

AGENDA ITEM

May 13, 2014

Subject: Final Plat and Development Agreement for Atlantic Estates

Department: Community Development

Rodney Beard owns property north of Atlantic Street and wishes to develop this land. The Nevada City Code requires this property to be subdivided out in a plat. The first step in the platting process is submitting a preliminary plat to the Planning Commission which was approved by the Planning Commission in April 2014.

BILL NO. 2014-

ORDINANCE NO.

A SPECIAL ORDINANCE OF THE CITY OF NEVADA, MISSOURI, APPROVING A FINAL PLAT AND DEVELOPMENT AGREEMENT OF ATLANTIC ESTATES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEVADA, MISSOURI THAT:

Section 1. In accordance with Section 32-13 of the municipal code, the Planning Commission held a public hearing and reviewed the Final Plat and Development Agreement of Atlantic Estates, Nevada, Missouri which included utility easements.

Section 2. Following public hearing and review by the Planning Commission and an affirmative recommendation by that body, and public hearing before the City Council in accordance with Section 37-11 of the Municipal Code of the City of Nevada, Missouri, it is found and determined that the Final Plat and Development Agreement for Atlantic Estates is accepted and approved.

Section 3. The City Clerk is hereby directed to have recorded, at the developer's expense, the Final Plat and Development Agreement in the Office of the Recorder of Deeds in Vernon County, Missouri.

This ordinance shall be in full force and effect after its passage.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Nevada, Missouri, this _____ day of _____, 2014.

Seth Barrett, Mayor

(seal)
ATTEST:

Bev Baker, City Clerk

**CITY OF NEVADA, MISSOURI
DEVELOPMENT AGREEMENT
“Atlantic Estates”**

This Development Agreement, is made and entered into this ____ day of May, 2014, by and between the City of Nevada, Missouri, a third class Home Rule Charter municipality, 110 S. Ash Street, Nevada, MO 64772, hereafter referred to as “**City**”, and Rodney L. Beard and Mary K. Beard, husband and wife, 10292 S. 1900 Road, Walker, MO 64790, hereafter referred to as “**Developer**”.

WITNESSETH:

THAT WHEREAS, Developer wishes to develop an area described as “Atlantic Estates”, and

WHEREAS, Developer has submitted “Atlantic Estates” plat as required by §32-13 of the Nevada Municipal Code, and

WHEREAS, Developer warrants that the existing streets and existing wastewater and water transmission lines and easements are accurately depicted on said plat, and

WHEREAS, as consideration for the conditions and covenants running with the land Developer has requested that improvements the City would otherwise require prior to approval of the Developer’s final plat, be deferred for later construction by Developer or Developer’s assignees, to the end that expenses of infrastructure might be deferred reasonably to promote the reasonable and prompt development of said property,

Legal Description appears on following page.

NOW, THEREFORE, it is mutually agreed as follows:

1. This document creates restrictions, conditions, and covenants that are hereby declared to be restrictions, conditions and covenants running with the land and shall be fully binding on all persons acquiring property in the subdivision whether by descent, devise, purchase, foreclosure, or otherwise and any person by acquisition of any interest whatsoever in this subdivision shall thereby agree and covenant to abide by, be subject to, and fully perform all provisions of this contract.

2. The right to enforce these restrictions and covenants shall inure to the parties to this agreement and to any person or entity who acquires any interest whatsoever in said subdivision. This Development Agreement supplements and accompanies the Final Plat of the "Atlantic Estates" as finally approved and presented for recording. As conditionally approved, subject to this agreement and presented for recording, all provisions of said Plat and all provisions of the Development Agreement notwithstanding, the Subdivision must meet all requirements of the City Code including, but not limited to, surveyor certification and title company certification. Said Final Plat will be identified as "Atlantic Estates" and the same is hereby incorporated herein and a copy of this Development Agreement will be attached to said Plat and recorded with said Plat.

3. The tract subjected to this Development Agreement and restrictions and covenants herein contained is described as follows:

ALL THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 33, TOWNSHIP 36 NORTH, RANGE 31 WEST, IN THE CITY OF NEVADA, MISSOURI, DESCRIBED AS FOLLOWS;

**COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4), THENCE N01°56'59"E A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUING N01°56'59"E A DISTANCE OF 662.74 FEET;
THENCE S77°01'53"W A DISTANCE OF 398.52 FEET;
THENCE S87°29'30"W A DISTANCE OF 93.09 FEET TO A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 60.00 FEET AND A CHORD BEARING AND DISTANCE OF S89°19'59"W, 60.20 FEET;
THENCE ALONG SAID NON-TANGENT CURVE TO THE LEFT AN ARC DISTANCE OF 313.93 FEET;
THENCE N60°54'21"W A DISTANCE OF 137.43 FEET;
THENCE S02°00'29"W A DISTANCE OF 408.75 FEET;
THENCE S88°26'57"E A DISTANCE OF 208.69 FEET;
THENCE S02°00'13"W A DISTANCE OF 208.71 FEET;
THENCE S88°26'57"E A DISTANCE OF 452.26 FEET TO THE POINT OF BEGINNING.**

CONTAINING 8.0 ACRES MORE OR LESS.

SUBJECT TO ALL EASEMENTS, RESTRICTIONS, AND COVENANTS, IF ANY NOW OF RECORD AND SUBJECT TO SEWER EASEMENT BY PRESCRIPTION OR OTHERWISE GRANTED TO THE CITY OF NEVADA WITHIN WHICH A SEWER IS CONSTRUCTED AND OPERATED BY SAID CITY OF NEVADA AS OF THIS DATE.

4. Developer warrants and agrees it has or will fully comply with §§32-15; 32-16; and 32-17 of the Code of the City of Nevada, Missouri and that all streets, curbs, and gutters, and sidewalks, etc. addressed by the City's minimum standard street design elements will be fully constructed and made accessible to any lot prior to seeking building permits or occupancy permits

or transferring title to any of the lots in the subdivision not excepted from the requirements of this Agreement. In addition, each lot within the subdivision will be provided prior to issuance of the building permit or occupancy permit with direct access adjacent each lot for connections for natural gas, electric service, telephone, and cable service. Developer and City have determined that street lights should be installed in this subdivision as hereafter noted, and any charge by KCP&L for the installation will be paid by Developer and the lights installed prior to issuance of any building or occupancy permit. The monthly maintenance charge after installation will be the responsibility of the City. Street lights will be installed at the southeast corner of lot 3 and the southwest corner of lot 7.

5. Developer warrants and agrees it has or will provide for final approval by the City's consulting civil engineer, Allgeier Martin & Associates, Inc., a full and final response to all issues of concern issued in the memorandum of April 24, 2014 by engineer, Michael Keaton, PE, and fully satisfied all reasonable concerns of the City associated with that memorandum prior to seeking building permits or occupancy permits or transferring title to any of the lots in the subdivision not excepted from the requirements of this Agreement.

6. It is agreed that Lots 12, 13, and 15 of the subdivision face Atlantic Street, that utilities are presently available, and that these lots may be marketed at Developer's discretion and are excepted from the Development Agreement for that purpose.

7. The parties conclude that under the present Code the City does not have the right to require Developer to build sidewalks adjacent Atlantic Street. Further, the parties conclude and it is agreed that the City Code does require sidewalks on both sides of that portion of Elm Street being developed by Developer. The Developer will be permitted to obtain building permits for construction to the end that sidewalks need not be built during the construction period when exposed to damage. In concluding construction, sidewalks must be completed prior to the issuance of an occupancy permit. All of the sidewalks in this subdivision, which must be constructed by Developer, must be completed prior to approval of any subsequent plat for extension of Elm Street to the North.

8. Developer warrants that all the infrastructure to be constructed by Developer for public utilities and public streets, including sidewalks, curbs, and gutters, upon completion thereof in conformity with the applicable design standards are and will be the property of the City of Nevada, Missouri, which will accept maintenance responsibilities conditioned upon construction and fully compliance with the City's design requirements. The Developer will cooperate with the City in coordinating inspection of improvements to be installed underground to the end that they may be inspected in open trench and that reasonable arrangements are made to provide verification of material qualities and types complying with the Code, and all said improvements are and will be dedicated free of liens and encumbrances. Periodic inspection by the City's engineer or official designated by the City Manager will be performed as provided in §32-18 of the Code.

9. The City is waiving a subdivision completion bond in view of the Developer's agreement that no building or occupancy permits will be issued absent completion of improvements, however the one-year maintenance required by 32-17 of the Code will be required. This provision of the Code permits the Developer to require his contractors and sub-contractors provide performance and payment bonds as well as liability insurance. The developer will require

On this ____ day of May 2014, before me appeared, Seth Barrett, Mayor, to me personally known, who being by me duly sworn, did say that he is the Mayor of the City of Nevada, Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of the City of Nevada, Missouri, and that said instrument was signed and sealed in behalf of the City of Nevada, Missouri, by authority of its City Council as set forth in Ordinance No. _____, passed, approved and adopted on _____, _____, 2014, and further acknowledged said instrument to be the free act and deed of the City of Nevada, Missouri.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office in Nevada, Vernon County, Missouri, the day and year last above written.

(SEAL)

Notary Public, State of Missouri

ACKNOWLEDGMENT
Developer / Title Holder

STATE OF MISSOURI)
) ss.
COUNTY OF VERNON)

On this ____ day of May 2014, before me personally appeared Rodney L. Beard and Mary K. Beard, husband and wife, to me personally known, who, being by me duly sworn did say that they executed acknowledged the said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Nevada, Missouri, the day and year first above written.

(SEAL)

Notary Public, State of Missouri