

**TOWN OF PRESCOTT VALLEY
REQUEST FOR COUNCIL ACTION
Date: February 9, 2012**

SUBJECT: Proposed Crossroads Assignments (Yavapai Hills Liquidation)

SUBMITTING DEPARTMENT: Legal Department

PREPARED BY: Ivan Legler, Town Attorney

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

ATTACHMENTS: a) Assignment of Development Agreement (YK Commercial Realty, LLC), b) Partial Assignment of Development Agreement (PVL, LLC), and c) Collateral Assignment of Development Agreement (including Consent to Assignment)

SUMMARY/BACKGROUND: The Town of Prescott Valley entered into a Development Agreement with Yavapai Hills, Inc. on July 8, 1999, to provide certain incentives for development of a 463 acre parcel located north and south of SR 69 at the west entrance of the community. A first amendment to the Development Agreement was approved on July 31, 2003. Yavapai Hills, Inc. subsequently conveyed the entire parcel to its sister company Yavapai Hills Commercial, Inc. by a quit claim deed dated July 23, 2004, and assigned its interest in the amended Development Agreement as well. The Town and Yavapai Hills Commercial, Inc. then entered into a second amendment to the Development Agreement on August 11, 2005, for purposes of developing the Crossroads commercial project.

As land and financing arrangements were made with businesses that would locate in the Crossroads, the Town consented to partial assignments of the Yavapai Hills Commercial, Inc. interests in the amended Development Agreement. For example, as part of the arrangements for Home Depot the Town Council consented on February 22, 2007 to a partial assignment to YK Commercial Realty, LLC (which is a joint venture entity formed by Yavapai Hills Commercial, Inc. and Kitchell Development Company to develop the Crossroads) to a collateral assignment between YK Commercial Realty, LLC and Bank of America, N.A, its lender. Similar actions were later taken for the Sam's Club and Chase Bank parcels. This was in accordance with Section 16 of the amended Development Agreement, and effectively transferred the burdens and benefits of the Development Agreement from Yavapai Hills Commercial, Inc. to YK Commercial Realty, LLC with regard to the property involved.

Now, Yavapai Hills Commercial, Inc. has determined to withdraw entirely from the Crossroads project and convey all of its interests to YK Commercial Realty, LLC. This is part of a plan by Yavapai Hills Commercial, Inc. and Yavapai Hills, Inc. to liquidate all of their commercial and residential development interests in both Prescott Valley and Prescott. Yavapai Hills Commercial, Inc. and Yavapai Hills, Inc. have worked with both communities to develop property for many years, and desire to leave the development obligations with respect to the remaining property in the capable hands of Kitchell. The Town Council is, therefore, being asked to consent to a final "catch all" assignment of the amended Development Agreement to YK Commercial Realty, LLC and another partial assignment of the amended Development Agreement to another Kitchell entity (PVL, LLC), and to consent to another collateral assignment between YK Commercial Realty, LLC and Bank of America, N.A

OPTIONS ANALYSIS: The Town Council may approve these requested consents needed for the Yavapai Hills Commercial, Inc. liquidation, OR decline to approve these requested consents at this time. In light of

the obligation in the amended Development Agreement to reasonably consent to such assignments, staff urges the Council to approve these requested consents at this time.

ACTION OPTION: A) Motion to approve Consent to Assignment of Development Agreement (YIK Commercial Realty, LLC), **OR** Motion not to approve this Consent to Assignment of Development Agreement. **VOTE.**

B) Motion to approve Consent to Partial Assignment of Development Agreement (PVL, LLC), **OR** Motion not to approve this Consent to Partial Assignment of Development Agreement. **VOTE.**

C) Motion to approve Consent to Assignment of Collateral Assignment of Development Agreement, **OR** Motion not to approve this Consent to Assignment. **VOTE.**

RECOMMENDATION: Town staff recommends approval at this time of the requested consents needed for the Yavapai Hills Commercial, Inc. liquidation of interests in the Crossroads.

FISCAL ANALYSIS: It appears from other documents provided by Yavapai Hills Commercial, Inc. that it has entered into transactions with Kitchell needed to ensure that Kitchell has the property interests and other authority needed to carry out the developer obligations in the amended Development Agreement for Crossroads. Crossroads is an important economic development project for the Town which is expected to provide transaction privilege tax revenues to the Town and goods and services and employment opportunities to local residents for years to come.

REVIEWED BY:

Management Services Director _____

Town Clerk _____

Town Attorney _____

Town Manager _____

COUNCIL ACTION:

Approved Denied Tabled/Deferred Assigned to _____