

**Council Water Issues Committee
NOTICE OF PUBLIC MEETING
Tuesday, June 18, 2013
1:00 p.m.**

**Prescott City Hall
201 S. Cortez St.
Prescott, Arizona
Downstairs Conference Room**

The Council Water Issues Committee will hold a meeting on **Tuesday, June 18, 2013, at 1:00 p.m.** in the Prescott City Hall Downstairs Conference Room, 201 S. Cortez, Prescott, Arizona. The agenda is as follows:

A. Call to Order

B. Roll Call

COUNCIL WATER ISSUES COMMITTEE MEMBERS:

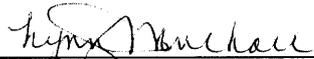
Chairman Jim Lamerson
Member Steve Blair
Member Charlie Arnold

C. Granite Dells Estates: application for rezoning a tract from industrial to residential; existing water service agreement and request for a new water allocation

D. Adjournment

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Prescott City Hall on 6/14/13 at 5:00 p.m. in accordance with the statement filed by the Prescott City Council with the City Clerk.



Lynn Mulhall, City Clerk

COUNCIL WATER ISSUES COMMITTEE AGENDA MEMO – June 18, 2013

DEPARTMENT: City Manager (Water Resource Management)

AGENDA ITEM: Granite Dells Estates: application for rezoning a tract from industrial to residential; existing water service agreement and request for a new water allocation

Approved By:

Date:

Water Resource Specialist: Leslie Graser

City Manager:

Craig McConnell

Craig McConnell 6-14-13

Summary

This request, by Granite Dells Estates for a new water allocation associated with a proposed rezoning of a tract from industrial to residential, was introduced at the Committee's meeting of April 30, 2013. The rezoning, if approved, would increase the number of residential units on the property by 600, from 710 to a new total of 1,310. The water allocation associated with the 600 additional units would be 210 acre-feet/year (600 units x 0.35 acre-feet per unit per year).

At their meeting of May 30, 2013, the Planning & Zoning Commission unanimously recommended approval of the rezoning and other associated items. It should be noted that their recommendation specifically pertained to land uses and compatibility, and not water demand or availability. The rezoning request is scheduled for Council consideration at the voting meeting of June 25, 2013.

Council Resolution No. 4071-1141 (March 2011), excerpted below, addressed reservations of water for requests to rezone vacant residential parcels. Although the Granite Dells Estates request is to rezone an industrial tract to residential, it would be reasonable to apply the policy set forth by Resolution No. 4071-1141 to this request (i.e., the rezoning could be approved with the specific notation that such approval would not create an entitlement to additional water). In this event, a modified water service agreement could then be brought back to Council for approval at a subsequent meeting.

SECTION 1. THAT from the effective date hereof, in the event the zoning of a property within the city limits classified as a Vacant Residential Unwatered Parcel is changed which would increase the number of residential dwelling units, the reservation of water for said property shall not be increased at the time of such rezoning to reflect the additional demand corresponding to the increase in dwelling units; and any existing reservation shall remain in force.

SECTION 2. THAT the record of the rezoning proceedings described in SECTION 1 shall include a notation that the water reservation has not been increased, and no entitlement to additional water to serve the rezoned property corresponding to the increase in dwelling units is created by the rezoning approval.

SECTION 3. THAT the legal entitlement to water for a property is created solely by approval of a water service agreement approved by the City Council pursuant to the City Code and 2005-2010 Water Management Policy for the City of Prescott, as extended.

Agenda Item: Granite Dells Estates: application for rezoning a tract from industrial to residential; existing water service agreement and request for a new water allocation

Background

Water Service Agreement #WSA07-028 (City Contract No. 2008-165 (copy attached))

A total volume of 248.50 acre-feet/year was identified by the contract and remains reserved: 192.5 acre-feet/year from the water budget market category and 56 acre-feet/year from workforce. The contract is effective until 2022, and includes a provision that it will terminate if a change of use of the property occurs that exceeds 550 “market” and 160 “workforce” residential dwelling units, a total of 710 residential units. In the event the subject rezoning is approved, this provision necessitates amendment of City Contract No. 2008-165 to recognize the new cap on the number of residential dwelling units, and address the water necessary to serve the property, including the additional units.

Current Rezone Request and Additional Water Demand/Allocation

Rezone a portion of the property, approximately 72 acres, from Industrial and Business General to Residential SF-6 for 212 additional SF dwelling units and a possibility of an additional 388 multi-family dwelling units (600 total residential units). Estimated new water contract volume would be 210 acre-feet/year (600 units x 0.35 acre-feet/unit).

Alternatives

The following alternatives are provided to describe frameworks for the drafting of a revised, sufficiently detailed water service agreement if the rezoning is approved.

Alternative A

If the rezoning is approved, amend the current Water Service Agreement to reflect the number of additional residential units, and allocate the associated demand from the Alternative Water Budget.

Since creation of the Alternative Water Budget, 200 acre-feet/year have been budgeted annually for new residential use, presently divided into 160 acre-feet for market use and 40 acre-feet for workforce. The volume requested by this rezoning (210 acre-feet) would be made available over at least two years of the Alternative Water Budget.

This alternative would permanently tie-up 210 acre-feet/year without any requirement for development performance, contrary to the policy of Resolution No. 4071-1141.

Agenda Item: Granite Dells Estates: application for rezoning a tract from industrial to residential; existing water service agreement and request for a new water allocation

Alternative B

- The current contract quantity of 248.50 acre-feet/year is not increased to reflect the 600 additional residential units being requested.
- A new Water Service Agreement recognizes the 600 additional residential units, providing for a new cap of $710 + 600 = 1,310$ residential units.
- Development on the entire property (not just the area rezoned) is permitted, constructed, and served with water up to the contract quantity of 248.50 acre-feet/year.
- Water demand beyond the 248.50 acre-feet/year will require additional allocation(s) from alternative water the City may (or may not) have available at the time it is requested by the property owner/developer.
- A variation, subject to availability of alternative water in the portfolio, would be to incrementally increase the total allocation, beginning at the base quantity of 248.50 acre-feet, by adding the amount serving actual new development for which certificates of occupancy have been issued in each successive year.

Attachments

1. Preliminary Plat Granite Dells Estates (March 2009)
2. Subdivision Master Plan Granite Dells Estates (current rezone request)
3. Water Service Agreement #WSA07-028 (approved November 30, 2007)

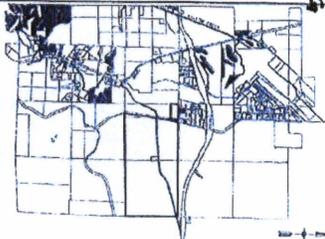
Committee Recommendation to Council: To be determined through Committee discussion.

NEW MASTER PLAN PROPOSAL



Graphic Scale: 1" = 200' Feet
 (Distances to be used for reference only)

SUBDIVISION MASTER PLAN
GRANITE DELLS ESTATES
 LOCATION MAP
NOT TO SCALE



NON-RESIDENTIAL			
PRODUCT	AREA		
INDUSTRIAL GENERAL	5 AC.		
BUSINESS GENERAL	47 AC.		
EDUCATIONAL CENTER	13 AC.		
RESIDENTIAL DWELLING UNITS (D.U.)			
PRODUCT	COUNT	AREA	MASS GRADED
ROW/ROW	246	0.17 AC.	YES
70'X150'	31	0.20 AC.	YES
50'X140'	63	0.50 AC.	YES
CUSTOM	66	0.50 AC.	YES
CUSTOM	92	0.75 AC.	YES
CUSTOM	82	1 AC.	YES
EQUESTRIAN	56	2 AC.	NO
CUSTOM	54	2.3 AC.	NO
MULTI-FAMILY	308	22 AC.	YES
WORKFORCE	50	28 AC.	YES
TOTAL:	1,310		

REQUESTED WATER ALLOCATION - 1.310 D.U.
 OWNER
 GRANITE DELLS ESTATES PROPERTIES, INC.
 GRANITE DELLS ESTATES PROPERTIES I, INC.
 1403 INDUSTRIAL WAY
 PRESSCO, INDIANAPOLIS, IN 46201
 PROJECT CONTACT: MICHAEL FANN

ENGINEER/SURVEYORS
LE *Living Earth*
 LEI Engineering & Surveying
 550 MILLER DRIVE, SUITE 200
 INDIANAPOLIS, IN 46202
 PHONE: 317.552.1100
 FAX: 317.552.1101
 SHEET: 1 OF 1

FOR REVIEW ONLY

AGREEMENT FOR POTABLE WATER #WSA07-028

Granite Dells Estates

Granite Dells Estates Properties, Inc., and Granite Dells Estates Properties II, Inc.

WHEREAS, Granite Dells Estates Properties, Inc., and Granite Dells Estates Properties II, Inc. (hereinafter collectively "Applicant"), are the owners of certain real property ("the Property") commonly referred to as Granite Dells Estates, the legal description for which is provided in the attached Exhibit "A"; and

WHEREAS, the Applicant wishes to secure approval for the provision of potable water for the foregoing property from the City of Prescott (hereinafter referred to as "City"); and

WHEREAS, the Applicant contemplates subdividing and developing the foregoing property to include a maximum of 550 "market" residential dwelling units as defined by the City of Prescott Water Management Policy 2005-2010, as amended, plus a maximum of 160 "work force" residential dwelling units as also defined by said policy, and commercial/industrial uses as generally depicted on the Preliminary Land-Use Plan (hereinafter collectively "the Development"), Exhibit D to that certain Pre-Annexation Development Agreement for the Property; and

WHEREAS, the Applicant, successor(s), and/or assign(s) intend to develop the Property as set forth by said Preliminary Land-Use Plan; and

WHEREAS, PCC Section 2-1-12(H) requires that an agreement be reached between the City and the Applicant in order to provide potable water for the Development ; and

WHEREAS the City Council finds that compliance with this Agreement by the Applicant shall result in:

1. The Development and this Agreement being consistent with, conforming to, and furthering the implementation of the City of Prescott Water Management Policy 2005-2010, as amended; and
2. The Development being consistent with, conforming to, and furthering the implementation of the City of Prescott General Plan; and
3. The Development being consistent with, conforming to, furthering the implementation of, and not being contrary to any applicable adopted plans, including but not limited to Specific Area Plans, Circulation Plans, Capital Improvement Plans, Open Space and Trail Plans, Neighborhood Plans, Local Historic District Plans, growth planning or growth management plans, and redevelopment plans.

NOW, THEREFORE, in consideration of the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, it is hereby agreed as follows:

1. That this Agreement shall relate to the Property, as more particularly described in the attached Exhibit "A".

EXHIBIT H

2. That the City will reserve and incrementally allocate a maximum of 248.5 acre feet of potable water annually to serve the residential portion of the Development, which development shall be accomplished in strict accordance with the approved preliminary plat, and thereafter the approved final plats, site plans, and construction plans, subject to the following:

a. "Year" and "Water Budget Year," as used herein, mean the calendar year beginning on January 1 and ending on December 31

b. The quantity of 40.00 acre feet will be allocated by the City in the current Water Budget Year (2007) for the "market" residential component of the Development.

c. The additional quantity of 152.5 acre feet will be reserved by the City for the balance of the "market" residential component of the Development and allocated in increments of 40.00 acre feet in each subsequent Water Budget Year, beginning in 2008 and continuing until said additional quantity of 152.5 acre feet has been fully allocated.

d. The separate quantity of 40.00 acre feet will be allocated by the City in the current Water Budget Year (2007), and additional quantity of 16.00 acre feet reserved and allocated in Water Budget Year 2008, all of which shall be available for the "work force" residential component of the Development.

e. The water made available annually for allocation to residential development shall carry over from year to year providing, however, that in the event that in any given calendar year the Property shall fail to be developed and therefore under existing residential subdivision allocation standards less than one-half (1/2) of the forty (40) acre feet will be utilized during that calendar year, the portion of the annual forty (40) acre feet available for residential development not fully utilized in that calendar year shall be retained in the Water Portfolio of the City and carried over, and shall be part of the ensuing calendar year's forty (40) acre feet allotment. In the event that all or a portion of this residential allotment is not utilized during the following year, the unutilized amounts shall be returned to the Water Portfolio pending the next year's allocation. This same "rollover" process of returning unused residual amounts of the annual residential forty (40) acre feet per calendar allotment shall occur on an annual basis during the term of this agreement. Notwithstanding anything to the contrary set forth herein, no unused residual amount shall be returned to the City Water Portfolio which would reduce the amount of residential water available for allocation to the Owner below eighty (80) acre feet, as of the first day of each year. Additionally, return of unused residual amounts of water shall not apply to commercial water as described herein.

f. The City will furnish potable water for the commercial/industrial component of the Development provided, however, that pursuant to the City of Prescott Water Management Policy 2005-2010, as amended, City approval of a water service agreement will be required for each non-residential project request with demand over five acre feet per year.

g. The Applicant, successor(s), and/or assign(s) shall have the right to the potable water reserved and allocated for the Development as set forth herein for a term of fifteen (15) years after the effective date of this Agreement. In the event any amounts of the water quantities for "market" and "work force" specified herein remain unused for any reason at the end of said fifteen (15) year term, this Agreement shall expire and the Applicant, successor(s), and/or assign(s) shall have no further entitlement to potable water for the Property.

h. Unless otherwise provided by the Pre-Annexation Development Agreement, the Applicant shall be solely responsible for the costs of any water and sewer main extensions or upgrades required to serve the Property.

i. The Applicant shall connect the Property onto the City's Sanitary Sewer System, and shall be responsible for any and all costs associated therewith unless otherwise provided by the Pre-Annexation Development Agreement, before water service to the property is initiated

j. That any change in use of the Property exceeding 550 "market" and 160 "work force" residential dwelling units shall result in the termination of this Agreement.

k. That the installation of any well on the Property by other than the City, or the use of water on the Property from any exempt well (less than 35 gpm), shall result in the termination of this Agreement.

l. That there shall be no divisions of the Property other than those approved by the City

3. This Agreement shall run with the land, and shall be binding upon the Applicant's successor(s) in interest and assign(s).

4. Pursuant to A.R.S Section 38-511, the City of Prescott may cancel this agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this agreement on behalf of the City is, at any time while the agreement or any extension of the agreement is in effect, an employee or agent of any other party to the agreement in any capacity or a consultant to any other party of the agreement with respect to the subject matter of the agreement. In the event of the foregoing, the City of Prescott further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this agreement on behalf of the City of Prescott from any other party to the agreement arising as a result of this agreement.

5. That the Applicant hereby agrees to indemnify and hold harmless the City, its departments and divisions, its employees and agents, from any and all claims, liabilities, expenses or lawsuits as a result of this agreement, providing said claims, liabilities, expenses or lawsuits arise by the acts or omissions of the Applicant or its agents or employees.

6. This Agreement is the result of negotiations by and between the parties. Although it has been drafted by the Prescott City Attorney, it is the result of the negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.

7. Time is of the essence in this Agreement. The failure of either party to require strict performance of any provision of this agreement shall not be deemed a waiver of the right of said party thereafter to require strict performance of that or any other provision of this Agreement in accordance with the terms hereof, and without notice.

8. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court

9. Except as provided in the Pre-Annexation Development Agreement, the parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorneys fees, either, pursuant to ARS Section 12-341 01(A) and (B), or pursuant to any other state or federal statute.

10. Any conflict between this Agreement and the Pre-Annexation Development Agreement shall be controlled by the Pre-Annexation Development Agreement.

DATED this _____ day of _____, 2007.

APPLICANT:
GRANITE DELLS ESTATES PROPERTIES, INC
an Arizona corporation

BY:
Its:

GRANITE DELLS ESTATES PROPERTIES II, INC.
an Arizona corporation

BY:
Its:

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott this ____ day of _____, 2007.

ROWLE P. SIMMONS, Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH A BURKE
City Clerk

GARY D. KIDD
City Attorney

STATE OF ARIZONA)
)ss.
COUNTY OF YAVAPAI)

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by Rowle P Simmons, Mayor of the City of Prescott, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to within the instrument, and acknowledged that he executed it.

STATE OF ARIZONA)
)ss.
COUNTY OF YAVAPAI)