

STAFF REPORT

Date: **January 27, 2021**

To: **Mayor and City Council**

Thru: **Doug Thornley, City Manager**

Subject: **1.1. Staff Report (For Possible Action): Case No. LDC21-00009 (Daybreak PUD Area 24 & 25) Appeal of the Planning Commission's decision to approve a tentative map to develop 124 single family detached dwelling units.** The purpose of this appeal is to preserve the right to appeal a City Council decision in this matter to District Court pursuant to NRS 278.3195 or any other applicable code, regulation or statute. The ±46.7 acre subject site is located ±2,000 feet northeast of the intersection of Veterans Parkway and South Meadows Parkway. The site is zoned PUD Daybreak. The site has a Master Plan land use designation of Single-Family Neighborhood (SF) and Special Planning Area (SPA). The appeal was filed for the adjacent land owner, Sunny Hills Ranchos, by its representative Garrett Gordon. The City Council may affirm, modify, or reverse the decision of the Planning Commission.

From: **Brook Oswald, Associate Planner**

Summary: This is an appeal of the Planning Commission's decision to approve a tentative map to develop 124 single family detached dwelling units. An appeal was received by the adjacent property owner, Sunny Hills Ranchos. While this appeal does not disagree with the Planning Commission decision, they are appealing to preserve their right to appeal to a District Court per NRS 278.3195.

Background: The tentative map request was heard by the Planning Commission on December 16, 2020. The appellant's representative submitted an email, prior to the hearing, which is included in the attached Planning Commission staff report.

Planning Commission Vote: A motion to approve the tentative map, with modifications to Condition No. 4 (corrected an incorrect planning area reference), passed with five in favor and one opposed.

Appeal of Planning Commission's Decision: An appeal request was filed by the adjacent land owners, Sunny Hills Ranchos. The appeal is not related to opposition of the development

project, but they have filed an appeal to protect their right to appeal the decision of the City Council per NRS 278.3195.

The following items are attached to this staff report to assist Council in considering the appeal request:

- Appeal filing
- Planning Commission staff report
- Planning Commission decision letter

Draft minutes of the hearing are included in the staff report. The video of the hearing can be viewed at the following link:

<http://renocitynv.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1912&Format=Minutes>

Financial Implications: None at this time.

Legal Implications: None at this time.

Findings: Nevada Revised Statute (NRS) 278.349. The governing body and planning commission to take action on a tentative map, shall consider:

- a. Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;
- b. The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;
- c. The availability and accessibility of utilities;
- d. The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;
- e. Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;
- f. General conformity with the governing body's master plan of streets and highways;
- g. The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;
- h. Physical characteristics of the land such as floodplain, slope and soil;

- i. The recommendations and comments of those entities and persons reviewing the tentative map pursuant to NRS 278.330 to 278.3485, inclusive;
- j. The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands; and
- k. The submission by the subdivider of an affidavit stating that the subdivider will make provision for payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable, by the subdivider or any successor in interest.

Recommendation: Staff recommends Council review the letter of appeal and Planning Commission action and affirm, modify, or reverse the Planning Commission's decision.

Proposed Motion: Below are proposed motions with the findings for affirmation, modification, and reversal of the Planning Commission decision.

Motion to Affirm Planning Commission Decision

(Upholding the appeal and approving the Tentative Map as conditioned)

In regards to the appeal of LDC21-00009 (Daybreak PUD Planning Area 24 and 25), based on this Council's review of the staff report, the record on the appeal, and information presented at the public hearing for this appeal, I move to AFFIRM the approval of the Tentative Map by the Planning Commission and UPHOLD the appeal, based on the ability to make all applicable findings. The City Clerk is instructed to prepare and file an order.

Motion to Modify Planning Commission Decision

(Partially upholding the appeal and amending the tentative map conditions)

In regards to the appeal of LDC21-00009 (Daybreak PUD Planning Area 24 and 25), based on this Council's review of the staff report, the record on appeal, and information presented at the public hearing, I move to MODIFY the decision of the Planning Commission as follows

____ **. As modified, I can make all of the required findings as listed in the staff report and I move to APPROVE the Tentative Map subject to conditions stated in the Staff Report and as modified by City Council . The City Clerk is instructed to prepare and file an order.

**Modifications to the conditions of approval outlined in the Planning Commission staff report are: [List modifications]

Motion to Reverse Planning Commission Decision

(Denying the appeal, reversing the Planning Commission decision, and denying the Tentative Map)

In regards to the appeal of LDC21-00009 (Daybreak PUD Planning Area 24 and 25), based on

this Council's review of the staff report, the record on appeal, and information presented at the public hearing, and based on my inability to make the following findings ____*, I move to DENY the appeal, REVERSE the approval of the tentative map by the Planning Commission, and directly DENY the tentative map. The City Clerk is instructed to prepare and file an order.

*[List the findings that cannot be made]

Attachments:

- Appeal Filing (PDF)
- Planning Commission Staff Report (PDF)
- Planning Commission Decision Letter (PDF)
- RGJ Proof of Publication for LDC21-00009 (Daybreak PUD Planning Areas 24 & 26 Appeal) (PDF)
- Letter from Garrett Gordon to City Clerk re Continuing Appeal (PDF)
- RGJ Proof of Publication (PDF)