

RESOLUTION NO. 1243

A RESOLUTION approving a Development Agreement between the City of Camas and Arthur C. Piculell, Jr., and Dee W. Piculell and Homesite Development, LLC.

WHEREAS, Arthur C. Piculell, Jr., and Dee W. Piculell and Homesite Development, LLC, are owners of certain real property located within the City of Camas (hereinafter referred to as "Piculell"); and

WHEREAS, the City of Camas and Piculell have negotiated a Development Agreement; and

WHEREAS, the Development Agreement sets forth certain development standards that will govern the development of the property; and

WHEREAS, the City Council has conducted a public hearing, as required by law, on the proposed Development Agreement, at which time it considered testimony from all interested parties; and

WHEREAS, the City Council finds that the Development Agreement has been reviewed by the Director of Community Development and has been found to meet all applicable planning requirements; and

WHEREAS, the City Council desires to approve the Development Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CAMAS AS FOLLOWS:

Section I

That certain Development Agreement between the City of Camas and Piculell, relating to certain real property located within the City's municipal boundary, is hereby approved, and the Mayor is authorized and instructed to sign the Development Agreement on behalf of the City.

Section II

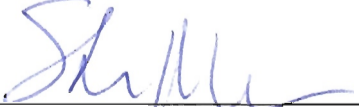
The Development Agreement shall be recorded with the Clark County Auditor, pursuant to the requirements of RCW 36.70(B).190.

ADOPTED by the Council of the City of Camas and approved by the Mayor this 18th day of June, 2012.

SIGNED:  _____
Mayor

ATTEST:  _____
Clerk

APPROVED as to form:

 _____
City Attorney

4859715 AGR

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Clark County, WA 06/01/2012 10:43



1643

Return Address:

James D. Howsley, Esq.
Jordan Ramis, PC
1498 SE Tech Center Place #380
Vancouver, WA 98683

**WASHINGTON STATE COUNTY AUDITOR/RECORDER'S
INDEXING FORM (Cover Sheet)
(RCW 65.04)**

Please print or type information

<p>Document Title(s) (or transactions contained therein): Development Agreement Lake Hills</p>
<p>Reference Number(s) of Documents assigned or released:</p> <p><input type="checkbox"/> Additional reference #'s on page ____ of document.</p>
<p>Grantor(s) (Last name first, then first name and initials):</p> <p>1. Arthur C. Piculell, Jr. and Dee W. Piculell 2. Homesite Development, LLC a Washington limited liability company</p> <p><input type="checkbox"/> Additional names on page ____ of document.</p>
<p>Grantee(s) (Last name first, then first name and initials): City of Camas</p> <p><input type="checkbox"/> Additional names on page ____ of document.</p>
<p>Legal Description (abbreviated: i.e. lot, block, plat or section, township, range): NE 1/4, Section 33, T2N, R3E; SE 1/4, S28, T2N, R3E</p> <p><input checked="" type="checkbox"/> Additional legal is on page <u>Exhibit A-1</u> of document.</p>
<p>Assessor's Property Tax Parcel/Account Number: 084840-000</p> <p><input type="checkbox"/> Assessor Tax # not yet assigned.</p>
<p>The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.</p>

DEVELOPMENT AGREEMENT LAKE HILLS

This Development Agreement ("Agreement") is made and entered into by and between the CITY OF CAMAS, a Washington municipal corporation ("Camas") and Arthur C. Piculell, Jr and Dee W. Piculell, husband and wife, and Homesite Development, LLC a Washington limited liability company collectively identified as "Piculell" and will be effective as of the last signed date below.

RECITALS

WHEREAS, the Piculell own or control certain real property which is located within the Camas' municipal boundary and which is more fully described in the attached **Exhibit "A,"** commonly known as tax parcel 084840-000 (hereinafter referred to as the "Property");

WHEREAS, Camas wishes to provide the development standards for the development of the Property;

WHEREAS, Camas is purchasing not less than a seven (7) acre portion of the Property as negotiated preservation with Piculell;

WHEREAS, Camas is a Washington municipal corporation with land use planning and permitting authority over all land within its corporate limits;

WHEREAS, the Washington state legislature has authorized the execution of development agreements between local government and a person having ownership or control of real property within its jurisdiction pursuant to RCW 36.70B.170(1);

WHEREAS, pursuant to RCW 36.70B.170, a development agreement may set forth the development standards and other provisions that will apply to, govern and vest the development, use and mitigation of the development of real property for the duration specified in the agreement, which statute provides:

(1) A local government may enter into a Development Agreement with a person having ownership or control of real property within its jurisdiction. A city may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement. A development agreement must set forth the development standards and other provisions that will apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement will be consistent with applicable development regulations adopted by a local government planning under chapter 36.70A RCW;

WHEREAS, the legislative findings supporting the enactment of this section provides:

The legislature finds that the lack of certainty of the approval of development projects can result in a waste of public and private resources, escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private participation and comprehensive planning, and reduce the economic cost of development. Further, the lack of public facilities and services is a serious impediment to development of new housing and commercial uses. Project applicants and local governments may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities. It is the intent of the legislature by RCW 36.70B.170 through 36.70B.210 to allow local governments and owners and developers of real property to enter into development agreements;

WHEREAS, for the purposes of this Development Agreement, "development standards" includes, but is not limited to, all of the standards listed in RCW 36.70B.170(3); and

WHEREAS, this Development Agreement by and between Camas and the Piculell relates to the future development of the Property.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. Development Agreement. This Agreement is a development agreement to be implemented under the authority of and in accordance with RCW 36.70B.170 through RCW 36.70B.210. It will become a contract between the Piculell and Camas upon its approval by ordinance or resolution following a public hearing as provided in RCW 36.70B.170.

Section 2. Definitions. As used in this Agreement, the following terms, phrases, and words will have the meanings and be interpreted as set forth in this section.

"Adopting Resolution" means the resolution which approves this Agreement, as required by RCW 36.70B.200.

"City Parcel" means that area of negotiated preservation acquired by Camas from Piculell of no less than seven acres of the Property.

"Effective Date" means the effective date established by the Adopting Resolution.

Section 3. Term of Agreement. This Agreement will commence upon the Effective Date, and will continue in force for a period of ten (10) years, unless extended or terminated by mutual consent of the parties.

Section 4. Park Impact Fee Credits. Following conveyance of the City Parcel from Piculell to Camas, Piculell will have Fifteen Thousand (\$15,000) in Park Impact Fee credits to be utilized as building permits are issued for the Property as part of the negotiated preservation.

Section 5. Development Standards. Camas agrees to process the Lake Hills development as a subdivision utilizing the density transfer provisions of the code. More specific terms that govern the development of the Property are set forth below.

A. Camas will recognize Piculell's vested rights, in accordance with the December 20, 2005 development application and the April 6, 2006 notice of vesting from Camas to the remaining portion of the Property to be developed. This includes but is not limited to stormwater, wetlands, critical areas, trees and all other development regulations in effect at the time the application was deemed complete and vested.

B. Piculell agrees to modify its development projects from a planned residential development containing eighty (80) residential lots to an R-10 subdivision containing 53 lots. In the sole event that engineering allows the development to use the Lacamas Lake large water body exemption for stormwater detention, then the R-10 subdivision may contain up to a maximum of 57 residential lots. Modifying the project's original development proposal will (a) reduce the impacts of the development on sensitive lands; (b) will promote the protection and management of sensitive lands by providing for the sale to Camas a portion of the Property subject to a Settlement Agreement; and (c) will significantly reduce the number of lots being developed on the Property.

C. The City Parcel is being purchased as negotiated preservation of sensitive lands and therefore Piculell shall be allowed to use the density transfer provision in accordance with provisions under CMC 18.09.060 and CMC 18.31.120. Additionally, beveling of lots under the CMC shall not be required, consistent with this negotiated settlement for preservation under Section 1 and 2 of the Settlement Agreement.

D. Piculell has the right to use wetland fill and wetland buffer reduction pursuant to the previously vested CMC provisions consistent with Section 5(a) herein. Camas further agrees that a buffer reduction technique may be used where the wetland remains intact and undeveloped, but where the buffer is diminished, solely for that area set forth in Exhibit "B"). Alternatively, where wetland fill is to occur, offsite mitigation may occur in accordance with the mitigation sequencing due to limited areas for mitigation onsite or on the City Parcel to be acquired.

E. Piculell will propose the development of a soft trail connection from Lake Road to the City Parcel and from the City Parcel to Piculell lower loop road.

F. Piculell herein agrees to develop only detached single family homes in the R-10 subdivision.

G. Piculell will be allowed to develop eleven (11) lots in the southerly portion of the Property along Lake Road. Access to five of these lots will be by three direct driveway access points on Lake Road. No access shall be located closer than 330 feet from the intersection of NW Jackson Street. Two of these driveways will have shared access between two lots, through an easement, and all three of the driveways will provide room so that there is no backing of vehicles onto Lake Road. The remaining six lots will be accessed on a twenty foot (20 ft.) wide paved surface, traversable by emergency vehicles, with sixteen (16) feet of road, a rolled curb and a four (4) foot sidewalk. This road will parallel Lake Road. Parking on this road will be prohibited within the required (20) feet of pavement. A fire access cut and gate or post will be placed on the north end of the road. This access road will provide a thirty-five (35) foot turn radius for emergency vehicles entering and exiting, and a portion of this may be located at the beginning of the path connection through the property.

H. Camas and Piculell recognize that the Property includes steep slopes, significant trees and critical or sensitive area and further recognize that to provide for the development of lots with urban services, the removal of significant trees will be required in order to reasonably grade the site. The parties have negotiated the preservation of a portion of the overall site known as the City Parcel recognizing that this includes a grouping of significant area of trees and sensitive areas. The City will support preliminary plat findings of compliance with CMC 17.19.030(A)(2) and CMC 18.31.080(B) related to the preservation of significant trees and vegetation based upon the City acquisition of the City Parcel. Except as provided in this Agreement the City Parcel is intended as public recreational and/or natural open space with the intent of preserving large stands of trees and vegetation, while the remaining portions of the Project site are intended to be cleared for development

I. Piculell will retain an arborist, subject to Camas' approval, to evaluate the trees at the edges of the City Parcel to determine which present hazards to future homes and to the public trailheads, and to advise removal of hazard trees in accordance with the code provision of which the application is vested but also consistent with this negotiated settlement for preservation under the Settlement Agreement. Camas in its sole discretion will moderate tree removal and pruning on the City Parcel based upon the arborist's assessment and direction for northerly view sheds and corridors for the 11 lots to be developed along Lake Road. Parties agree that Piculell may apply for a grading and erosion control permit to clear the non-City Parcel portions of the Project of trees and vegetation prior to Preliminary Plat approval. Upon City approval of the Preliminary Plat and expiration of all appeals, the City will promptly issue a grading permit to allow for clearing to occur with the intent of meeting a fall 2012 construction start. Within sixty (60) days of the execution of this Agreement, Piculell will provide a good faith draft arborist tree report in good form for review as part of the Project.

J. Camas will agree to grant Piculell any easements over the City Parcel for utility purposes provided that such easements do not directly impact wetlands.

K. Camas will use reasonable efforts to ensure all entitlements under City control required for construction of the project are processed and issued to Piculell no later than

ninety (90) days after Piculell submits supplemental application materials or the recording of this Development Agreement, whichever is later. Revised supplemental materials shall not require new traffic or geotechnical studies, but will include updated memorandums addressing the impacts of the revised lot count and locations.

L. Camas shall allow Piculell to submit final engineering of storm water detention facilities prior to the approval of the R-10 Density Transfer Subdivision. Camas will issue a permit for construction of the storm water facilities subject to hearings official approval of the preliminary plat.

M. Given the revisions to the development application to be submitted by Piculell, Camas will issue a SEPA decision which addresses the environmental impacts of those revisions. However, the SEPA decision previously issued by the City and affirmed by the City Council shall remain effective until the R-10 Density Transfer revision is approved and all appeal periods have lapsed relating to development approval consistent with the negotiated Settlement Agreement.

Section 6. Remedies. Should a disagreement arise between Camas and the Piculell regarding the interpretation and application of this Agreement, the parties agree to attempt to resolve the disagreement by first meeting and conferring. If such meeting proves unsuccessful to resolve the dispute, the disagreement may be resolved by judicial action filed in Clark County Superior Court.

Section 7. Performance. Failure by either party at any time to require performance by the other party of any of the provisions hereof will in no way affect the parties' rights hereunder to enforce the same, nor will any waiver by a party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this non-waiver clause.

Section 8. Venue. This Agreement will be construed in accordance with and, governed by, the laws of the State of Washington. The parties agree to venue in the Superior Court for Clark County, State of Washington, to resolve any disputes that may arise under this Agreement.

Section 9. Severability. If any portion of this Agreement will be invalid or unenforceable to any extent, the validity of the remaining provisions will not be affected thereby.

Section 10. Inconsistencies. If any provisions of the Camas Municipal Code are deemed inconsistent with the provisions of this Agreement, the provisions of this Agreement will prevail.

Section 11. Binding on Successors and Recording. This Agreement will run with the land and be binding upon and inure to the benefit of the Piculell, the parties, and their respective heirs, successors and assigns. This Agreement will be recorded against the real property indicated on **Exhibit "A"** with the Clark County Auditor.

The Piculell may sell or otherwise lawfully dispose of any portion of the Property to another person who, unless otherwise released by all parties, will be subject to the applicable provisions of this Agreement related to such portion of the Property.

Section 12. Recitals. Each of the recitals contained herein are intended to be, and are incorporated as, covenants between the parties and will be so construed.

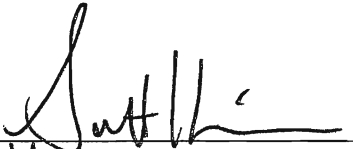
Section 13. Amendments. This Agreement may only be amended by mutual agreement of the parties.

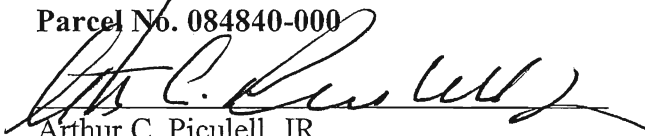
Exhibits:


- Exhibit A: Legal Description of Property
- Exhibit B: Wetlands Exhibit

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates set forth below.

CITY OF CAMAS

By: 
 Title Mayor

Parcel No. 084840-000

 Arthur C. Piculell, JR
 Date signed _____


 Dee W. Piculell
 Date signed _____


 Homesite Development, LLC
 Its: Managing Member

EXHIBIT "A"

Assessor Property Tax Parcel:

084840-000



EXHIBIT B

LAKE HILLS SKETCH
FIFTY-THREE R10 DENSITY TRANSFER LOTS
HOMESITE DEVELOPMENT, INC.

NOTE A: WETLAND TO BE FILLED
 NOTE B: WETLANDS TO BE PARTIALLY FILLED OR SUBJECT TO BUFFER REDUCTION



05/15/12