PLACER, County Recorder
JIM MCCAULEY Co Recorder Office
DOC- 2002-0105621

Monday, SEP 09, 2002 08:01:00

NOC \$0.00

Ttl Pd \$0.00

Nbr-0000686635

RECORDING REQUESTED BY AND WHEN RECORDED, MAIL TO:

City Clerk
City of Roseville
311 Vernon Street
Roseville, CA 95678
Attn: Carolyn Parkinson

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'

THIRD AMENDMENT OF DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF ROSEVILLE AND ESKATON PROPERTIES, INC. RELATIVE TO THE NORTH ROSEVILLE SPECIFIC PLAN

THIS THIRD AMENDMENT is entered into this 13th day of August, 2002 by and between the CITY OF ROSEVILLE, a municipal corporation ("City"), and ESKATON PROPERTIES, INC., a California corporation ("Landowner"), pursuant to the authority of Section 65864 through 65869.5 of the Government Code of California.

WITNESSETH:

- A. On August 20, 1997, the City and Landowner entered into a Development Agreement (the "Original Development Agreement"), which was recorded on September 29, 1997 in the Official Records of Placer County, California, as Instrument No. 97-0059808-00. Landowner and City entered into the First Amendment to the Development Agreement on August 31, 1998, which amendment was recorded on September 15, 1998 in the Official Records of Placer County, California, as Instrument No. 98-0073816 (hereinafter the "First Amendment"). Then, Landowner and City entered into the Second Amendment to the Development Agreement on October 22, 1999, which amendment was recorded on November 17, 1999 in the Official Records of Placer County California as Instrument No. 1999-0099399 (hereinafter the "Second Amendment"). The Original Development Agreement, as amended by the First Amendment and Second Amendment, shall be referred to collectively herein as the "Development Agreement." Except as otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed thereto in the Development Agreement
- B. This Third Amendment amends the Development Agreement (hereinafter the "Third Amendment") and shall run with the land. It affects a portion of the real property subject to the Development Agreement. The real property affected by this Third Amendment is identified in Exhibit "B" of the Development Agreement as "EV-1" and is more particularly described in Exhibit "A-1" and depicted in Exhibit "A-2" attached to this Third Amendment (hereinafter the "Parcel EV-1").
- C. The City Council has approved an amendment to the North Roseville Specific Plan by Resolution No. 02-247 (the "Specific Plan Amendments"), which amendment

[E:\agree\dev\nrsp\eskaton ame 3.doc: 06/11/2002]

(F. 0401-03-12 faid use Elements/Augustustation Cities Cities

(F. North Cooling Spling Plan

51

amends the land use tables for Phase 1: Neighborhood A and Phase 2: Neighborhood D to reflect a transfer of 31 affordable housing units from Phase 1 Parcel EV-1 to Phase 2 Parcel WW-17.

D. The City Council has found and determined that this Third Amendment is consistent with the General Plan and the North Roseville Specific Plan.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1. <u>Amendment of Development Agreement.</u> The following sections of the Development Agreement are hereby amended as follows:
 - a. Recital 5 is revised to read:
 - "5. <u>Entitlements.</u> The City Council has approved the following land use entitlements for the Property, which entitlements are the subject of this Agreement:
 - "5.1 The Roseville General Plan, as amended by Resolution No. 02-246;
 - "5.2 The North Roseville Specific Plan and Design Guidelines, as amended and adopted by Resolution No. $\frac{n/a}{}$, (the 'Specific Plan');
 - "5.3 The Rezoning of the Property pursuant to Ordinance No. _____, dated ______, 2002 and pursuant to Ordinance No. _____, dated ______, 2002;
 - "5.4 This Development Agreement, as adopted by Ordinance No. 3861 (the 'Adopting Ordinance') and as amended hereby.

"The approvals described in paragraphs 5.1 through 5.3, inclusive, are referred to herein as the 'Entitlements."

b. Revised Section 2.2 (Vested Entitlements). All references in the Agreement to Exhibit "B" shall refer to Revised Exhibit "B" attached hereto and the approximate number of units set forth in Section 2.2 of the Development Agreement are revised to read as follows:

Congregate Housing:

363 units:

Assisted Living:

200 units:

Skilled Nursing Facility:

100 beds; and

Home Health Agency, Adult Day Care/Health Care Center,

Corporate and Administrative Offices and Comparable Uses,

and Open Space

All on a total of

approximately 52.1 acres

- c. <u>Revised Section 2.6 (Affordable Housing)</u> Section 2.6 of the Development Agreement shall be revised to read as follows:
 - "2.6 Affordable Housing. Consistent with the goals and policies contained in City's General Plan and the Specific Plan, and subject to the terms of this Agreement. City and Landowner agree that Landowner shall satisfy all of its affordable housing

obligation for the development on Parcel EV-1 of approximately 363 units by constructing 37 additional units affordable for rent to low-income households on Parcel WW-17 in Phase II of the North Roseville Specific Plan. These 37 units shall be deducted from the number of congregate housing units allowed on Parcel EV-1.

- d. <u>New Section 3.2.7 (Park Fee Shortfall)</u> Section 3.2.7 of the Development Agreement shall be added to read as follow:
 - "3.2.7 Park Fee Shortfall. As a result of the transfer of affordable units from Parcel EV-1 to Parcel WW-17, as authorized in this Third Amendment, the total number of congregate dwelling units to be constructed within Parcel EV-1 will be reduced by 37. This change will result in a net reduction in the total amount of neighborhood park fees collected within the Diamond Creek neighborhood. Specifically, there will be a Neighborhood Park Fee shortfall of Forty-three Thousand Sixty-eight Dollars (\$43,068), based on 37 units at a fee of \$1,164.00 per congregate unit (the "Neighborhood Park Fee Shortfall") The foregoing Park Fee Shortfall reimbursements shall be subject to annual adjustment every January 1 based on any change in the Engineering News Record, Construction Cost Index for the United States, 20-city average (or comparable replacement index). The Park Fee Shortfall shall be paid to City prior to issuance of a building permit for congregate apartment buildings on Parcel EV-1.
- e. <u>New and Revised Exhibits.</u> Revised **Exhibits "B"** are attached hereto and hereby incorporated into and made a part of the Development Agreement.
- 2. <u>Consistency with General Plan.</u> The City hereby finds and determines that execution of this Amendment is in the best interest of the public health, safety and general welfare and is consistent with the General Plan.
- 3. <u>Amendment.</u> This Amendment amends, but does not replace or supersede, the Development Agreement except as specified herein.
- 4. <u>Form of Amendment.</u> This Amendment is executed in two duplicated originals, each of which is deemed to be an original.

IN WITNESS WHEREOF, the City of Roseville, a municipal corporation, has authorized the execution of this Amendment in duplicate by its City Manager and the attestation to this Amendment by its City Clerk under the authority of Ordinance No. 3861, adopted by the Council of the City of Roseville on the 10th day of July, 2002, and Landowner has caused this Amendment to be executed.

CITY OF ROSEVILLE, a municipal corporation

W. Craig Robinson, Assistant City

City Manager

ESKATON PROPERTIES, INC., a California public benefit corporation

Ву:

John H. Breaux President

and

ATTEST:

Carolyn Parkinson

City Clerk

Secretary

APPROVED AS TO FORM:

Mark J. Doane City Attorney

[ALL SIGNATURES MUST BE NOTARIZED]

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

| State of California |) |
|---|--|
| County of Sacramento | ss. |
| | J |
| On <u>July 29 2 002</u> , before me, personally appeared <i>John H. Breau</i> | Carol A. Scott Votary Public, Name and Title of Officer (e.g., "Jane Dos, Notary Public") Ly and Constance T. Batterson, Name(s) of Signer(s) |
| | ✓ personally known to me |
| | □ proved to me on the basis of satisfactory evidence |
| CAROL A. SCOTT Commission # 1271754 Notary Public - Colfornia Sacramento County My Comm. Expires Aug 20, 2004 | to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. WITNESS my hand and official seal. |
| Place Notary Seal Above | Signature of Notary Public |
| | ORTIONAL |
| | OPTIONAL |
| | al and reattachment of this form to another document. |
| Description of Attached Document | |
| Title or Type of Document: | |
| Document Date: | Number of Pages: |
| | |
| Signer(s) Other Than Named Above: | |
| Canacity(ics) Claimed by Signer | |
| Capacity(ies) Claimed by Signer Signer's Name: | |
| ☐ Individual | OF SIGNER |
| ☐ Corporate Officer — Title(s): | Top of thumb here |
| ☐ Partner — ☐ Limited ☐ General | |
| ☐ Attorney in Fact | |
| ☐ Trustee | |
| | |
| ☐ Guardian or Conservator | |
| ☐ Other: | |
| | |

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Prod. No. 5907

Reorder: Call Toll-Free 1-800-876-6827

GOVERNMENT CODE 27361.7

I certify under penalty of perjury that the Notary Seal on the document to which this statement is attached reads as follows:

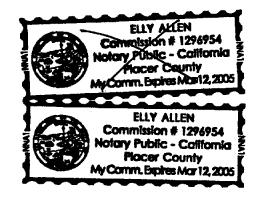
| Name of Notary: <u>Carol A. Scott</u> |
|--|
| Date Commission Expires: <u>August 20, 2004</u> |
| Commission Number: 1271754 |
| County of Commission: <u>Sacramento</u> |
| State of Commission: <u>California</u> |
| Manufacturer Number: NNA 1 |
| Place of Execution: <u>Carmichael</u> , <u>CA</u> |
| Signature: Carol A. Scott Date: 8/29/02 Firm Name: Eskaton |
| Firm Name: Eskaton |

| STATE OF CALIFORNIA |) | |
|---------------------|---|----|
| | : | SS |
| COUNTY OF PLACER |) | |

On this 13th day of August in the year of 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared W. Craig Robinson, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public in and for said State



THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AS FOLLOWS:

Title or Type of Document: _____ Third Amendment of Development Agreement

Date of Document: _____ August 13, 2002

Acknowledgment – All Purpose

GOVERNMENT CODE 27361.7

I certify under penalty of perjury that the Notary Seal on the document to which this statement is attached reads as follows:

| Name of Notary: | Elly Allen | | | |
|----------------------------|-----------------------|---------------|-----------------|--|
| Date Commission Expires: | March 12, 2005 | | | |
| Commission Number: | 1296954 | | | |
| County of Commission: | Placer County | | | |
| State of Commission: | California | | - III | |
| Manufacturer Number: | NNA1 | · | | |
| | | • | | |
| Place of Execution: | Roseville, California | • | | |
| Signature: <u>Elly</u> | len | Date: | August 27, 2002 | |
| Firm Name: City of Rosevil | lle . | | | |

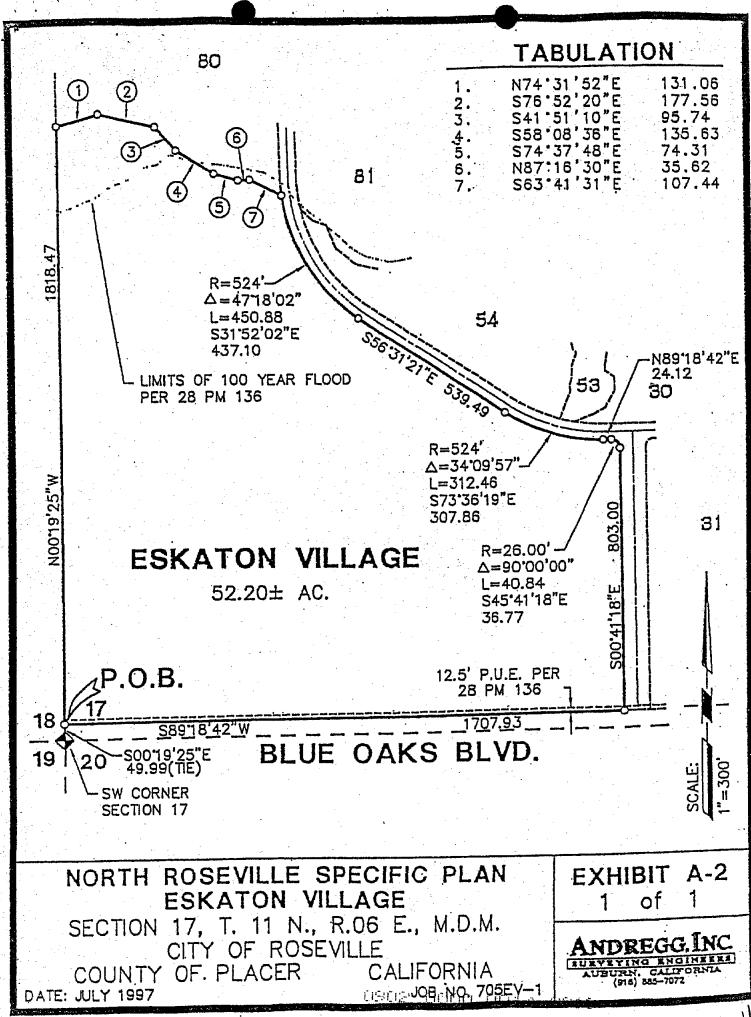
EXHIBIT "A-1"

LEGAL DESCRIPTION FOR NRSP, PHASE I, PARCEL EV-1

Parcel 1, as shown on the map entitled "Diamond Creek Parcel Map, a division of Parcel 1-20 PM 126, P.C.R. portion of Section 17, T. 11 N., R. 6 E., M.D.M.," recorded in the Office of the County Recorder of Placer County on October 26, 1994 in Book 28 of Parcel Maps, at page 35.

EXHIBIT "A-2"

"Map of Property"



REVISED EXHIBIT "B"

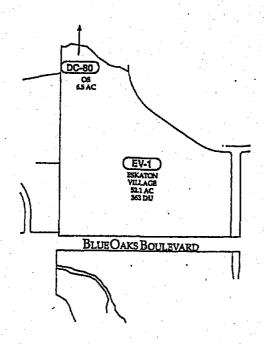
"Land Uses for the Property

Eskaton Village"

EXHIBIT "B"

Land Uses for the Property Eskaton Village

| Subtota | l Diamond C | reek | 312.9 | 1,032 |
|--------------|-------------|------------------|-------|-----------|
| ESKAT | ON | | | |
| EV-1 Eskaton | Eskaton | Village | | · · · · · |
| | CC/SA | Attached Housing | 52.1 | 363 |
| | ' i | ROW - Eskaton | 0.0 | |
| Subtotal | Attached H | ousing Units | 52.1 | 363 |



ORDINANCE NO. 3861

ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE
ADOPTING A THIRD AMENDMENT TO DEVELOPMENT AGREEMENT WITH THE
ESKATON PROPERTIES, INC., AND AUTHORIZING THE CITY MANAGER TO
EXECUTE IT ON BEHALF OF THE CITY OF ROSEVILLE

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1. In accordance with Chapter 19.84 of Title 19 of the Roseville Municipal Code (the Zoning Ordinance) of the City of Roseville, the City Council has received the recommendation of the Planning Commission that the City of Roseville enter into a Third Amendment to Development Agreement with the Eskaton Properties, Inc., to alter and clarify provisions in the existing Development Agreement.

SECTION 2. The Council of the City of Roseville has reviewed the findings of the Planning Commission recommending approval of the Second Amendment to Development Agreement for the North Roseville Specific Plan, and makes the following findings:

- 1. The Third Amendment to Development Agreement is consistent with the objectives, policies, general land uses and programs specified in the City of Roseville General Plan and the North Roseville Specific Plan;
- 2. The Third Amendment to Development Agreement is consistent with the City of Roseville Zoning Ordinance and Zoning Map;
- 3. The Third Amendment to Development Agreement is in conformance with public health, safety and welfare;
- 4. The Third Amendment to Development Agreement will not adversely affect the orderly development of property or the preservation of property values; and
- 5. The Third Amendment to Development Agreement will provide sufficient benefit to the City of Roseville to justify entering into the Second Amendment to Development Agreement.
- SECTION 3. The Third Amendment to Development Agreement by and between the Eskaton Properties, Inc. and the City of Roseville is hereby approved and the City Manager is authorized to execute it on behalf of the City of Roseville.

SECTION 4. The City Clerk is directed to record the executed Third Amendment Development Agreement within ten (10) days of the execution of the agreement by the City Manager with the County Recorder's office of the County of Placer.

SECTION 5. This ordinance shall be effective at the expiration of thirty (30) days from the date of its adoption.

SECTION 6. The City Clerk is hereby directed to cause this ordinance to be published in full at least once within fourteen (14) days after it is adopted in a newspaper of general circulation in the City, or shall within fourteen (14) days after its adoption cause this ordinance to be posted in full in at least three public places in the City and enter in the Ordinance Book a certificate stating the time and place of said publication by posting.

PASSED AND ADOPTED by the Council of the City of Roseville this 10th day of $20^{\underline{02}}$, by the following vote on roll call:

AYES

COUNCILMEMBERS:

Earl Rush, Richard Roccucci, Gina Garbolino, Rocky Rockholm,

Claudia Gamar

NOES

COUNCILMEMBERS:

None

ABSENT

COUNCILMEMBERS:

None

ATTEST:

City Clerk

The foregoing instrument is a correct copy of the original on file in the City Clerks Department.

City Clark and City of Rose