



City Council Report

Date: August 26, 2024

To: City Council

Through: Christopher J. Brady, City Manager
Marc Heirshberg, Deputy City Manager

From: Nana Appiah, Development Services Director
Beth Hughes-Ornelas, Deputy Director -Development Services
Mary Kopaskie-Brown, Planning Director

Subject: DA24-00004
Discuss and consider entering into a Pre-Annexation Development Agreement “Merit Partners Legacy Business Park” with Pacific Proving, LLC for approximately 43+/- acres of property generally located East Pecos Road (north side) and future South Crismon Road (west side), located north of Pecos Road and east of Ellsworth Road in Maricopa County, AZ; outside the corporate limits of the City of Mesa,
(Council District 6)

Purpose and Recommendation

The purpose of this report is to discuss and consider approving a Pre-Annexation Development Agreement (“DA”) with Pacific Proving, LLC (“Developer”). This development agreement includes approximately 43+/- acres of property currently located in Maricopa County and zoned Rural-43.

Owner of the subject property has applied to annex the property in the County into the City (ANX23-00800) and a blank annexation petition has been recorded with the County (Maricopa County Recorder No. 20240297618). Also, the public hearing prior to the release of the petition for the annexation of the property into the City was held on July 1, 2024, by the Mesa City Council. Upon annexation of the property into the City, the subject property will initially be zoned Agricultural (AG), which is comparable to the current County zoning designation and will not permit densities and land uses greater than those permitted by the County’s Rural-43 zoning designation.

Staff recommends that the City Council approve the Development Agreement.

Background

To develop the Project, Owner has applied for a minor general plan amendment to change the General Plan Character Area designation of on property from Mixed Use Community to Employment with an Industrial Sub-type (Case No. ZON24-00617), and also rezone the entire 43-acre property to Light Industrial with a Planned Area Development Overlay. The request also

include a Site Plan Review, and Council Use Permit (Case No. ZON23-00802) to develop three data center buildings with administrative offices as well as an electrical substation on the property known as “Merit Partners Legacy Business Park”.

As part of the subject rezoning request, the Developer is requesting a DA on the subject property to facilitate development of the property and limit certain land uses that may be incompatible to development and goals of the General Plan designation for the area.

Discussion

The purpose of the DA is to specifically limit certain uses and guide future development of the property, as well as facilitate development of adjacent public infrastructure improvements to support the development. The development agreement includes the following stipulations:

Public Improvements

The Developer is required to construct and dedicate to the City of Mesa street improvements, which includes pavement, curb, gutter, sidewalk, streetlights, traffic signals, storm drain, water and sewer lines and landscaping, at the following locations that will be dedicated to, accepted and controlled by the City: (1) north side of East Pecos Road adjacent to the Property; (2) west side of South Crismon Road adjacent to the property.

Because the Arizona Department of Transportation has not completed construction of the SR-24 overpass at Crismon Road the City Manager, using the authority under Mesa City Code 9-8-4, has agreed to temporarily defer a portion of the Crismon Road improvements subject to certain terms and conditions. The terms of the temporary deferral of a portion of the Crismon Road improvements and required construction of a temporary cul-de-sac east and west sides of South Crismon Road are set forth in the attached Development Agreement.

Land Use Restrictions

The Developer has agreed to certain land use restrictions on the Property. The primary land use restrictions set forth in the DA are as follows and shall remain in place 50 years from the effective date of the agreement:

Prohibited Uses on the Property: General. The following land uses in the Zoning Ordinance are prohibited on the Property:

- a) Correctional Transitional Housing Facility (CTHF)
- b) Cultural Institutions
- c) Day Care Centers
- d) Automobile/Vehicle Repair, Major
- e) Towing and Impound
- f) Funeral Parlors and Mortuaries
- g) Marijuana Dual Licensee Facilities
- h) Medical Marijuana Dispensaries
- i) Marijuana Cultivation Facilities
- j) Marijuana Infusion Facilities
- k) Reverse Vending Machines
- l) Contractor’s Yards
- m) Mini-Storage

- n) Aircraft Refueling Stations
- o) Aircraft Light Maintenance
- p) Airport Transit Station
- q) Solar Farms
- r) Swap Meets and Flea Markets

Prohibited Use on the Property: Transloading. Transloading is prohibited and is not allowed anywhere on the Property. For purposes of this Agreement, “transloading” means the logistics practice of unloading goods from inbound delivery vehicles and loading them onto outbound vehicles, and may include unpackaging, repackaging, sorting, or palletizing the goods prior to loading the goods onto outbound vehicles. Transloading shall not be interpreted to mean or prohibit Warehousing and Storage, Wholesale, Indoor Warehousing and Storage, Freight/Truck Terminals and Warehouses as defined within the Zoning Ordinance.

Alternatives

The following alternatives are presented for consideration:

APPROVAL OF THE AMENDED DEVELOPMENT AGREEMENT.

Approval of the DA will facilitate development of three data center buildings with administrative offices as well as an electrical substation on the Property and promote high-quality development in southeast Mesa.

NO ACTION.

If the Council chooses not to approve the DA, the Pacific Proving Technology Campus development will not move forward.

Staff recommends the City Council approve the development agreement.

Fiscal Impact

While the Development Agreement does not require any additional investment or fiscal impact from the City, the proposed project will result in increased revenues derived from construction activities on the subject site as well as future sales tax revenues.

Coordinated With

The DA was coordinated with the Transportation Department, the Development Services Department, and the City Attorney’s Office.

Attachments: Exhibit A, Property Map
Exhibit B, Development Agreement