

File Category: PRO.DEV.ZON
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To: Chief Administrative Officer
From: Director of Corporate Administration
Date: August 24, 2009

Subject: Amendment to Escrow Agreement – Late Item

Recommendation

That clause 3(a)(i) of the Escrow Agreement between the District, Genstar Titleco and Madison Development Corporation be amended to replace the word "and" with the word "or".

Background

Council will recall that it previously approved the Escrow Agreement, which provides that Genstar or Madison can decide in year 5 of the Phased Development Agreement (pda) to not develop. If that decision is made, then the pda is cancelled, the no-build covenants will be lifted, and council can determine to rezone the entire lands.

Council will also recall that the Escrow Agreement will become null and void with the first subdivision application, or after the end of the fifth year if no action is taken by either Genstar or Madison on the terms of the Escrow Agreement.

The effect of the proposed change is that it will clarify that either Genstar or Madison can make the decision to not proceed independent of the other.

Our legal counsel has indicated that this wording change reflects the reality of the situation in any event i.e. should either party determine to not proceed on the basis of economics, it will mean that the entire project has suffered a major setback.



Dennis Clark

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