

**TOWN OF PRESCOTT VALLEY
REQUEST FOR COUNCIL ACTION
Date: June 27, 2013**

SUBJECT: Final Development Plan (FDP13-007) – ADES Building (Phase II)

SUBMITTING DEPARTMENT: Community Development Department

PREPARED BY: Joe Scott, Planner for Richard T. Parker, Community Development Director

AGENDA LOCATION: Comments/Communications , Consent , Work/Study ,
New Business , Public Hearing , Second Reading

ATTACHMENTS: a) Aerial Photo, and b) Resolution No. 1842 (with attachment)

SUMMARY/BACKGROUND: This is a request by Browning Family Trust for a Final Development Plan (FDP13-007) for development of a five thousand and seventy (5,070) square foot building and associated parking and site improvements intended as Phase II offices for the Arizona Department of Economic Security (ADES). The property is Zoned PL (Public Lands), located at 8569 E Yavapai Road.

On September 23, 1999, the Town Council approved a Lease Agreement with what was then Prevent Child Abuse (PCA) for the former Town Hall. The Lease included options to apply certain portions of the rent payments towards purchase of some or the entire site at a future date. The site included two buildings, a parking area, and a large undeveloped area. From the outset, the concept was for PCA to eventually sublet the open space area and a commercial lease rate was to be applied to that area once tenants were found. In the meantime, PCA became solely responsible for all maintenance and repair of the site.

PCA and the Town subsequently entered into amendments of the Lease Agreement which dealt with such things as use of insurance proceeds, extensions of time to pay increased rent on the open space area, and application of credits for actual costs of long-term-value-improvements. In 2003, PCA approached the Town about potentially participating in the federal Low Income Housing Tax Credit (LIHTC) Program as a general partner in order to develop a senior housing project in the open space area. The Town Council adopted a Minor Amendment to the General Plan 2020 on January 26, 2006 to change the designation of the open space area from "Open Space" to "Public/Quasi-Public". And, on January 11, 2007, the Council adopted Ordinance No. 672 re-zoning the entire site to Public Lands, Planned Area Development (PLPAD) in accordance with the General Plan 2020.

Although it was later determined that participation in the LIHTC Program was infeasible, PCA wanted to provide programs and services which focused on families and their health, safety and welfare.

Therefore, on August 29, 2007, PCA proposed a commercial development in the open space area which would provide such programs and services but be self-sustaining in terms of revenue. The Town Council considered the proposal on October 18, 2007 in work/study session and directed staff to negotiate a revised Lease based on the proposal. That revised Lease was adopted on April 10, 2008.

The leased areas were now designated the "Town Hall-Library Site" and the "Undeveloped Site". And PCA (now known as Prevent Child Abuse Arizona, or PCAA) worked to secure preliminary financial commitments sufficient to develop and construct two buildings on the Undeveloped Site and roadway and utility installations to serve the entire site (based on a Phase I plan). The Restated & Amended Lease Agreement was extended an additional 50 years to assist PCAA in obtaining financing, and the uses

which might become subtenants were more carefully spelled out (with the assistance of an administrative determination in accordance with Town Code §13-05-070(B)). A number of other provisions desirable from a financing standpoint (e.g. limiting the Town's ability to restrict future uses, to remove subtenants, etc.) were also added.

On July 24, 2008, the Council approved Final Development Plan FDP 08-011 consistent with the Preliminary Development Plan that had been approved by the Planning and Zoning Commission on June 12, 2006. The FDP showed building and parking for the ultimate development of a sixty-eight thousand, eight hundred ninety (68,890) square foot office complex and set forth the first phase comprising five thousand, one hundred eighty (5,180) square feet.

In accordance with the Restated Lease, Browning subleased from PCAA that portion of the property on which the Phase I building and improvements were constructed and further subleased to ADES. One of the provisions in the Restated Lease was that the Town consent to the Browning sublease, and this required (among other things) that Browning demonstrate adequate equity and/or financing commitments for completion of the building and improvements. Therefore, Browning arranged for Compass Bank to provide banking account services for deposit of reserve funds for the building and improvements. And, Town staff worked with Browning to set up a three-way agreement whereby Browning would deposit funds equal to the estimated cost of active construction phases worked out with Community Development. The agreement provided that when staff certified that work on any phase was complete, Compass Bank would allow withdrawals by Browning's contractor in amounts not to exceed the required deposits. If a phase wasn't completed (and Compass Bank chose not to finish it), the Town would be able to use any remaining funds in the account to finish that phase. Browning's contractor also had to obtain any necessary construction permits. This agreement was approved by the Town Council on January 8, 2009.

It is now proposed that Phase II of the building and improvements be constructed for sublease to ADES as shown in Final Development Plan FDP 13-007 (attached). FDP 13-007 has been reviewed by Town staff and has been determined to meet applicable Town Code standards. If this plan is approved, a future showing will again need to be made that Browning has adequate equity and/or financing commitments for completion of the building and improvements.

OPTIONS ANALYSIS: The Town Council may approve this Final Development Plan (FDP13-007), table the item and direct staff to make modifications to the Final Development Plan and/or the Subdivision Agreement before approval, or decline approval.

ACTION OPTION: Motion to authorize the Mayor (or, in his absence, the Vice Mayor) to sign Resolution No. 1842 adopting and approving a Final Development Plan (FDP 13-007) for Browning Family Trust, **OR** Motion not to approve Resolution No. 1842. **VOTE.**

RECOMMENDATION: Staff recommends authorizing signature of Resolution No. 1842 approving FDP 13-007.

FISCAL ANALYSIS: In 1999, the Town Council concluded that the potential revenues the Town would forego if it did not sell or lease the property for private commercial or residential purposes were offset by the long-term social benefits of improved coordination of services for the abused and other family needs. With this conclusion in mind, it appears that the approval of FDP 13-007 is in the fiscal interests of the Town.

REVIEWED BY:

Management Services Director _____

Town Clerk _____

Town Attorney _____

Town Manager _____

COUNCIL ACTION:

Approved Denied Tabled/Deferred Assigned to _____