



## **AGENDA ITEM ANALYSIS**

Project/Issue Name: 22-63 An Ordinance of the City Council Approving a Developer Agreement with Stone Creek Development LLC.

Submitted By: Karen Haynes, BUILDS Administrator

Date: January 17, 2023

### **Issue Statement**

The BUILDS Department is requesting approval authorizing the City Administrator to enter into a Developer's Agreement with Stone Creek Development LLC, allowing for the issuance of At-Risk Commercial Building Permits during the final phases of MODOT permitting review and subsequent construction of a signalized intersection on East US Highway 60, as required by the approved Stone Creek Falls Development Plan.

### **Discussion and/or Analysis**

The Stone Creek Falls Planned Development District (PDD) Development Plan was approved by Council on August 03, 2021; the multi-phase Development Plan consists of (92.85) acres approved for commercial and multi-family construction and two new public street connections with East US Highway 60, a Right-In/Right-Out (RIRO) and a new signalized intersection.

The Developer is projected to finish infrastructure construction, including the RIRO and all paving by the end of the year, with permitting and construction of the signalized intersection projected to be completed in late summer 2023. Once all infrastructure, including the signalized intersection, is completed and approved, the Developer will seek approval from City Council for the Final Plat for Phase 1 of the development.

The Developer's Agreement proposes the issuance of (8) At-Risk Commercial Building Permits on Multi-Family Lot 8 (5.0 acres) and Lot 10 (5.02), consisting of (4) buildings on each Lot, with total dwelling units not to exceed (240) dwelling units, as they work through the final stages of permitting with MODOT and construction of the intersection.

The Developer's Agreement contains the following key elements, which specifically address the Developer's risk associated with the issuance of At-Risk Building Permits prior to approval of a Final Plat, timeframe for construction, and bonding for the costs associated with construction of the signalized intersection:



**Proposed Key Points for Developer's Agreement:**

**At-Risk Building Phasing:** The Developer's Agreement, if approved by Council, will allow the issuance of (8) At-Risk Commercial Building Permits for (8) Apartment Buildings, with a total occupancy of (24) Dwelling Units

- **Totals for At-Risk Building Permit Area:**
  - (2) Multi-Family Lots: Lots 8 and 10
    - Lot 8 (5.0 acres): (4) Buildings, consisting of (120) Dwelling Units total
    - Lot 10 (5.02 acres): (4) Buildings, consisting of (120) Dwelling Units total
- **Transportation:**
  - **RIRO:** Construction must be completed, prior to the issuance of any At-Risk Commercial Building Permits and final execution of the Developer's Agreement
    - Completion and approval required by City of Republic and MODOT
    - RIRO Future City Street is limited to construction traffic only and the City accepts no ownership or responsibility for the street until approval of the Final Plat
  - **Signalized Intersection (MODOT):** The Developer's Agreement allows for at-risk construction of building(s) to begin, prior to the permitting of the City Street/Signalized Intersection
    - No Certificate of Occupancy will be issued for any buildings prior to the approval of the Final Plat
      - No Final Plat will be accepted for BUILDS Department review until the City Street and Signalized Intersection are constructed and approved by the City of Republic and MODOT
        - Not Lots within the approved PDD may be conveyed by any mechanism to any party
        - No additional Building Permits (At-Risk or other) will be permitted by the City of Republic until the Final Plat has been approved
        - No final inspections on any buildings will be permitted until the Final Plat has been approved by Council
- **Infrastructure Permit:** Construction has been started under an At-Risk Infrastructure Permit, as no MODOT Permit has been issued for the RIRO or the City Street/Public Intersection
  - All utilities must be installed, and all associated construction completed and approved by the City of Republic, prior to the issuance of any At-Risk Building Permits (except for the pending City Street/Signalized Intersection); additional Inspections, including a formal Final Inspection will be required during review of the Final Plat
  - The City accepts no ownership or responsibility for the installed utilities or infrastructure (including streets)
  - All areas of construction, except those covered by the At-Risk Building Permit, must be seeded and strawed, prior to the issuance of any At-Risk Permits
  - The City may require the closure of the RIRO Street, allowing for construction traffic only, at the discretion of the BUILDS Department



- **Bonding Requirement for City Street/Signalized Intersection:**
  - The City will require a Letter of Credit or Cash to be held in lieu of the immediate construction of the required City Street/Signalized Intersection, as a surety that the improvement will be constructed within the specified timeframe. Should the Developer be unable to complete the improvement within the specified timeframe, the money will be forfeited and the City will utilize the funds as a contribution to the MM Realignment Project slated for the future; in this event, the City will issue a Stop Work Order for all construction activities and revoke all associated permits issued by the BUILDS Department, effectively ceasing the continuance of any work on the project.
  - The amount of bonding is \$977,796, based upon the Design Engineer's cost estimate, which includes prevailing wages, plus a 20% contingency.
  - Construction of the Signalized Intersection is to be completed and approved within a time period not to exceed nine months from the date of execution of the Agreement
- **Final Platting:** Prior to the issuance of any Certificates of Occupancy (or required Final Inspections), the Final Plat must be approved by City Council
  - No Lots may be sold or otherwise conveyed until approval and recording of the Final Plat

**Recommended Action**

Staff is recommending approval of the Stone Creek Developer's Agreement.