



City Council Report

Date: March 23, 2025

To: City Council

Through: Scott Butler, City Manager
Marc Heirshberg, Assistant City Manager

From: Nana Appiah, Development Services Director
Ashley Scott, Management Assistant II

Subject: First Amendment to Development Agreement between R & S Development Group LLC and the City of Mesa for property generally located at the southeast corner of East Thomas Road and North Higley Road (DA25-00021). District 5

Purpose and Recommendation

The purpose of this report is to discuss and consider approving a First Amendment to the Development Agreement with R&S Development Group, LLC, an Arizona limited liability company (“Owner”), for property generally located at the southeast corner of East Thomas Road and North Higley Road (“Development Agreement”). The proposed Amendment updates the Development Agreement to incorporate an additional 4 acres of property, update the site plan, remove outdated wastewater impact fee language, and establish land use restrictions.

Staff recommends that the City Council approve the Amendment.

Background

In 2023, the City Council approved the Development Agreement in conjunction with a rezoning from Single Residence-90 (RS-90) to Light Industrial with a Planned Area Development Overlay (LI-PAD) to allow development of a boat and recreational vehicle storage facility. The Development Agreement authorized temporary use of an on-site septic system because sewer service was not available to the property at the time. The Development Agreement also required an in-lieu payment toward future sewer improvements that the development would otherwise be required to construct. The Owner will be required to connect to the City’s sewer system once sewer service becomes available. The Owner has since completed the required in-lieu payment.

In March 2025, the owner acquired an additional parcel immediately south of the project site from the Arizona Department of Transportation (ADOT). The owner intends to develop the parcels together as a single boat and recreational vehicle storage facility. To accommodate the expanded site and updated zoning case, the owner has requested an amendment to the Development Agreement (“Amendment”).

Discussion

The purpose of the proposed Amendment to the Development Agreement is to include the new parcel the owner recently purchased from ADOT, so it is included in the Development Agreement and subject to the same terms and obligations as the original site. The Amendment also updates the site plan to reflect the expanded project area. In addition, it removes outdated wastewater impact fee language since the City no longer collects that fee and adds land use restrictions through 2050 to align with the 2050 General Plan. The Amendment continues to defer sewer improvements and updates the triggers requiring the property owner to connect to the City's sewer system.

The Amendment to the Development Agreement includes, among other provisions, the following, the information below is taken directly from the Amendment and the section numbers reference those applicable portions of the Amendment and the Development Agreement:

5. Removal of the Impact Fee; Termination. As the wastewater impact fee in Section 2.3 and Section 2.4 is no longer an impact fee collected by City and termination is controlled by Section 3 which allows for termination if the Owner satisfies its obligations in the Agreement, Section 2.3 and Section 2.4 of the Development Agreement are amended to remove the requirement for the payment of the impact fee and the reference to the impact fee, to acknowledge Owner paid the required In Lieu Payment, and remove the termination language, as set forth below, with ~~strikethrough~~ front representing removed language and **bold underlined** front representing added language, if any:

~~"2.3 In Lieu Payment and Wastewater Impact Fee Due Prior to Issuance of Any Permits. Owner further acknowledges and agrees that City will not issue any construction, building, or right-of-way permit(s) or sewer unavailability letters for the Project or the development of Property until City receives from Owner the full In Lieu Payment." and the applicable wastewater impact fee for the Project, which is thirteen thousand, two hundred ninety five dollars and no cents (\$13,295.00) (the fee is based on the water meter sizing of the Project). Regardless of when paid, Owner acknowledges and agrees that such payments are properly due and owing at such time. **The Parties acknowledge that the Owner satisfied its obligation of paying the City in full the In Lieu Payment as of January 8, 2026.**~~

2.4 ~~Failure of City to Construct the Sewer Improvements. If the City has not constructed the Sewer Improvements within fifteen (15) years from the date City received both the In-Lieu Payment and wastewater impact fee from Owner, then upon written request from Owner, the City will refund such money to Owner, without interest, within sixty (60) days of receiving Owner's request. Upon City refunding the In-Lieu Payment and wastewater impact fee to Owner, this Agreement will terminate and be of no further force or effect; but~~ Owner acknowledges and agrees that if the Septic System thereafter fails ~~after this Agreement has been terminated~~, and Owner is not able to repair the Septic System, that Owner will have to comply with the City's, then current Terms and

Conditions for the Sale of Utilities and the Mesa City Code (which may require Owner to extend the wastewater utility lines and install associated wastewater improvements) and pay the then applicable impact fees as well as applicable utility rates, fees and charges.”

6. Land Use Restrictions. A new Subsection 2.11 is added to the Development Agreement as set forth below to include certain use restrictions on the Property:

“2.11 Land Use Restrictions. Notwithstanding general allowances for land use under the City’s General Plan and zoning and land use ordinances, Owner agrees to the land use restrictions in the development and use of the Property in this Subsection 2.11 which shall remain in effect until December 31, 2050. The following land uses, as set forth and defined in the Mesa Zoning Ordinance, as amended, are prohibited on the Property as set forth below:

- A. Correctional Transitional Housing Facility (CTHF)
- B. Multiple Residence
- C. Hospitals and Clinics
- D. Animal Sales and Services: Veterinary Services, Pet Stores, and Kennels
- E. Artists’ Studios
- F. Automobile/Vehicle Sales and Services: Automobile Rentals, Automobile/Vehicle Sales and Leasing; Automobile/Vehicle Repair (Major); Automobile/Vehicle Repair (Minor); Automobile/Vehicle Washing; Large Vehicle and Equipment Sales, Services, and Rental; Service Station; and Towing and Impound
- G. Banks and Financial Institutions, with Drive-Up ATM/Teller Windows; for the purpose of clarity, Banks and Financial Institutions that do not have Drive-Up ATM/Teller Windows are not prohibited
- H. Banquet and Conference Center
- I. Commercial Recreation: Small-Scale and Large-Scale
- J. Eating and Drinking Establishments of any type with Drive-Thru or Pick - Up Window Facilities; for the purpose of clarity. Eating and Drinking Establishments that do have Drive-Thru or Pick-Up Window Facilities are not prohibited
- K. Food and Beverages Sales, Convenience Market
- L. Funeral Parlors and Mortuaries
- M. Marijuana Facilities (all types)
- N. Personal Services with Pick-Up Window Facilities; for the purpose of clarity, Personal Services that do have Pick-Up Window Facilities are not prohibited
- O. Retail Sales with Pick-Up Window Facilities; for the purpose of clarity, Retail Sales that do not have Pick-Up Window Facilities are not prohibited
- P. Recycling Facilities (all types)
- Q. Warehousing and Storage: Only Contactors’ Yards, and Mini-Storage are prohibited, all other types are allowed and the Parties specifically acknowledge that Boat and Recreational Vehicle Storage is an allowed use
- R. Freight/Truck Terminals and Warehouses
- S. Data Centers

Alternatives

The following alternatives are presented for consideration:

APPROVAL OF THE DEVELOPMENT AGREEMENT:

Approval will allow the proposed boat and recreational vehicle storage facility to expand while maintaining defined land use limitations and updating outdated infrastructure provisions. The Amendment ensures consistency between the zoning approvals, the site plan, and the Development Agreement, and provides long-term land use certainty through 2050 while protecting the City's long-term infrastructure interests.

NO ACTION:

If the Amendment is not approved, then the new parcel would not be incorporated into the existing Development Agreement, and the expanded development may not move forward as proposed.

Staff recommends the City approve the Amendment.

Fiscal Impact

The Development Agreement does not require any additional investment or fiscal impact from the City. The required in-lieu payment has been satisfied, and the amendment removes outdated wastewater impact fees.

Coordinated With

The Development Agreement was coordinated with the Development Services Department and the City Attorney's Office.