



Meeting Date: November 21, 2023

AGENDA MEMORANDUM

To: Honorable Mayor and Members of Town Council

Through: Dave Corliss, Town Manager

From: Tara Vargish, P.E., Director, Development Services
Brad Boland, AICP, Long Range Project Manager

Title: **A RESOLUTION APPROVING THE ALEXANDER WAY DEVELOPMENT AGREEMENT**

Executive Summary

455 Alexander, LLC, and Tierra Investors, LLC (applicants) are requesting to enter into a Development Agreement (DA) with the Town for property known as the Alexander Way Planned Development (PD), which is located east of the Silver Heights subdivision in unincorporated Douglas County, north of Alexander Place, and west of the Diamond Ridge Estates neighborhood (Attachment A).

The property is currently under consideration for annexation of 73.76 acres. In addition to the property being considered to be annexed, a 4.2 acre parcel is to be incorporated into the proposed Alexander Way PD for a total project area of 77.76. If the Annexation and the Alexander Way Planned Development Plan and Zoning Regulations are approved, the developer will enter into a Development Agreement with the Town to define the obligations of the developer and the Town relative to the development plan.



Figure 1: Site Vicinity Map

A DA is a legally binding contract between the property developers and the Town that requires public hearings before Town Council, who shall review and make a decision upon the proposed DA.

Proposed Development Agreement

The DA addresses infrastructure improvements, development phasing, open space conveyances, water rights conveyances, Town service obligations and other relevant items (Attachment B). These obligations are intended to be mutually beneficial, as well as enhance public health, safety and welfare. Some of the key components of the DA are briefly summarized below.

Commencement of Development – Section 2.05

The developer must complete the construction of at least \$500,000 in public improvements, excluding soft costs, and the issuance of the first building permit for a single-family residential structure by December 31, 2033. If the public improvements have not been made, the right of the developer under this Development Agreement and Town Regulations to undertake further development of the property, or to obtain permits for construction shall be suspended by the Town Council. This development suspension may be released by Town Council, in its discretion, upon a showing of good cause for the delay, and the demonstration by the developer of the ability to commence and complete development of the property in accordance with the approved Alexander Way PD, and within a timeframe determined by Town Council at that time.

Water Rights Conveyance and Water Credit – Section 5

All Denver Basin groundwater rights underlying the Alexander Way PD property will be conveyed to the Town upon annexation. The Alexander Way PD property consists of three groundwater parcels: North, South, and Already Annexed – 4.2 acres.

A review of the Groundwater Rights Title Opinion was completed by the Town's outside water attorney and accepted by staff.

The groundwater rights underlying the northern parcel are currently owned by the Silver Heights Water District. If the annexation is approved, the applicant will be required to disconnect the property from the Silver Heights Water District and convey the water rights to the Town. Once the northern parcel nontributary groundwater rights have been conveyed to the Town, the Alexander Way Water Bank will be credited for them.

Additionally, under all three parcels, the groundwater rights include not-nontributary (NNT) groundwater that requires adjudicated augmentation plans and conveyance of the plans to the Town. The developer is working with the Town on how best to achieve this conveyance. Upon conveyance to the Town, the Alexander Way Water Bank will be credited.

In addition to the groundwater rights associated with the Alexander Way PD, the owners hold additional groundwater rights and an adjudicated augmentation plan that they propose to convey to the Town as part of the annexation approval. These water rights are located under the Diamond Ridge Estates development and were not dedicated to the Town at the time the development was approved.

The Alexander Way Development Agreement contains details on the Alexander Way Water Bank including how debits and credits are made. The Alexander Way Water Bank will be initially credited with **216.5 SFE**.

Future credit for the Alexander Way water bank will come from the nontributary (NT) groundwater rights currently owned by Silver Heights.

To determine if the NNT groundwater rights underlying all 3 parcels and the Diamond Ridge augmentation plan will be credited to the water bank, the Town's water attorney is currently reviewing them due to the complexities of conveying NNT groundwater that was partially dedicated previously. However, there will be enough credit in the water bank for the planned development from the above-mentioned SFE credits.

Water, Wastewater and Stormwater – Section 7.01

The developer will be responsible for the design and construction of water, wastewater, and stormwater system improvements necessary to serve the development.

Transportation Improvements – Section 8.01 through 8.05

The developer has the following requirements as related to transportation improvements;

- Founders Parkway at Allen Way: The Transportation Impact Analysis has determined that a portion of the traffic generated by the development will utilize this signalized intersection. A cash-in-lieu payment equal to 1% or \$57,621.65, which exceeds the pro-rate share, for costs associated with intersection control will be required at time of first plat.
- Founders Parkway at Front St: The Transportation Impact Analysis has determined that a portion of the traffic generated by the development will utilize this signalized intersection. A cash-in-lieu payment equal to 1% or \$40,876.90, which exceeds the pro-rata share, will be required at time of first plat for construction of additional turn lanes.
- Allen Street and Alexander Place: This intersection shall be converted to an "All Way" Stop prior to issuance of the first building permit.

Public Lands and Improvements – Section 8

The developer has the following requirements as related to public lands;

- The open space shall be offered for dedication and upon acceptance, conveyed to the Town, at no cost to the Town, with the recordation of the first plat of the property. All conveyances shall be in accordance with Section 8 of the Development Agreement.
- A natural surface trail system as per the Town's Soft Surface Sustainable Trail Development Guide, located generally as shown on the PDP. The width and location of

the trail shall be coordinated with and approved by the Town. The trail shall be installed by a contractor who is a member of the Professional Trailbuilders Association or an equivalent organization.

- All public lands and other parcels to be conveyed to the Town shall be assessed, at no cost to the Town, by a professional that is familiar with Wildland Urban Interface (WUI) mitigation. The developer shall contract with a contractor familiar with WUI mitigation to perform all identified treatments deemed necessary to meet the current Community Wildfire Protection Plan, as a condition of acceptance of the property by the Town.
- Cash-in-lieu of public land dedication to be determined and paid at time of plat.

Fire Protection Plan – Section 9

Prior to, and as a condition of the issuance of the first building permit for the development, the developer shall prepare, submit and receive an approval for a fire protection plan for the development. The fire protection plan shall analyze the wildfire risk of the development and recommend fire protection and life safety measures for the purpose of mitigating wildfire hazards within the development.

Budget Impact

The Alexander Way Development Agreement formalizes the developer's financial obligations to adequately address impacts of the development on Town infrastructure and services.

Finding

Staff finds that the proposed obligations outlined in the Alexander Way Development Agreement are adequate to support the proposed Alexander Way PD.

Recommendation

Staff recommends approval of the Alexander Way Development Agreement, as proposed.

Proposed Motions

Option 1: Approval

"I move to approve this Development Agreement Resolution, as presented."

Option 2: Approval with Conditions

"I move to approve Development Agreement Resolution, with the following conditions:" (list conditions)

Option 3: Continue item to next hearing (need more information to make decision)

“I move to continue this item to the Town Council meeting on [date], 2023, at [time].”

Attachments

Attachment A: Vicinity Map

Attachment B: Resolution

Attachment C: Development Agreement

DA Exhibit 1A: Legal Description

DA Exhibit 1B: Legal Description

DA Exhibit 1C: Legal Description

DA Exhibit 2: Groundwater Rights Map

DA Exhibit 3: Special Warranty Deed

DA Exhibit 4A: Title Opinion - Alexander Way Groundwater Rights

DA Exhibit 4B: Title Opinion - Diamond Ridge Groundwater Rights