

COUNCIL ACTION FORM

**REQUEST: ADDENDUM TO PRE-ANNEXATION AGREEMENT
WITH ROSE PRAIRIE, LLC.**

BACKGROUND:

The owners of Rose Prairie, a 170-acre site at the corner of Grant Avenue and 190th Street, are requesting changes to the agreement governing the development of the property. This pre-annexation agreement was originally approved on July 22, 2010 as part of the site's annexation into the City. However, the original development never happened, the property changed hands, and the current owner, Rose Prairie LLC (represented by TerShe Development), wishes to move forward with a proposed residential and commercial development that requires several changes to that original agreement in order to proceed with the project. The request for changes was initially presented to the City Council in August, 2015. Subsequently, a more limited set of requested amendments was presented to the City Council on April 12, 2016.

At the April 12, 2016 meeting, City Council was presented with changes regarding the development size increasing from 292 single family homes plus additional townhomes to a mix of detached and attached single family and apartments totaling a maximum of 739 dwelling units and 10 acres of commercial land; the extension of the connection fee repayment provisions from July 2020 to June 30, 2023; the elimination of a fire sprinkler requirement for single-family homes; the shift in the placement of a shared use path; the allowance for phasing of the development; and for portions of the site to be sold to other developers. At that meeting, staff also recommended that dedication of an approximately 5-acre neighborhood park should occur due to the size of the proposed project. City Council consented to consider this limited set of amendments to the agreement as was described in the April staff report concurrent with a subsequent rezoning request.

At the July 26th City Council meeting, the City Council denied a requested rezoning to allow 746 total housing units. Therefore, no action was taken on the development agreement that evening. **Since that meeting, the developer has updated the rezoning request and master plan with a reduced number of dwelling units, allowing no more than 620 in total. The plan also includes 10 acres of commercial land.**

Staff has described below the changes from the existing development agreement. It should be emphasized that these are the same changes reflected in the April 12, 2016 proposal except for a reduction in the total number of residential units in the Master Plan.

- Increase in the maximum number of dwelling units from the 292 single-family homes and about 8 acres of townhomes for development of the site proposed (and included as an attachment in the 2010 agreement) to a maximum of 620 total housing units mixed between detached and attached-single family and small medium density apartments as represented by a rezoning Master Plan that accompanies the request.

This number represents a maximum number of dwelling units that can be built and is limited further by the Master Plan to no more than 201 multi-family units with the remainder of the units as single-family homes (attached and/or detached). The agreement adopts a new Attachment 1, which is also the Master Plan for the proposed rezoning. It is the Master Plan that sets maximum densities and housing types.

- Allow a rezoning to FS-RL (Suburban Low Density Residential), FS-RM (Suburban Medium Density Residential), and CGS (Convenience General Services) rather than limited to only FS-RL.

The existing agreement explicitly limits rezoning options to only FS-RL. The proposed agreement limits rezoning to FS-RL, FS-RM, and CGS. The accompanying rezoning request identifies those areas for rezoning.

- Delete specifications for street improvements.

Staff recommends deleting this provision, since we have now adopted a full Conservation Subdivision Ordinance and will review stormwater treatment through the standards of our Subdivision Ordinance rather than as was originally proposed by the developer.

- Relocate the shared use path from the railroad side of the project to Grant Avenue.

The proposed shared use path will now be located along the west side of Grant Avenue rather than along the railroad tracks. The agreement specifies that the path will be constructed across the Sturgis frontage to connect to future development to the south.

- Change the full repayment terms for the water and sanitary sewer connection districts from 2020 to 2023.

The developer is requesting a delay in the full payback for sanitary sewer and water connections to reflect the now six-year delay in moving forward with the development. Staff has agreed to accommodate a three-year postponement of the final payments for sewer and water connection fees. The provision for full payment of outstanding fees in 2023 remains as part of the agreement.

- Eliminate the fire sprinkler requirement for single-family homes.

This was also not required for the other North Growth Area developments. The City has adopted a more flexible policy regarding the response times for emergency services.

- Dedication of 5 acres of land for a neighborhood park.

Attachment 1 to the Addendum identifies the general location of the 5 acre park that will be dedicated with this development. Attachment 2 provides the general grading that must be done prior to acceptance by the City. The Addendum defines when the park must be dedicated to the City (when a certain level of development occurs or no later than September 2023). The park must also have a certain level of topsoil and have all street frontage improvements (sidewalks, shared use paths, street trees, and a water service stub) installed prior to dedication to the City.

- Allow phasing of development and sale of undeveloped parcels without triggering full payback.

The structure of the current agreement requires payoff of prorated amounts of sanitary sewer and water fees. The developer's intent is to sell large portions of the 170-acre site to other developers and builders. Added language makes clear that a phasing of an outlot could be approved by the City that does not trigger the payoff amounts until that outlot is re-platted. However, the full payoff provision triggered in 2023 remains.

ALTERNATIVES

1. The City Council can approve the Addendum to the Pre-Annexation Agreement for the Rose Prairie and have the property owner resign the agreement to reflect the 620 unit master plan as Attachment 1 to the agreement.

Approval of the agreement would allow the accompanying rezoning request to, likewise, be approved.

2. The City Council can deny approval of the Addendum to the Pre-Annexation Agreement for the Rose Prairie and give specific direction to staff on what changes are needed.
3. The City Council can defer action on this request and refer it back to City staff and/or the applicant for additional information.

CITY MANAGERS RECOMMENDATION:

In order to allow the rezoning of the 170 acres of Rose Prairie to occur and to allow the proposed development to move forward, specific changes are needed to the 2010 Pre-Annexation Agreement. The direction given to staff by the City Council in August, 2015 and April, 2016 has been incorporated into the Addendum to the Pre-Annexation Agreement (this action) and into the rezoning with a Master Plan (the accompanying action item). Provided that the City Council supports the level of development requested by the developer, staff believes the provisions of the agreement meet the developer's interests and are beneficial to the City as well.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1, which is to approve the Addendum to the Pre-Annexation Agreement for Rose Prairie.