



Memorandum Number 1

To: Missoula City Council

From: Dave DeGrandpre, Planning Supervisor

Copy: Jim Nugent and Ryan Sudbury, Office of the City Attorney
City of Missoula staff members Eran Pehan and Mary McCrea
Ken Ault, KJA Development
Spencer Woith, Woith Engineering
Alan McCormick, Garlington, Lohn & Robinson

Date: June 8, 2022

Subject: Development Agreement for 2900, 2920, and 2990 Expo Parkway / Grant Creek Village

Background

In conjunction with an application to rezone the Expo Parkway property to RM1-45, KJA Development submitted a development agreement intended to demonstrate and commit to certain types, scale, and timing of development at the site. Over the past few months City staff has worked with the development team to modify the proposed development agreement to clarify certain elements and commitments.

The development agreement is an enforceable contract between KJA Development and the City of Missoula. Additionally, because the agreement touches and concerns the use of the land it is enforceable against successors-in-interest as a servitude on the property. The development agreement states that future development of the property must be in substantial compliance with a Master Site Plan, which is attached to the agreement and provides locations and types of buildings, internal streets and parking areas, open spaces, community facilities, and amenities.

The development agreement does not override zoning, public works, and other adopted standards, but is more restrictive than certain elements of the RM1-45 zoning, in particular the cap of 700 dwelling units, while the RM1-45 zoning would allow more than 1,000.

The development agreement runs with the land, meaning that if KJA Development sells or loses the property, future development must still comply with the agreement. The development agreement may be amended only with the written consent of the Missoula City Council and the developer or their successors and assigns.

As discussed throughout the public review process, rezoning of property cannot be conditioned or dependent upon other actions, such as a development agreement. Instead a decision to rezone property must be made on whether the rezoning complies with the review criteria in Title 20 Section 20.85.040.G as detailed in the staff report. Following that decision, City Council may

find it is in the public interest to approve the development agreement in order to have greater assurance of the types, scale, and timing of development features at the site. City Council also retains the power and authority to seek revisions, additions, deletions, or to reject the current development agreement or delay its consideration of the agreement.

Next Steps

If Council finds the rezoning proposal meets the review criteria and approves the rezoning to RM1-45, Council may then choose to adopt a motion authorizing the Mayor to sign the development agreement in its current or modified form.

Per protest provisions in state law, the vote to approve the rezone requires an affirmative vote of two-thirds of Council members present and voting. Because the development agreement is not associated with the zoning decision, it is only subject to the simple majority requirements applicable to regular City Council actions. The following is a motion for Council's consideration:

Authorize the Mayor to execute the development agreement dated _____ between KJA Development, LLC and the City of Missoula for Grant Creek Village located at 2900, 2920, and 2990 Expo Parkway consisting of two parcels legally described as Government Lot 4 and Portion B of COS 4831, and Amended Tract A of COS 3750, and Portion C of COS 4831, and Portion A of Commerce Center, Phase II, Amended in Section 5, Township 13 North, Range 19 West.