

Red Hawk Land Co., LLC
4061 Port Chicago Hwy. Suite H
Concord, Ca 94520

March 26, 2013

City of Sparks
431 Prater Way
Sparks, NV 89432

Attn: Armando Ornelas

Subject: Sparks City Council Meeting Agenda, March 11, 2013
Public Hearing Item #8.2: Master Plan Amendment and Tentative
Approval to the Planned Development Handbook for Wingfield Springs-
Comments by the Applicant

Dear Mr. Ornelas,

This letter is in response to the Staff Report for Item 8.2 which was calendared for the Sparks City Council Meeting on 3/11/13 and subsequently continued to the Council Meeting scheduled for 4/8/13.

A point that I must stress on the proposed actions before the City Council is that the concerns with the completion of certain Parks within the Wingfield Springs Development, which seem to be the basis for Staff's current recommendation for denial, can only be addressed with the tentative approval of the Handbook. Without such tentative approval, the overall Development would fall short of the needed residential units to trigger the completion of the final park in accordance with the executed Park Agreements.

As you are aware, City Staff and I have been working cooperatively for nearly two years, and more particularly over the last year on the subject application for the Wingfield Springs Development. The proposed revisions originally included amendments to the Handbook and Master Plan for Villages 5A, 19C, 17A, 20A, 27A, 28 & 31. However, in the spirit of cooperation and at the direction of Planning Staff, I reluctantly withdrew various proposed Master Plan and Handbook Amendments by removing Villages 5A, 19C, and 20A leaving only Villages 17A, 27, 28 and 31 to be considered for tentative approval by the Planning Commission on 5/17/2012. At the 5/17/2012 Meeting, the

Planning Commission unanimously voted in favor of the proposed amendments and Staff supported the following recommendations:

- Approval of the proposed Master Plan Amendment and forwarded it to the City Council for certification.
- Forwarded a recommendation for tentative approval of the proposed Handbook Amendments to the City Council.

For the proposed actions before the City Council, Staff recommends certification of the Master Plan Amendment. This is consistent with Staff's previous recommendation to the Planning Commission and the Planning Commission's approval. I do not have any objections with this recommendation. However, I strongly disagree with Staff's current recommendation to the City Council for **denial** of tentative approval of the Handbook Amendment. Staff's current recommendation for denial contradicts its previous recommendations to the Planning Commission and the Planning Commission's recommendations to the City Council for approval. Staff indicates that its current contradictory recommendation is based on "new" information (page 4 of Staff Report, 2nd paragraph).

At the 5/17/12 Meeting, the Planning Commission heard public comments over concerns on the completion of the Parks at Wingfield Springs, specifically the completion of the Silverton Shores Park (Park #4, page 2 of Staff Report, 4th paragraph). After hearing public comments, the Planning Commission acted with its approval and recommendations to the City Council. Staff now holds the position that only those public comments related to the completion of the Parks have any bearing on the amendments before the City Council (page 2 of Staff Report, 5th paragraph).

Staff bases its current and contradictory recommendation for denial of the tentative approval of the Handbook Amendment solely on its perceived issues with the Parks, when in fact Staff had always known the facts on the Parks and the claimed issues (mainly timing) throughout the process of the development at Wingfield Springs. More importantly, any issues with the Parks can only be resolved with the tentative approval of the Handbook Amendment, as explained below.

There are two separate Park Agreements for the timing and construction of five Parks at Wingfield Springs:

Residential Construction Tax Reimbursement Agreement #A-2570 dated 6/14/99 (referred herein as the first Park Agreement) was entered into for the developer to construct two Parks; this has been completed. Park One (Poco Rey, aka Red Hawk) and Park Two (Rose Garden) were completed and the City has owned and operated both Parks since 8/31/2005. With the exception of certain short payments by the City as reimbursement to Red Hawk, there are no issues I know about at this time with this Agreement.

Residential Construction Tax Credit Agreement #A-2571 dated 6/14/99 (referred herein as the second Park Agreement) was entered into for the developer to provide three Parks in accordance with the following milestones:

- Park 3: Submit design prior to the 1400th building permit. Complete prior to the 1800th permit.
- Park 4: Submit design prior to the 1800th building permit. Complete prior to the 2200th building permit.
- Park 5: Submit design prior to the 2200th building permit. Complete within one year of the 2200th building permit.

Park 3 (Pelican) was constructed. The City acquired this Park through tax sale and placed this Park in service, including its ongoing maintenance.

Park 4 (Silverton Shores) design was completed and approved by the City, the City issued the building permits, and construction was started. Park 4 construction is to be completed prior to the 2200th building permit. One thousand nine hundred ninety nine (1999) residential units have been constructed at the Development. Red Hawk Land is currently within the approved timeline for Park 4 and in total compliance with the executed Park Agreements.

Staff is claiming that Red Hawk Land is in default of the second Park Agreement (i.e. Tax Credit Agreement). We disagree with this claim and have responded via letter dated 12/19/12 to Planning Staff. We reiterate our position in rejecting Staff's claim of our default:

Staff was in full control of issuing the residential building permits to the permit applicants (in most instances to applicants other than Red Hawk), granting at the time of building permit issuance the tax credits for Park construction, approving and signing the final maps creating the Park parcels, approving the Park designs, issuing the Park construction permits, and inspecting Park construction and its improvements.

The Park issues that Staff is now reporting as "new" would have surfaced in 2004, around the timeline for Park 3. If these Park issues are in fact real, then Staff has failed in exercising its duties and may have wrongly issued tax credits, thereby depleting the credits available to Red Hawk Land.

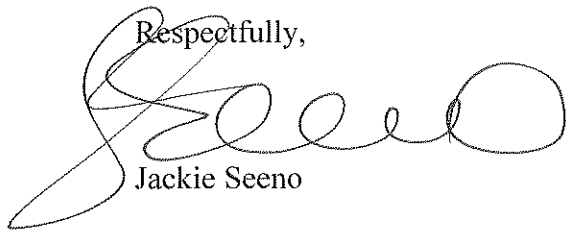
As stated earlier, 1999 residential units have been constructed at the Wingfield Springs Development. Without approval of the Handbook Amendments before the City Council, there are currently only approximately 130 lots remaining to be built; if these lots were to be developed, it would bring the current total lot count to 2130, which would not trigger the threshold of 2200 building permits for completion of Park 4 (Silverton Shores). The Handbook Amendments before the City Council would make additional lots possible.

All this being said, we fully disagree with the position that City Staff has taken in "asserting that Red Hawk Land Company is in default of the second Residential Construction Tax Credit Agreement (A-2571)" as written in the Staff Report for Item 8.2 calendared for the 3/11/13 Council Meeting. Further, Doug Thornley initially asserted these claims in his letter dated 9/12/12. Since that time, I have tried to work cooperatively with Staff and have been transparent and clear in expressing the position Red Hawk Land has held and continues to hold in regards to this issue.

In summary, we will vigorously defend our position that we are not in default of the Residential Construction Tax Credit Agreement and request that the City withdraw all claims of default against Red Hawk Land Company. After months of being delayed by City Staff from having the subject amendments placed on calendar for public hearing, we received an email on 3/5/13 with correspondence from Doug Thornley stating that our amendments have once again failed to be included on the March 25th agenda due to an administrative error that occurred "one hour too late to fix" (see attached email). As you are aware, Red Hawk Land Co. has retained legal counsel and we will await your response to this letter.

As always, we appreciate the relationship we have with the City of Sparks and are hopeful that we can work toward resolving these items.

Respectfully,



Jackie Seeno

Cc: Geno Martini, Sparks Mayor
Mike Carrigan, Sparks City Councilman
Ed Lawson, Sparks City Councilman
Julia Ratti, Sparks City Councilwoman
Ron Schmitt, Sparks City Councilman
Ron Smith, Sparks City Councilman
Doug Thornely, Senior Asst. City Attorney
John Martini, Asst. Community Services Director
Tim Thompson, Senior Planner
Homeowners Association, Wingfield Springs

Jackie Seeno - FW: March 25, 2013

From: "Stephen C. Mollath" <stephen@prezantmollath.com>
To: "Jackie Seeno" <JSeeno@seenohomes.com>
Date: 3/20/2013 10:41 AM
Subject: FW: March 25, 2013

FYI

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From: Thornley, Doug [mailto:dthornley@cityofsparks.us]
Sent: Wednesday, March 20, 2013 10:06 AM
To: 'Stephen C. Mollath'
Cc: Adams, Chet
Subject: March 25, 2013

Steve,

Regretfully, I am writing to tell you that due to an administrative error Red Hawk's master plan amendment and tentative amendment to the planned development handbook did not make it onto the March 25, 2013, meeting agenda of the Sparks City Council. It seems that when the item was moved from the March 11, 2013, meeting to the March 25, 2013, meeting the computer system required new administrative approvals for inclusion on the agenda. Although I had previously approved the inclusion of the agenda item, I was unaware of the supplemental requirements made necessary by the date change and I did not approve the item a second time and the item was not included on the March 25, 2013, agenda. Because the Nevada Open Meeting Law requires that a meeting agenda be published before 9:00 a.m. three business days prior to a public meeting, it is now one hour too late to fix my error. I sincerely apologize to you and your client.

I have approved the item for inclusion on the April 8, 2013, agenda.

Again, I apologize for the inconvenience. Please call if you have any questions.

Douglas R. Thornley | Senior Assistant City Attorney | City of Sparks
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