



## Legislation Details (With Text)

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**File created:** 11/1/2012 **In control:** Board of Supervisors  
**On agenda:** 5/3/2016 **Final action:** 5/3/2016  
**Title:** Community Development Agency, Development Services Division, recommending the Board rescind the December 11, 2012 approval of Development Agreement DA11-0003/Diamond Dorado Retail Center without prejudice for Assessor's Parcel Numbers 051-250-12, 051-250-46, 051-250-51, and 051-250-54, allowing that a new Development Agreement application could be made at any time. (Supervisory District 3)

FUNDING: N/A

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Minutes 10-25-12, 2. B - Staff Report, 3. C - Blue Route, 4. D - Development Agreement-Draft, 5. E - DDRC Request for Continuance

Date	Ver.	Action By	Action	Result
5/3/2016	3	Board of Supervisors	Approved	Pass
12/11/2012	2	Board of Supervisors	Approve	Pass
11/13/2012	1	Board of Supervisors	Continued	Pass

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**FUNDING:** N/A

### DEPARTMENT RECOMMENDATION

Community Development Agency, Development Services Division, is recommending the Board rescind the December 11, 2012 approval of Development Agreement DA11-0003/Diamond Dorado Retail Center because: 1) The agreement has not been executed; 2) The County is proceeding to construct the Diamond Springs Parkway; and 3) There has been no activity to implement the approved retail center at this time.

### DISCUSSION / BACKGROUND

#### Diamond Dorado Retail Center

The Diamond Dorado Retail Center (DDRC) project was approved, and an Environmental Impact Report (EIR) was certified by the Board on September 11, 2012 (Item No. 32). The project consisted of a General Plan Amendment changing the land use from Industrial to Commercial, a Rezone from Industrial to Commercial-Planned Development, and a Preliminary Development Plan for the construction of a new 250,000 square-foot retail center to be located at the southwest corner of State

Highway 49 (Diamond Road) and the future Diamond Springs Parkway (DSP), an approved County road connector from Missouri Flat Road to State Highway 49.

Following approval of the DDRC, the Board approved a 20-year Development Agreement (DA) for the project on December 11, 2012 (Item No. 22). The parties/owners involved in the DA include GGV Missouri Flat, LLC, Larry and Jacqueline Abel, and Michael and Lorraine Lindeman. The GGV Missouri Flat, LLC ownership transferred their property to Mr. Abel in September 2014. The major provisions of the DA includes:

1. Extension of the DDRC project approval for 20 years from the “effective date” which is the date the executed DA was recorded.
2. Extension of the irrevocable offers to dedicate certain rights-of-way needed for the DSP for the term of the DA.
3. Providing excess fill material (approximately 200,000 cubic yards) from the site for the construction of the DSP at no cost to County.
4. Provides a complex and detailed range of options for road improvement financing, phasing, and construction.

#### Development Agreement Status

It has been more than three years since the DDRC DA was approved; however, it has yet to be fully executed. Since its approval, all parties to the agreement have signed the document, except for Larry Abel. County staff has reached out to Mr. Abel regarding his intent in authorizing the document, and to date, no formal response has been received. Absent complete authorization from all parties, the DA would remain unexecuted, thereby prohibiting execution of the mutually agreed terms and implementation of the project. None of the parties to the authorized DA have taken any action in the furtherance of the provisions of the DA.

Since approval of the DA and DDRC, the County’s DSP Project has advanced, thereby affecting the implementation of the DA and the DDRC project. DSP Phase 1A, which involves realignment and improvements along State Highway 49 from Pleasant Valley Road to Bradley Drive and borders the DDRC project site along the eastern perimeter, is currently in the Right-of-Way acquisition phase with construction anticipated to start in 2016. DSP Phase 1B, which involves construction of a new four-lane arterial roadway from Missouri Flat Road easterly to State Highway 49 and borders the northern perimeter of the DDRC site, is in the Planning phase with construction anticipated to start in 2020. Both projects are currently fully-funded within the County’s CIP, thus, the construction advancement options contained within the DA no longer apply to the DSP.

Similarly, there has not been any activity in implementing the DDRC project. DDRC was approved only as a Preliminary Planned Development (PD), and a Final PD would be required, subject to the project's Conditions of Approval and adopted Mitigation Monitoring Reporting Program that includes frontage road improvements identified in the CIP projects noted above. Moreover, the submittal of a Final PD (consistent with the Preliminary PD) or a revised PD would have to be substantially consistent with the oak woodland retention and replacement provisions under General Plan Policy 7.4.4.4 Option A. Given the uncertainty of the current project entitlement, having an open, unexecuted DA is not beneficial or practical.

Based on the above, staff recommends a rescission of the DA for DDRC. The rescission of the Board action of December 11, 2012 would not preclude development of the project or execution of a new DA. The rescission would allow the option for a new project or DA to be considered at such time a project is proposed, which would further allow the County and developer to address complex issues

such as project phasing, timing of improvements, and community benefits on a current basis.

### **ALTERNATIVES**

Should the Board elect not to rescind the DDRC DA, the DA would remain unexecuted until all the required land owner signatures have been secured. Once the signatures are secured, the DA is required to be adopted by Ordinance to make it effective. However, many of the DA's road financing and construction terms conflict with the current status of the DSP project. This alternative is not recommended because the DA has become unnecessary because the DDRC commercial project is not proceeding as quickly as originally contemplated, while the DSP road project is proceeding faster.

A new DA could be part of a future DDRC project. A future DDRC project would require a Planned Development application and Planning Commission approval. A DA with different and more appropriate terms could be considered at that time, if requested by the landowner.

### **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

N/A

### **CAO RECOMMENDATION**

Chief Administrative Office concurs with staff's recommendations.

### **FINANCIAL IMPACT**

There is no fiscal impact associated with approval of this item.

### **CLERK OF THE BOARD FOLLOW UP ACTIONS**

N/A

### **STRATEGIC PLAN COMPONENT**

Infrastructure

### **CONTACT**

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