



## City Council Report

**Date:** November 20, 2023

**To:** City Council

**Through:** Christopher J. Brady, City Manager  
Natalie Lewis, Deputy City Manager

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

**Subject:** DA23-00004 (Business Depot Suites)- Development Agreement for the proposed development located within the 4200 to 4400 blocks of East Southern Avenue (north side) and within the 1100 block of South Oakland Street (east side). Located west of Greenfield Road on the north side of Southern Avenue. Council District 2

### **PURPOSE AND RECOMMENDATION:**

The purpose of this report is to recommend that the City Council approve a resolution authorizing the City Manager to enter into a Development Agreement with Ten Mountain Investments, LLC for the development of one-story commercial building consisting of twelve suites on approximately 1.3± acres of land. The site is generally located west of Greenfield Road on the north side of Southern Avenue.

Staff recommends the City Council approve the Development Agreement.

### **BACKGROUND:**

The property is currently zoned Neighborhood Commercial (NC) with a Planned Area Development overlay (NC-PAD). The owner has submitted an application to rezone the property to a Limited Commercial (LC) zoning district with a Planned Area Development and Bonus Intensity Zone Overlay (LC-PAD-BIZ). The request also includes approval of an initial site plan review to allow for the commercial development. Per the Mesa 2040 General Plan, the property is located within a Neighborhood Village Center. Per Chapter Seven of the General Plan, the goal of the Neighborhood Village Center is to provide for the regular shopping and service needs of the nearby population, serving as the focal point for surrounding neighborhoods. The proposed Limited Commercial (LC) zoning is listed as a primary zoning district within the character area, and personal services and office uses are listed as primary land uses within the Neighborhood Village Center. Overall, the proposed project conforms to the intent of the Neighborhood Village Center character designation.

### **DISCUSSION:**

The City and Owner desire to enter into a Development Agreement to limit certain land uses and activities permitted within the LC-PAD-BIZ zoning but may be incompatible with the Neighborhood Village Center character area designation. Prohibiting and/or limiting the land uses as set forth in the Development Agreement will support a high-quality development that provides opportunities for employment-generating uses.

The Development Agreement includes, among other provisions, the following:

1. Prohibited Uses and Activities on the Property:

- A. Automobile/Vehicle Sales and Service
  - i. Accessory Automobile Rentals
  - ii. Automobile Rentals
  - iii. Automobile/ Vehicle Service and Repair, Minor
  - iv. Automobile/Vehicle Washing
  - v. Service Station
- B. Mini- Storage
- C. Live-Work Unit
- D. Outdoor Display
- E. Temporary Outdoor Sales
- F. Outdoor Entertainment or Activities
- G. Portable Storage Containers
- H. Retail Sales

2. Additional Limitations on Uses and Activities.

A. Limitation on Outdoor Storage and Display. Owner agrees there shall be no outdoor storage on the Property, whether screened or otherwise, including that there shall be no accessory outdoor displays. For the purpose of this Agreement, "outdoor storage" shall be defined as the open storage of goods, materials, machines, and equipment outside of a building. Notwithstanding the foregoing, each Suite occupant shall be permitted to park overnight in the designated outdoor parking spot(s) assigned to their Suite any non-commercial vehicles and a maximum of one (1) commercial vehicle. For the purpose of this Agreement, a "commercial vehicle" shall be: (i) any vehicle that meets the definition of a commercial vehicle in A.R.S. § 28-2231; or (ii) any vehicle the height of which exceeds the height of the perimeter fence surrounding the Property, which shall be minimum of eight (8) feet, with the height of being the vertical distance between the ground and the highest point on the vehicle, including any aftermarket modifications or additions to the vehicle.

B. Business License. For any tenant, subtenant, licensee, or sublicensee that occupies any portion of the Property during the term of this Agreement (collectively, "Tenant"), Owner shall include language in each lease, license, or similar agreement that requires the Tenant to obtain all licenses and permissions necessary for the lawful operation of their business including, but not limited, a business license from the City and a transaction privilege tax license from the Arizona Department of Revenue, as applicable.

**ALTERNATIVES:**

The following alternatives are presented to City Council for consideration:

- **APPROVE THE DEVELOPMENT AGREEMENT:**  
Approval of the Development Agreement will ensure the proposed development is compatible with the land use goals of the General Plan.
- **NOT APPROVE THE DEVELOPMENT AGREEMENT:**  
If Council chooses not to approve the Development Agreement, land uses that are undesirable and incompatible with the land use goals of the General Plan would be permitted.
- **NO ACTION:**  
If Council takes no action, Owner may not proceed with developing the proposed industrial project.

Staff recommends approval of 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 revenue.

**COORDINATION:**

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