Revised Issues: Mojave Village

Mike Scott
9/29/26

The revised Development Agreement dated September 28 addresses many of the issues I raised in my September 17 memo, and I appreciate the work that has gone into those revisions. The items below are the remaining issues I believe need further clarification, discussion, or consideration as I evaluate whether I can support the proposal.

This isn't intended to suggest that these are the only issues that may remain. I continue to rely on our City Attorney, staff, and fellow Council members to identify any additional legal, technical, or policy concerns that should be addressed before the agreement is finalized.

I've removed the issues that have been addressed in the revised agreement and divided the remaining items into three groups: A – Issues for Council discussion with Lance; B – Legal and technical issues for Bryan and staff; C – Minor, non-substantive drafting and technical corrections.Staff and legal input on the Group A issues would, of course, also be very helpful.

ISSUES FOR COUNCIL & LANCE

1. Terms - #3a and #3b in revised agreement: I like that Lance has agreed to start with Parcel B, which contains the 3,000 sq.ft. lots. However, because Parcel B also contains the 4,000, 5,000, 6,000 and 7,000 sq.ft. lots, I think the language should more specifically identify the priority we are trying to establish. I think the 3,000 sq.ft. lots should be our priority because I think that's the primary reason we are considering such a large density increase. So I would like more certainty about how many homes need to be built here before moving to other parcels.
2. Terms - #3c in revised agreement: No Premature Disturbance: I don't think this language accomplishes what I'm looking for. The exceptions for "Project-wide grading requirements" and moving soils to their "final area" and allowing "cuts and fills and other grading requirements" appear broad enough to allow substantial portions of the 64 acres to be disturbed potentially years before they are developed. I want disturbance outside an active phase limited to what is technically necessary, rather than what is merely more convenient or economical for the developer.
3. Terms - #3: If land is disturbed for a phase and development then stops or is substantially delayed, I want the agreement to establish a reasonable deadline for stabilization and, where appropriate, revegetation.
4. Exhibit H – Developer's Obligations: Section III #5: Lance added an amenity lot but reserves the right to build units there instead of amenities. This should be clarified to require a minimum lot size of 5,000 sq.ft.

5. Additional density and public benefit: Under the existing approvals and agreements, this property could accommodate approximately 220 units: the 160 already-approved STR units and approximately 60 additional homes. This proposal would increase that to 320 units (or more depending on the outcome of the amenities area). That is a substantial increase in density being requested from the City. What additional public benefits are we receiving in return for that increased density? Should we consider an affordability or attainable-housing commitment for some portion of the additional housing?

    a. If the Council agrees that the additional density should be accompanied by stronger housing commitments, I think we should consider requirements along the following lines: (A) homes on the 3,000- and 4,000-square-foot lots be owner-occupied for at least two years, with reasonable exceptions for specified life events; (B) lots identified as 3,000- and 4,000-square-foot lots remain limited to those sizes, except for minor adjustments necessary for engineering, surveying, or other site constraints; (C) at least 50% of the homes on the 3,000-square-foot lots be limited to no more than 1,200 square feet; and (D) at least 60% of the units in the RC area be owner-occupied for at least two years, with reasonable exceptions for specified life events.

ISSUES FOR BRYAN & STAFF

1. Terms: Note: The DA refers to parcels A, B, C, D in a number of places. To make things easy to understand, start this section with a clear definition of the parcels, something like the following, and then when referring to any Parcel elsewhere in the DA, simply refer to them as Parcel A, B, C, or D.

    a. Parcel A: 18 detached single-family residential estate lots plus one amenities lot zoned RE-12.5;
    b. Parcel B: 127 detached single-family residential lots zoned R-1-3, consisting of 67 lots of 3,000 sq.ft. each, 42 lots of 4,000 sq.ft. each, 14 lots of 5,000 sq.ft. each, 2 lots of 6,000 sq.ft. each, and 2 lots of 7,000 sq.ft. each. Lots will not be larger than these stated sizes except for minor technical adjustments needed.
    c. Parcel C: 15 detached single-family residential lots zoned RE-12.5
    d. Parcel D: 160 units zoned Resort Commercial (RC)

2. Terms - #2: Is “overnight rental” sufficient terminology to limit STRs to Parcel D? And this document uses both “overnight” and short-term” as does our city code. Should we use one defined term consistently throughout the agreement?

3. Terms - #3D: This allows temporary turnarounds and loop roads. At what point do the permanent road connections have to be completed? I don't want ‘temporary’ infrastructure becoming semi-permanent.

4. Terms - #4: Material Changes/Administrative Adjustments: I like this addition. It resolves several of my concerns about what can change administratively versus what must return to Council. Three questions:

    a. Should any material change to a Sub-Area boundary require Council approval, rather than only one that changes the applicable obligations;

    b. under (c), who receives notice and can appeal an Engineer's determination that something is merely an Administrative Adjustment, and should Council have a call-up right; and

    c. please check the references to Exhibit G, which I believe should be Exhibit H.

5. Terms #5: Exactly what are we vesting here: the zoning and development standards, or are we also vesting the layout, density and unit count shown in the exhibits?

6. Terms #7: Utah Code §10-20-508(2)(a)(i) says a development agreement may not limit a municipality's future authority to enact a land-use regulation. This section appears to say that some future City regulations will not apply to Mojave Village. Bryan, can you explain the distinction and whether this provision is consistent with §10-20-508?

7. Exhibit C – Project Site Plan: This needs to be cleaned up a lot.

    a. Among other things, the text for Parcel B is identical to the text for Parcel A. Maybe my comment #1 above belongs here.
    b. The site plan should have boxes with labels around each of the four phases to clearly identify them.
    c. Parcel A: The first sentence imposes an 18-foot height limit on all of Parcel A, including the Large Estate Lot. But the next sentence says the house, barn and other improvements on the 10-acre lot are permitted consistent with RE-12.5 and the City Code. Could that be interpreted as allowing that large lot a 25 foot height limit allowed by code? I believe that Lance intends the 18 foot height limit to apply to all structures (primary, secondary, accessory, barn, everything) to be limited to 18 feet. So, to make sure this section is completely clear, clarify with something like “All primary and accessory buildings within Parcel A, including the Large Estate Lot, shall be subject to a maximum building height of eighteen feet (18'), notwithstanding the otherwise applicable RE-12.5 standards.”

8. The agreement allows a barn, corrals and equestrian/recreational amenities on the approximately 10-acre lot. Should we define this more carefully? Do they and their associated grading count toward the lot's maximum disturbance area? What outdoor lighting and other standards currently apply to those structures and uses, and given the hillside location, are those standards sufficient or should we establish additional standards in this agreement?

9. Exhibit E – Parcels A & C Maximum Disturbance Area: The revised exhibit strikes the placeholder language but no disturbance table is attached. This should be attached prior to approval of the development agreement.

10. Exhibit F – Modified Standards from Applicable Law: Disturbance limitations: Retaining walls must be rock consistent with existing rock or colored concrete that blends with the hillside. I'd like staff to weigh in on this. Is exposed rock actually the preferred treatment on these hillsides, or can rock retaining walls themselves become visually prominent? What materials, colors and construction methods would best blend into this particular hillside?

11. Exhibit F – Modified Standards from Applicable Law: This is deleted in the revised agreement: "Screening and revegetation plan shall be approved by the City at the time of building permit approval." I believe it is important for the City to have this oversight and should be reinserted.

12. Exhibit F – Modified Standards from Applicable Law: Privacy walls: Why are we regulating these walls based on distance from the property line rather than their relationship to the approved disturbance area? The way this is written may work visually for most of the lots, but it seems that at least the two largest lots could be a problem. A privacy wall only 10 feet inside the property line on one of those lots could enclose a very large area and become a significant visual feature on the hillside. Should privacy walls instead be required to stay within the approved disturbance area?

    a. I'm also concerned about the sentence saying that everything within a privacy wall is considered disturbed, even if the native landscape isn't actually disturbed. An important benefit being presented with these estate lots is that roughly 60% of the land will remain undisturbed, which should substantially reduce the visual impact of development on the hillside. But if large portions of that land can be enclosed by privacy walls and simply counted as disturbed, aren't we potentially losing much of that visual benefit? Wouldn't it be better to require privacy walls to remain within the approved disturbance area? The underlying principle becomes very simple: if preserving the natural hillside is one of the benefits of the proposal, the DA should protect the appearance of that natural hillside.

13. Exhibit F – Modified Standards from Applicable Law: The concept that approximately 60% of each estate lot will remain undisturbed is appealing and is an important part of the proposal's visual mitigation. How will the disturbance limits be permanently documented, monitored and enforced after homes are built and properties change ownership?

14. Exhibit I – Standard Terms - #1 – Conflicting provisions: Since many of the project's most specific protections are contained in the exhibits, is there a risk that the stated order of precedence could allow a more general provision in the body of the agreement to override a more specific protection in an exhibit?

15. Exhibit I – Standard Terms - #4 – Assignment: If Lance sells any Parcel to another developer, do all of the applicable obligations automatically follow that property and become fully enforceable against the new owner?

16. Exhibit H says the project will be constructed using "standard construction procedures." Is that sufficiently specific for a project of this size? Given the highly visible and sensitive nature of this site, are existing City requirements governing dust, construction hours, construction traffic and haul routes, blasting or rock excavation, temporary lighting, and stabilization of disturbed areas actually sufficient? I'm not necessarily suggesting that all of those need special standards in this agreement, but I'd like staff to tell us what protections already apply and whether there are any gaps.

17. Lance has stated that sidewalks will be installed throughout the development. This should be clarified in the development agreement.

18. The site plan shows that the development will have 43' and 55' roads. For clarity, I would like this stated in the DA, with a reference to the site plan for which roads are what widths.

19. Road serving Chinle Park: Lance's earlier project narrative expressly promised assistance with construction of the roadway serving Chinle Park. The DA includes Guy Lane construction obligations. Staff, please confirm whether those provisions fully capture the park-road assistance Lance previously committed to provide.

20. Sensitive lands: Since it doesn't appear that the project is going through a formal Sensitive Lands Committee review, what professional analysis and staff review will give us reasonable assurance that the proposed disturbance limits, grading, retaining walls, building pads and revegetation adequately protect the hillside and important views?

C: MINOR CORRECTIONS

1. Purpose #D: The Parcel A/B/C/D descriptions should be checked against the revised site plan and made consistent throughout the agreement, including zoning, unit/lot counts and land-use descriptions.

2. Terms #5: Drafting correction – 2nd line – "…described in this agreement…" add "for"