



# CITY OF WHEATLAND

## CITY COUNCIL MEETING STAFF REPORT

August 22, 2017

**SUBJECT:** Consideration to approve the proposed Amendment No. 1 to Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision between the City of Wheatland and Dale Investments, LLC.

**PREPARED BY:** Tim Raney, Community Development Director

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### **Recommendation**

City staff recommends City Council approval of the proposed Amendment No. 1 to Third Amended and Restated City of Wheatland Development Agreement concerning Jones Ranch Subdivision between the City of Wheatland and Dale Investments, LLC.

### **Discussion**

City staff has been working diligently with representatives of Dale Investments, LLC over the past nine months to approve and record a final subdivision map for the first 50 lots of Jones Ranch project. It should be noted that Dale Investments, LLC has renamed the Jones Ranch Subdivision to Caliterra Ranch for marketing purposes. According to section 17.06.020(B)(5) of the Wheatland Municipal Code, final map approval requires submitted improvements plans, and the project engineers need additional time to complete the improvement plans.

Section 2.2.1 of the Third Amended and Restated City of Wheatland Development Agreement concerning Jones Ranch Subdivision requires that the first phase final map be recorded prior to June 31, 2017.<sup>1</sup> Last spring, the developer requested that the City amend the agreement to extend this deadline. The City of Wheatland Planning Commission recommended approval of the extension at the June 6, 2017 Planning Commission meeting. The City Council scheduled a meeting on June 27, 2017 to consider approval of the extension.

At the June 27 City Council meeting, concerns regarding lot size, traffic, and drainage were raised during the public comment period. After Council and staff discussion, the City Council continued discussion and consideration of the proposed amendment to the July 11, 2017. At the July 11<sup>th</sup> meeting, the City Council again continued discussion and consideration of the proposed amendment to the August 22, 2017 meeting. Following the July 11<sup>th</sup> meeting, City

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<sup>1</sup> Date as in the original agreement. Should be June 30, 2017.

staff and the project applicant further discussed the proposed amendment, and they prepared this version of the Amendment (see Attachment 1). As a result of these discussions, the applicant has agreed to further modify the tentative map to increase the size of the 4,050-square foot lots to approximately 5,775 square feet, similar to the other lots in the subdivision. The applicant has also agreed to increase the established development impact fee from \$32,100 to \$36,374. The new fee will continue to be adjusted each January 1 using the previous year's Engineering News-Record (ENR) index.

City staff recommends that the City Council adopt an ordinance (see Attachment 2) approving Amendment No.1 of the Agreement, which incorporates these changes:

- Increase the City development fees for the Project;
- Provide for a minor modification of the currently approved Tentative Map; and
- Extend the time for recording a final subdivision map for the first phase (at least 50 parcels) of the subdivision project to April 30, 2018 to allow the project applicant additional time to complete work on the subdivision improvement plans required as a condition of final map approval and to modify the Tentative Map as provided by this Amendment.

The minor modification to the approved Tentative Map, pursuant to Wheatland Municipal Code section 17.05.200, includes the following modifications:

- Remove the Lot C-Remainder parcel; and
- Apply the acreage from the Lot C-Remainder parcel to increase the parcel sizes in Villages 1 and 8 on a pro rata basis among all the parcels in those two villages and reconfigure the street and parcel layout in the two villages and Lot C-Remainder area accordingly.

If the proposed Development Agreement Amendment is approved, the applicant will revise the Tentative Map per the minor modifications described above. It is anticipated that staff will approve the revised Tentative Map if it determines that the minor changes are consistent with the intent and spirit of the original tentative map approval. The City will not consider or process any final map or subdivision improvement plans until the Tentative Map has been modified pursuant to the proposed Amendment No. 1 to Third Amended and Restated City of Wheatland Development Agreement concerning Jones Ranch Subdivision.

### **Alternatives**

The City Council could deny the proposed Amendment No. 1 to Third Amended and Restated City of Wheatland Development Agreement concerning Jones Ranch Subdivision between the City of Wheatland and Dale Investments, LLC. The City Council could also continue the public hearing to a future meeting date and direct staff to further revise the Development Agreement Amendment.

### **Fiscal Impact**

None.

### **Attachments**

1. Draft Amendment No. 1 to Third Amended and Restated City of Wheatland Development Agreement concerning Jones Ranch Subdivision between the City of Wheatland and Dale Investments, LLC.
2. Ordinance of the City Council of the City of Wheatland approving Amendment No. 1 to the 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

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

**AMENDMENT NO. 1 TO THIRD AMENDED AND RESTATED  
CITY OF WHEATLAND DEVELOPMENT AGREEMENT  
CONCERNING JONES RANCH SUBDIVISION**

This Amendment No. 1 to the Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision (the "Amendment") is made effective on June 30, 2017 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. City and Developer desire to amend the Agreement in order to (a) increase the City development fees for the Project, (b) provide for a minor modification of the currently approved tentative map, and (c) extend the time under Agreement section 2.2.1 for recording a final subdivision map for the first phase (at least 50 parcels) of the subdivision project to allow Developer additional time to complete work on the subdivision improvement plans required as a condition of final map approval and to modify the tentative map as provided by this Amendment.

1.3. Developer requested an extension of the June 31, 2017 deadline (in Agreement section 2.2.1)<sup>1</sup> well in advance of the deadline. City staff supported the extension. The City Planning Commission recommended approval of the extension at its meeting on June 6, 2017. The City Council scheduled a meeting on June 27, 2017 to consider approval of the extension.

1.4. At the June 27 meeting, the City Council continued discussion and consideration of the proposed amendment to the July 11, 2017 meeting in order for the Council members, City staff, and Developer to further consider and evaluate the extension request together with related issues raised by the City Council concerning desired

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<sup>1</sup> June 31, 2017 (a nonexistent date) is the date used in Agreement section 2.2.1. The parties intended June 30, 2017.

modifications to the tentative map, lot sizes, and the amount of City development fees. At the July 11 meeting, the City Council again continued discussion and consideration of the proposed amendment to the August 22, 2017 meeting and the Council provided direction to City staff concerning additional Agreement changes to be addressed in the proposed amendment. Following the July 11 meeting, City staff and the Developer further discussed the proposed amendment and they prepared this version of the Amendment.

1.5. Because the Parties have been negotiating and working on this Amendment diligently and in good faith since before June 30, 2017, it is the Parties' intention to make this Amendment effective retroactive to June 30, 2017 such that the Agreement does not and it did not expire at June 30, 2017 under the terms of Agreement section 2.2.1.

**2. Amendments to Agreement.** The Parties amend the Agreement as follows:

2.1. The time for recording a final subdivision map for the first phase of a minimum of 50 parcels set forth in Agreement section 2.2.1 is extended to April 30, 2018. If the first phase final map is not recorded by April 30, 2018, then the Agreement will terminate on that date.

2.2. Agreement section 2.7.2.1 is amended to read as follows:

2.7.2.1. Developer agrees to pay \$36,374 per single family dwelling as City Development Fees for Project development. City shall use the fee revenue for any of the purposes described in Wheatland Municipal Code chapter 3.26. For Project development other than a single family house, the City Engineer shall determine an equivalent dwelling unit amount based on \$36,374 per single family dwelling. \$36,374 is the fee for 2017. Commencing January 1, 2018, the \$36,374 amount shall increase based on the previous year's percentage change in the Engineering News-Record (ENR) Construction Cost Index for 20 U.S. cities. City Development Fees shall be due upon issuance of building permits for the Project, except as otherwise provided under this Agreement.

2.3. Wherever the Agreement refers to "\$32,100 (as adjusted by the ENR index)" or "\$32,100 (as adjusted)," the phrase is amended to read "\$36,374 (as adjusted by the ENR index under section 2.7.2.1)."

2.4. Section 3.14.1 is added to the Agreement to read as follows:

3.14.1. Further Tentative Map Modification. Developer agrees to apply to City pursuant to Wheatland Municipal Code section 17.05.200 for a further minor amendment and update of the approved Tentative Map to incorporate these modifications: (a) remove the Lot C-Remainder parcel; and (b) apply the acreage from the Lot C-Remainder parcel to increase the parcel sizes in Villages 1 and 8 on a pro rata basis among all the parcels in those two villages and reconfigure the street and parcel layout in the two villages and Lot C-Remainder area accordingly (the "Map Modifications"). Developer will prepare and submit the Tentative Map minor amendment application prior to submitting any subdivision improvement plans or final map to the City. Upon receipt of a complete Tentative Map minor amendment application, the City will process and review the application to determine whether

the proposed changes are consistent with the Map Modifications and the intent and spirit of the current-approved Tentative Map, and whether the amendment would result in any violations of the Wheatland Municipal Code. If the City Planning Director and City Engineer determine that the Tentative Map minor application is consistent with the Map Modifications, the intent and spirit of the current-approved Tentative Map, and the Wheatland Municipal Code, then the City Planning Department will approve the modified Tentative Map under Wheatland Municipal Code section 17.05.200(A) and Developer will proceed with final maps and subdivision improvement plans based on the modified Tentative Map. If the City Planning Director or City Engineer determines that the modified Tentative Map proposal is not substantially consistent with the Map Modifications, the intent and spirit of the current-approved Tentative Map, or the Municipal Code, then the proposed Tentative Map amendment application shall be processed and noticed for hearing and consideration by the City Planning Commission and City Council as a regular map amendment pursuant to the procedures and standards of the Subdivision Map Act and Wheatland Municipal Code sections 17.05.110, 17.05.120 and 17.05.200(C). City will not consider or process any final map or subdivision improvement plans until the Tentative Map has been modified pursuant to this section 3.14.1.

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

CITY OF WHEATLAND

DALE INVESTMENTS, LLC

By: \_\_\_\_\_  
Greg Greeson  
City Manager

By: \_\_\_\_\_  
Sundeep S. Dale  
President



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHEATLAND  
APPROVING AMENDMENT NO. 1 TO THE THIRD AMENDED AND RESTATED  
CITY OF WHEATLAND DEVELOPMENT AGREEMENT  
CONCERNING 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. 1 to The Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision* in the form attached hereto and incorporated herein (the "Amendment"). This ordinance is adopted pursuant to Government Code sections 65867.5 and 65868 and other applicable law.

SECTION 2. Findings. The City Council finds and determines as follows:

A. On December 27, 2005, the City of Wheatland and Dale Investments, 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 as Document No., 2006R-07611. That Agreement was amended by Amendment No. 1 (recorded in the Yuba County Recorder's Office on September 11, 2008 as Document No. 2008R-014197) and Amendment No. 2 (recorded in the Yuba County Recorder's Office on November 24, 2010 as Document No. 2010R-014746). The parties approved a *Third Amended and Restated City of Wheatland Development Agreement Concerning Jones Ranch Subdivision* on November 25, 2014 (recorded in the Yuba County Recorder's Office on February 3, 2015 as Document No. 2015-001148). For the reasons stated in the recitals of the Amendment, the parties desire to amend the Third Amended and Restated Development Agreement.

B. The Wheatland Planning Commission has conducted a duly noticed public hearing in accordance with law, and recommends that the City Council approve the Amendment.

C. The City Council has conducted a duly noticed public hearing in accordance with law, and now desires to approve the Amendment.

D. The City Council has evaluated the Amendment and the City General Plan and has determined that the Amendment is consistent with the General Plan.

SECTION 3. CEQA Findings. In accordance with Public Resources Code section 21166 and California Environmental Quality Act (CEQA) Guidelines section 15162, the City Council finds and determines as follows:

A. The potential environmental effects of the actions described in the Amendment and Development Agreement have been analyzed, considered and mitigated through a final environmental impact report ("EIR") prepared and certified in 2003 pursuant to CEQA. See City Council Resolution No. 55-03.

B. The City has evaluated and considered the changes that would be implemented by the Amendment. These changes do not involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

C. The City has evaluated and considered the changes with respect to the circumstances under which the actions identified in the Third Amended and Restated Development Agreement, as amended by the Amendment, are being undertaken. The changes with respect to these circumstances do not involve new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

D. The City is not aware of any new information of substantial importance that discloses that the actions described in the Amendment will have other or more severe significant environmental effects not previously discussed or that previously rejected or other mitigation measures or alternatives are now feasible and effective.

E. Therefore, the 2003 EIR remains adequate and no further CEQA environmental analysis is required for the Amendment.

SECTION 4. Amendment Approval. The City Council hereby approves the Amendment in the attached form and authorizes and directs the City Manager to execute the Amendment on behalf of the City and to record the Amendment with the Yuba County Recorder within 10 days of the date of this ordinance.

SECTION 5. This ordinance shall take effect 30 days after its final passage.

SECTION 6. Within 15 days from the date of passage of this ordinance, the City Clerk shall post a copy of it in at least three public places in the City.

INTRODUCED by the City Council on the \_\_\_\_ day of \_\_\_\_\_ 2017.

PASSED AND ADOPTED by the City Council of the City of Wheatland on the \_\_\_\_ day of \_\_\_\_\_ 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Rick West, Mayor

Attest:

\_\_\_\_\_  
Lisa J. Thomason, City Clerk



I hereby certify that the foregoing is a true and correct copy of City of Wheatland Ordinance No. \_\_\_\_\_, which ordinance was duly introduced, adopted and posted pursuant to law.

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Lisa J. Thomason, City Clerk