



City Council

Date: November 20, 2017
To: Mayor and Council
Through: Christopher J. Brady, City Manager
From: William J. Jabjiniak, Economic Development Director 
JD Beatty, Economic Development Project Manager 
Subject: Termination of the existing development agreement between the City of Mesa and NKS Group III Limited Partnership (incorrectly identified as NKS Group III, LLC in the Development Agreement), succeeded-in-ownership by Loop 202 & Elliot Road Parcel #2, LLC.

Purpose and Recommendation:

To consider the termination of the existing development agreement between the City of Mesa and NKS Group III Limited Partnership, succeeded-in-ownership by Loop 202 & Elliot Road Parcel #2, LLC, entered into on May 21, 2007, recorded on June 1, 2007, as Instrument No. 2007-0637500 in the Official Records of Maricopa County, regarding approximately 121.595 acres of property located at the northwest side of Elliot Road and Arizona State Route 202.

Furthermore, the termination of this existing Development Agreement will coincide with the new Development Agreement being established directly between the City and Loop 202 & Elliot Road Parcel #2, LLC, allowing them to Opt-In this property to the Elliot Road Technology Corridor Light Industrial Planned Area Development (LI PAD) Overlay.

Staff recommends that the City Council approve the following document:

1. Resolution authorizing the City Manager to terminate the existing development agreement between the City of Mesa and NKS Group III Limited Partnership, succeeded-in-ownership by Loop 202 & Elliot Road Parcel #2, LLC, on the property located on the northwest corner of Elliot Road and Arizona State Route 202.

Background:

The City of Mesa entered into a development agreement with NKS Group III Limited Partnership ("NKS Group") on May 21, 2007, aimed at developing approximately 170 acres of land at the northeast corner of the South Hawes Road and East Elliot Road (the "Property") into a regional retail shopping and mixed-use employment center, to be named the Gateway Super Regional Center.

Under this development agreement, two Performance Dates were established stating that the Owner would submit and receive Final Site Plan approval by the City Council no later

than July 1, 2012, and would commence construction on the Property no later than July 7, 2014. NKS Group never developed the Property, and these performance dates were never met.

Since the execution of the development agreement in 2007, the City has designated this Property, along with others along Elliot Road, as part of the Elliot Road Technology Corridor Light Industrial Planned Area Development (LI PAD) Overlay. This overlay, passed by Mayor and City Council on November 3, 2014, is intended to stimulate the attraction of technology and advanced manufacturing companies by reducing entitlement risk, increasing site plan flexibility, establishing higher-quality design standards, and streamlining the development process.

Furthermore, the original property owner, NKS Group, has since sold the property to Loop 202 & Elliot Road Parcel #2, LLC, who intends to develop the property. At this time, Loop 202 & Elliot Road Parcel #2, LLC has requested to opt-in to the LI PAD Overlay on this property, which requires its own Development Agreement, and is also being considered on the November 20th, 2017 City Council Agenda.

In summary, the termination of this pre-existing 2007 Development Agreement will allow for Loop 202 & Elliot Road Parcel #2, LLC to enter into a new Development Agreement with the City to opt-in their property to the LI PAD Overlay, which carries its own Design Standards and Guidelines.

Alternatives:

If Council does not approve the resolution for the DA amendment as drafted and recommended, they may choose one of the alternatives listed below:

Not Approve Development Agreement Termination: The Council could choose to not approve the termination of the Development Agreement. If Council chooses not to approve the DA Termination, the 2007 development agreement will still remain in effect, and may inhibit the property owner's ability to develop the property.

Direct Staff to Modify the Termination Agreement: The Council could direct staff to modify the termination agreement in some way.

Take No Action: The Council could choose to take no action or table the item until a future date. The impact of any delay, specifically the DA termination, is unknown, but may preclude further development from occurring on the subject property.

Fiscal Impact:

There is no cost to terminate the existing development agreement. The developer has requested the termination of this development agreement.

Coordinated With:

The Office of Economic Development has worked very closely with the City Attorney's Office, the Development Services Department, as well as the property owner.