



**Contra  
Costa  
County**

To: Board of Supervisors  
From: John Kopchik, Director, Conservation & Development Department  
Date: June 22, 2021

Subject: Approval of First Amendment to the Gale Ranch Regulatory Agreement (San Ramon)

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**RECOMMENDATION(S):**

APPROVE the First Amendment to Regulatory Agreement and Declaration of Restrictive Covenants between the County and Shapell Deer Creek, LLC (First Amendment), subject to approval by the County Administrator and approval as to form by County Counsel, to modify the terms of the Regulatory Agreement and Declaration of Restrictive Covenants between the County and Shapell Industries, Inc. dated as of October 28, 2014 (Regulatory Agreement), to modify the developer's time frame for complying with the Regulatory Agreement and update the County's enforcement mechanism; and AUTHORIZE the Director of the Department of Conservation and Development to execute the First Amendment following approval by the County Administrator and approval as to form by County Counsel.

**FISCAL IMPACT:**

No fiscal impact.

**BACKGROUND:**

As part of the overall development of the Dougherty Valley area of San Ramon, affordable housing obligations were woven into the development plan at various stages starting from

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☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY  
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD  
COMMITTEE

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Action of Board On: **06/22/2021** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Diane Burgis, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: June 22, 2021

Monica Nino, County Administrator and Clerk of the Board of Supervisors

Contact: Amalia Cunningham,  
925-655-2881

By: Wendy Mascitto, Deputy

cc:

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## BACKGROUND: (CONT'D)

developer's obligation to construct 449 rental units affordable to moderate, low or very low-income households at "Deer Creek South" and "Deer Creek North" was captured in a Regulatory Agreement and Declaration of Restrictive Covenants dated as of October 28, 2014, between the County and Shapell Industries, Inc. (Regulatory Agreement).

Shapell Deer Creek, LLC (Shapell) is the successor-in-interest to Shapell Industries, Inc. To date, Shapell has completed construction of 264 of the required affordable units. Shapell has requested an amendment to the Regulatory Agreement to allow it additional time to complete the construction of the remaining affordable units in order to allow Shapell the opportunity to reevaluate the community's needs. The proposed first amendment requires Shapell to commence construction of the remaining units by June 30, 2023, and to complete construction by June 30, 2025.

The proposed first amendment incorporates a modification to the way in which the County can enforce Shapell's obligations under the Regulatory Agreement. If Shapell fails to construct the remaining affordable units in the time frame allowed by the proposed first amendment and if Shapell is not acting in good faith to complete the construction of the units, the County can demand that Shapell convey certain real property to the County. It is expected that the County, Shapell and the City of San Ramon will work together to identify how Shapell can satisfy its obligations under the Regulatory Agreement in a way that serves the needs of the community.

## CONSEQUENCE OF NEGATIVE ACTION:

If the proposed first amendment is not approved, the terms associated with the development of the remaining 184 units of affordable rental housing will remain uncertain.

## ATTACHMENTS

Gale Ranch Regulatory Agreement