.8 Sections 2.7.2.1. through 2.7.4.4. shall not apply to any City Development Fees incurred on or after January 1, 2027. Developer agrees to pay any City Development Fees incurred on or after January 1, 2027 at the then-applicable rates for such fees, less any park fee credits allowed for park construction completed under Section 3.2.1.1.

2.4. Existing Section 3.2.1.2. is deleted, and Section 3 of the Agreement is amended to read as follows:

3. DEVELOPER'S OBLIGATIONS. Developer's obligations under this section 3 shall be at Developer's sole cost and expense, unless expressly provided otherwise.

3.1 Development, Connection and Mitigation Fees. Except as otherwise provided herein, any and all required payments of City Development Fees by Developer under section 2.7 shall be made at the time and in the amount specified by section 2.7.2.1. Any and all required payments of City Development Fees by Developer under section 2.8 will be made as required by then-applicable City statutes, regulations, codes, ordinances and other laws (including permit and license requirements) relating to the development of the Property and including those pertaining to the design and construction of subdivision improvements and City infrastructure.

3.2 Parks and Open Space. In satisfaction of the City's General Plan parks and open space policies, Developer shall dedicate acreage to the City's parks program, and provide park facility improvements, all as set forth in this section 3.2.

3.2.1. Park Improvement. Developer agrees to dedicate park land and design, install and construct the park and recreation improvements to Project parks as follows:

3.2.1.1. No later than December 31, 2025, Developer shall prepare a park site improvement plan and submit it for review and approval by the City Manager or his or her designee for the 2.6-acre portion of the 5.0-acre park (as shown on the Preliminary Bubble Concept Plan #3 dated August 7, 2013 (the "**Concept Plan**"), which is on file with the City Clerk of City, and to be shown on the updated Tentative Map (see section 3.14) and Design Guidelines). No later than December 31, 2026, Developer shall grade the park site and improve it with drainage, irrigation, turf, trees, and walkways in accordance with the approved park site improvement plan and Design Guidelines, and to the satisfaction of the City Manager or his or her designee. No later than June 30, 2028, Developer shall complete construction of all remaining park amenities, including, but not limited to, playground equipment, in accordance with the approved park site improvement plan and Design Guidelines, and to the satisfaction of the City Manager or his or her designee.

3.2.1.1.1. Provided that Developer satisfies the conditions set forth in section 3.2.1.1. or the City agrees to waive any conditions of 3.2.1.1. that the Developer has not satisfied, Developer shall be entitled

to a reduction of City Development Fees related to the park facilities. The amount of the reduction shall be calculated by determining the proportion of the City Development Fees that are attributable to park purposes and applying that percentage of reduction to the City Development Fees that Developer owes. Such determination shall be made in the City's sole discretion based upon its most recent development impact fee studies or reports. For example, given the City Development Fees for 2023 under section 2.7.2.1 would be \$45,761.84 (as adjusted) per lot, if park purposes comprise 10% of the City's total current per lot City Development Fees, then under this section Developer would be entitled to a reduction of 10% (\$45,761.84 less \$4,576.18), such that the total amount of the reduced fee would be \$41,185.66 per lot. This reduction, and method of calculating the reduction, shall apply to City Development Fees incurred from the Effective Date of this Amendment Number 3 through December 31, 2026 under sections 2.7.2.1. through 2.7.4.4., and, beginning on January 1, 2027, to City Development Fees incurred under section 2.8.

3.2.1.1.2. City may, in its sole discretion, waive any of the conditions in section 3.2.1.1.

3.2.1.1.3. Should any of the conditions set forth in section 3.2.1.1. not be satisfied by Developer or waived by City prior to the time that any City Development Fee is due, then Developer shall not be entitled to pay the reduced City Development Fee calculated under section 3.2.1.1.1. Nothing in this section shall be construed to limit City's default rights and remedies in the event of a default by Developer.

3.2.1.2. The paseos, basin areas and landscape corridors/open space (as shown on the Concept Plan and to be shown on the updated Tentative Map, and collectively referred to as "landscape corridor improvements") shall be graded and improved with drainage, irrigation, turf, walkways and other improvements in accordance with the approved Design Guidelines and to the satisfaction of the City Manager or his or her designee. For each site, prior to construction, Developer shall prepare a site improvement plan for review and approval by the City Manager or his or her designee. The landscape corridor improvements shall be installed pursuant to the approved site plan at the same time as the subdivision

improvements for the final subdivision map phase containing or adjacent to the landscape corridor and shall be completed within 45 days after the issuance of the first certificate of occupancy for that phase.

2.5 Wherever the Agreement refers to "\$39,690 (as adjusted by the ENR index)" or "\$39,690 (as adjusted)," the phrase is amended to read "\$45,761.84 (as adjusted by the ENR index under section 2.7.2.1)."

3 **No Effect on Other Provisions.** Except for the amendment in Section 2, the remaining provisions of the Agreement shall be unaffected and remain in full force and effect.

CITY OF WHEATLAND

DEVELOPER

By: _____
Bill Zenoni

By: _____
Sundeep S. Dale
Owner, Dale Investments, LLC