

PLANNING AND DEVELOPMENT MEMORANDUM
08-19

July 24, 2008

TO: Honorable Mayor Kathleen M. Novak and City Council Members

FROM: David Allen, Acting City Manager ~~DA~~
James Hayes, Director of Planning and Development ~~JH~~
Patrick Breitenstein, Acting Director of Urban Renewal ~~PB~~

SUBJECT: CR-112 – Amending Development Agreement

SUMMARY:

Attached to this memorandum is a Resolution which, if approved would authorize the Mayor to execute a first amendment to the Development Agreement between the City, the Northglenn Urban Renewal Authority, Prime West Development Inc., and Zing Development Strategies.

BACKGROUND:

The current Development Agreement prohibits medical health facilities anywhere in the seventeen acre project area, including the six acre site west of Grant Drive known in the Agreement as the Residential/Mixed Use Property. Prime West/Zing have proposed sale of the six acre site to a medical health facility who would construct a senior day care center and a senior residence hall. Amendment of the Development Agreement is necessary to proceed with the entitlement applications (PUD) for this project.

BUDGET/TIME IMPLICATIONS:

The Development Agreement provides for sale of the residential/mixed use site from the City to Zing/Prime West for \$1,756,034.00 (250,862 Sq. ft. x \$7.00 per square foot.) Declining to approve the proposed amendment would delay sale of the site until some future date.

In addition, the medical facility proposed would be a non-profit tax exempt facility and would likely not be subject to property tax. Any incremental property tax stream generated by the site would go to the Northglenn Urban Renewal Authority. A tax exempt facility will pay no property tax and generate no future income for NURA. In addition, the facility would not pay sales and use taxes to the City.

STAFF REFERENCE:

Please contact James Hayes, Director of Planning and Development at jhayes@northglenn.org, or (303) 450-8937.

SPONSORED BY: MAYOR NOVAK

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-112
Series of 2008

Series of 2008

A RESOLUTION APPROVING THE FIRST AMENDMENT TO DEVELOPMENT AGREEMENT BETWEEN THE CITY OF NORTHGLENN, THE NORTHGLENN URBAN RENEWAL AUTHORITY, PRIME WEST DEVELOPMENT, INC. AND ZING DEVELOPMENT STRATEGIES, LLC, A COLORADO LIMITED LIABILITY COMPANY

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The First Amendment to Development Agreement between the City of Northglenn, the Northglenn Urban Renewal Authority, Prime West Development, Inc., and Zing Development Strategies, LLC, attached hereto as **Exhibit 1**, is hereby approved and the Mayor is authorized to execute same on behalf of the City.

DATED at Northglenn, Colorado, this ____ day of _____, 2008.

KATHLEEN M. NOVAK
Mayor

ATTEST:

JOHANNA SMALL, CMC
Acting City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (the "**First Amendment**") is made and executed this 24th day of July, 2008, by and between the **CITY OF NORTHGLENN, COLORADO**, a Colorado home rule municipal corporation (hereafter referred to as the "**City**"), the **NORTHGLENN URBAN RENEWAL AUTHORITY**, a body corporate and politic of the State of Colorado (hereafter referred to as "**NURA**") (the City and NURA may hereafter also collectively be referred to as the "**Developer**"), and **PRIME WEST DEVELOPMENT, INC.**, a Colorado corporation, and **ZING DEVELOPMENT STRATEGIES, LLC**, a Colorado limited liability company (Prime West Development, Inc. and Zing Development Strategies, LLC shall hereafter be referred to collectively as the "**Subdeveloper**"). Each of the City, NURA and Subdeveloper may be hereafter referred to as a "**Party**", and collectively they may be hereafter referred to as the "**Parties**".

W I T N E S S E T H

WHEREAS, the Parties previously entered into a Development Agreement approved by the City on May 10, 2007, with an effective date of August 15, 2007 (the "**Original Agreement**") regarding 17 acres, more or less, of real property described in Exhibit A (the "**Property**") to the Original Agreement;

WHEREAS, the Original Agreement contemplated a phased development of the Property consisting of the initial development of the approximately 11 acre Town Center Property as that term is defined in the Original Agreement, followed by the development of the approximately 6 acre Residential/Mixed Use Property as that term is defined in the Original Agreement;

WHEREAS, because of the originally contemplated phased development of the Property as described in the Original Agreement, the Original Agreement did not specifically contemplate or address the specific permitted or prohibited uses on the Residential/Mixed Use Property; and

WHEREAS, because there is a potential purchaser of the Residential/Mixed Use Property that desires to use the Residential/Mixed Use Property in part as a medical health facility, a use that is at least in part inconsistent with the uses as set forth in the Original Agreement, the Parties hereto desire to specify that the proposed uses on the Residential Mixed Use Property allow medical or dental health facilities.

NOW, THEREFORE, the Parties hereto, for themselves, their successors and assigns, in and for the consideration of the performance of the mutual duties and responsibilities set forth herein, the receipt and adequacy of such consideration being hereby acknowledged, do hereby covenant and agree as follows:

1. Section 7.2 of the Original Agreement is amended to read as follows:

7.2 Prohibited Uses. Subdeveloper shall not conduct any of the Prohibited Uses within the **Town Center Property District** and shall not permit any Tenant to conduct any of the Prohibited Uses within the **Town Center Property District**, without the City's prior written consent.

2. The Original Agreement is amended by the addition thereto of a new Section 7.3 to read as follows:

7.3 Permitted Uses within the Residential/Mixed Use Property.

Notwithstanding the provisions of Section 7.2 of this Agreement and the Prohibited Uses identified in Exhibit F to this Agreement, the City hereby consents to the inclusion of a facility that includes a medical health facility solely on the Residential/Mixed Use Property, and such a use is hereby determined to be a permitted use on the Residential/Mixed Use Property.

3. Except as modified herein, the Development Agreement remains in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the Parties have hereunto set their hands on the day and year first aforesaid.

CITY OF NORTHGLEN

By: Kathleen M. Novak, Mayor

ATTEST

Johanna Small, Acting City Clerk

APPROVED AS TO FORM

Corey Y. Hoffmann, City Attorney

**NORTHGLENN URBAN RENEWAL
AUTHORITY**

By: Phil Carney, Chairman

ATTEST:

APPROVED AS TO FORM:

Jeff Parker, Authority Attorney

SUBDEVELOPER:

PRIME WEST DEVELOPMENT, INC.

By: _____
Name: _____
Its: _____

ZING DEVELOPMENT STRATEGIES, LLC

By: _____
Name: _____
Its: _____