

STAFF MEMO

DATE OF COUNCIL MEETING: JULY 13, 2020 / AGENDA ITEM NO. 6

To: Mayor and City Council

From: Travis Parker, Director of Planning, 303-987-7908

Subject: **ADDENDUM TO DEVELOPMENT AGREEMENT FOR CDN RED ROCKS**

SUMMARY STATEMENT: In 2009, Lakewood City Council approved a development agreement in conjunction with the Solterra Centre Official Development Plan. The rights under the approved agreement conflict with the recently approved Residential Growth Limitation. Staff has requested the property owner to submit an addendum to the development agreement that acknowledges and accommodates the Residential Growth Limitation. The attached addendum would do the following:

1. Remove development of units on this property from discretionary approval under the ordinance since this was achieved in 2009.
2. Require the developer to notify the City in November of each year how many units they intend to build in the following year.
3. Allow the City to account for those units, without limiting the number, in any way appropriate.

Staff recommends approval of the addendum in order to meet the intent of the Residential Growth Limitation in compliance with previously approved development rights.

BACKGROUND INFORMATION: In 2009, Lakewood City Council approved a development agreement in conjunction with the Solterra Centre Official Development Plan. This document vested the right to construct housing in accordance with the ODP for a period of 25 years. The City committed in that agreement not to take any action that would “alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the property” without the consent of the owners.

Application of the requirements of recently approved Article 14.27 regarding Residential Growth Limitation would conflict with the terms of this agreement. First, any discretionary review would not only cause a delay in development but, if denied, would directly contradict the previous approval. Secondly, putting development of this property through the standard application process could likely result in inadequate allocations on any given year and denial of some permits. The result would be at minimum a delay and possibly the inability to develop in the approved manner.

Staff has worked with the applicant to find a way to meet the intent of the ordinance in limiting overall city development of housing while honoring the terms of the agreement made in 2009. The attached addendum would add a new requirement for the developer to annually notify the City of the number of units intended to be constructed in the coming year. The City Council could then use this information to account for the number of units in the annual allocation creation and assignment. The City would then honor the development approval by

not requiring an additional Council review of the project and would not limit the construction of the homes through the unavailability of allocations.

BUDGETARY IMPACTS: None

STAFF RECOMMENDATIONS: Staff recommends approval of the proposed addendum to the development agreement. The proposal meets the spirit of both the Residential Growth Limitations and the existing development agreement

ALTERNATIVES: City Council can approve or deny the proposed addendum. Council could also request the applicant to make further changes to the addendum.

PUBLIC OUTREACH: This meeting has been advertised through the normal channels.

ATTACHMENTS: Request Letter from Brian Connolly
Approved 2009 Development Agreement
Proposed First Addendum to Development Agreement

REVIEWED BY: Kathleen E. Hodgson, City Manager
Benjamin B. Goldstein, Deputy City Manager
Timothy P. Cox, City Attorney