

**AGENDA MEMO**

CITY COUNCIL MEETING DATE: AUGUST 4, 2010

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: APPLICANT/OWNER: KAG PROPERTY, LLC

**** STAFF RECOMMENDATION(S) ****

<i>CASE NUMBER</i>	<i>RECOMMENDATION</i>	<i>REQUIRED FOR APPROVAL</i>
DIR-38680	Staff recommends APPROVAL.	

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**** STAFF REPORT ****

APPLICATION REQUEST

This request is for approval of a development report as required by Subsection 9.01 of a development agreement entered into between Kyle Acquisition Group, LLC and the city of Las Vegas dated August 8, 2007, on approximately 1,712 acres generally located at the southwest corner of Fort Apache Road and Moccasin Road. This review is for the period from August 2009 to August 2010.

As the Master Developer's development report meets the requirements of Subsection 9.01 of the Development Agreement, and the Master Developer has made diligent efforts to work with the city to address issues of noncompliance and the future development of the property, staff recommends approval of this review.

ISSUES

- Analysis of the Development Agreement shows that the Master Developer is not in compliance with several terms of the Development Agreement. These items are listed in the table below. The Master Developer is currently in compliance with all other agreed requirements.

Items in the Development Agreement currently in noncompliance status

Master Developer Requirement	Noncompliance Date	DA Reference
Submittal of draft phasing schedule for development of the Community	08/08/07	3.02(b)
Construction of Indian Hills Park	09/17/08	3.02(e); 6.01; Park Agreement (1), (5e), (7); Exhibit C
Submittal of Kyle Canyon Town Center standards	02/08/09	3.21(a)
Payment to city of \$1 million toward construction of fire station	02/08/09	5.02(a)

- For this review period, there are no changes to the status of compliance (or noncompliance) with the Development Agreement and Parks Agreement.
- The city has stated its intent to work with the Master Developer to find mutually beneficial solutions to the difficulties currently encountered in the meeting the requirements of the Development Agreement; however, the city will continue to document each instance of non-compliance as it occurs.

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- All entitlements that have been approved for the site remain valid and in full force.
- A new land use plan proposed by the Master Developer is being considered that restores the proposed Sheep Mountain Parkway right-of-way to its original diagonal alignment that bisects the property. This will require amendments to the current Development Agreement, Parks Agreement and Design Standards.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc</i>	
12/01/04	The City Council approved a Resolution (R-176-2004) adopting guidelines for development within the Kyle Canyon Gateway area.
11/16/05	The City Council approved a request (GPA-9458) to amend the Land Use Element of the Las Vegas 2020 Master Plan to add the Traditional Neighborhood Development (TND) land use designation. The Planning Commission and staff recommended approval.
01/18/06	The City Council approved a request (GPA-9167) to amend a portion of the Centennial Hills Sector Plan of the General Plan to change land use designations from PCD (Planned Community Development), SC (Service Commercial) and PF (Public Facilities) to TND (Traditional Neighborhood Development) on 1,712 acres generally located north of Grand Teton Drive, between Puli Road and Fort Apache Road. The Planning Commission and staff recommended approval.
05/16/07	The City Council approved a request to amend the Master Plan of Streets and Highways (MSH-21013) to select the Northern Alternative Freeway/Expressway Alignment for Sheep Mountain Parkway and to remove the Southern Alternative Freeway/Expressway Alignment from the Master Plan of Streets and Highways. The Planning Commission and staff recommended approval.
05/16/07	The City Council approved a Development Agreement (DIR-21605) between Kyle Acquisition Group, LLC and the city of Las Vegas on 1,712 acres at the southwest corner of Fort Apache Road and Moccasin Road for the development of the Kyle Canyon Master Plan. The Planning Commission and staff recommended approval. In a related item, the City Council voted to approve a Parks Agreement between Kyle Acquisition Group, LLC and the city of Las Vegas. Staff recommended approval.
05/16/07	The City Council approved a request for a Rezoning (ZON-20543) from U (Undeveloped) [TND (Traditional Neighborhood Development) General Plan Designation] and R-E (Residence Estates) to T-D (Traditional Development) on 1,712 acres at the southwest corner of Fort Apache Road and Moccasin Road. The Kyle Canyon Development Standards and Design Guidelines were approved as part of this action. The Planning Commission and staff recommended approval.

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06/20/07	The City Council adopted Ordinance No. 5910, thereby adopting the Development Agreement between Kyle Acquisition Group, LLC and the city of Las Vegas.
08/08/07	The Development Agreement between Kyle Acquisition Group, LLC and the city of Las Vegas was recorded in the Office of the County Recorder. The approved Parks Agreement was recorded together with the Development Agreement. This is the Effective Date of the Development Agreement.
08/15/07	The City Council approved a Major Modification (MOD-22589) of the Kyle Canyon Development Standards and Design Guidelines to realign Iron Mountain Road between Hualapai and Grand Canyon Drive, and to add street cross sections. The Planning Commission and staff recommended approval.
08/15/07	The City Council approved a parent Tentative Map (TMP-22586) for a 213-lot mixed use subdivision on the Community property. The Planning Commission and staff recommended approval. This map was expunged by TMP-25492.
09/05/07	The City Council approved a Petition to Annex (ANX-21949) 15.56 acres generally located on the south side of Kyle Canyon Road, approximately 1,030 feet east of Shaumber Road; and a Petition to Annex (ANX-21950) 5.15 acres generally located on the south side of Kyle Canyon Road, east of Alpine Ridge Way. The Planning Commission and staff recommended approval. The effective date of the annexations was 09/14/07.
09/19/07	The City Council approved a request (GPA-20469) to amend the Centennial Hills Sector Plan of the General Plan to change land use designations from PCD (Planned Community Development) and SC (Service Commercial) to TND (Traditional Neighborhood Development) on 7.27 acres on the west side of Oso Blanca Road, approximately 2,190 feet south of Kyle Canyon Road. The City Council also approved a Rezoning (ZON-22351) from U (Undeveloped) [PCD (Planned Community Development) General Plan Designation], C-1 (Limited Commercial) and C-2 (General Commercial) to T-D (Traditional Development) on the same 7.27 acres. This action also updated the Kyle Canyon Development Standards and Design Guidelines. The Planning Commission and staff recommended approval.
09/19/07	The City Council approved a request (ZON-20475) to establish a Gaming Enterprise Overlay District on 51.38 acres at the southeast corner of Hualapai Way and Oso Blanca Road. The City Council also approved a Special Use Permit (SUP-20478) for a Non-Restricted Gaming use on this site. The Planning Commission and staff recommended approval.

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10/23/07	Staff completed the first Final Map Technical Review for the Kyle Canyon Gateway Parent Final Map (FMP-24541) and conducted a workshop pursuant to Subsection 3.05(c)(ii) of the Development Agreement to discuss comments with the Master Developer. The Final Map was deemed not to be in substantial compliance with the approved parent Tentative Map (TMP-22586). Staff and the Master Developer agreed to retain the Final Map and have the Master Developer submit a new Tentative Map that matched the Final Map. The Final Map would be subject to a subsequent review once the Tentative Map was approved.
12/20/07	The Planning Commission approved a parent Tentative Map (TMP-25492) for a 105-lot mixed-use subdivision on the 1,712-acre Community property. Staff recommended approval.
01/31/08	Planning and Development and Public Works Department staff conditionally approved a Final Map Technical Review for the Kyle Canyon Gateway Parent Final Map (FMP-24541). As of 07/06/09, Final Map mylars based on the current Tentative Map have not been submitted for staff review.
02/06/08	The City Council approved a request (MSH-25695) to amend the Master Plan of Streets and Highways to rename Horse Drive west of Grand Canyon Drive to Kyle Heights Parkway; to realign a portion of the Iron Mountain Road alignment between Horse Drive and the Northern Beltway; to reclassify various streets as identified by the special design designations adopted as part of the Kyle Canyon Development Standards and Design Guidelines; and to add or remove various roadway segments. The Planning Commission and staff recommended approval. The City Council also approved a Major Modification (MOD-25875) of the Kyle Canyon Development Standards and Design Guidelines to amend various street names and to clarify street cross section drawings within the Community. A subsequent Street Name Change application will be required prior to issuance of the first residential permit in the Community. The Planning Commission and staff recommended approval.
02/06/08	The City Council tabled a Petition to Vacate a BLM right-of-way grant generally located north of Grand Teton Drive, south of Moccasin Road, between Puli Road and Fort Apache Road (VAC-23811). The area to be vacated was the original alignment of Sheep Mountain Parkway. The Planning Commission and staff had recommended approval. The Petition cannot record until "Section 1 Land," "Providence Land," and "On-Property Land" are dedicated to the city for creation of the right-of-way for the northern alignment of Sheep Mountain Parkway, pursuant to Subsection 7.05(a)(v) of the Development Agreement.
08/06/08	The City Council approved a required review (DIR-28767) of a development report pursuant to Subsection 9.01 of the Kyle Canyon Development Agreement. Staff recommended approval. A condition of approval required a follow-up review on 10/01/08.

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09/23/08	Wachovia Bank, National Association, acting as the managing creditor of 41 creditors, foreclosed on the Kyle Canyon property. A new entity called KAG Property, LLC was formed to assume ownership of the Kyle Canyon property.
12/03/08	The City Council approved a follow-up required review (DIR-29916) of a development report pursuant to Subsection 9.01 of the Kyle Canyon Development Agreement between the city of Las Vegas and Kyle Acquisition Group, LLC (abeyed from 10/01/08). Staff recommended approval.
02/02/09	Notice of Noncompliance and Opportunity to Cure was sent to KAG Property, LLC for failure to commence construction of Indian Hills Park prior to 09/13/08.
08/05/09	The City Council approved the required review (DIR-34955) of a development report pursuant to Subsection 9.01 of the Kyle Canyon Development Agreement. Staff recommended approval.
09/02/09	The City Council approved an Extension of Time (EOT-35315) of a previously approved Special Use Permit (SUP-20478) for a proposed Non-Restricted Gaming Facility at the southwest corner of Oso Blanca Road and Hualapai Way alignment. Staff recommended approval.
10/02/09	The Master Developer presented to the city a summary report from Hart Howerton Strategic Planning Consultants outlining a strategic plan and recommendations for development of the Kyle Canyon property.

<i>Most Recent Change of Ownership</i>	
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09/25/08	A deed was recorded for a change in ownership.
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<i>Related Building Permits/Business Licenses</i>
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No building permits or business licenses pertain to this site.
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<i>Neighborhood Meeting</i>

A neighborhood meeting is not required, nor was one held.

<i>Details of Application Request</i>
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<i>Site Area</i>

Gross Acres	1,712
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DEVELOPMENT AGREEMENT COMPLIANCE

The information below reflects the extent of compliance with the Development Agreement by the Owner/Master Developer as of June 2010. This information is provided to the Master Developer for inclusion within its annual development report. While the list of items in the development report is similar to this information, the list below is a more complete statement of compliance with the Development Agreement. The tables below are organized into the following categories:

Table 1: Review requirements

Table 2: Land use and maintenance requirements

Table 3A: Infrastructure requirements - general

Table 3B: Infrastructure requirements (per phasing schedule)

Table 4: Public facility requirements

Table 5A: Park and trail requirements – development and review

Table 5B: Park and trail requirements – facilities

Table 6: Transportation improvement requirements

Table 1: REVIEW REQUIREMENTS				
CATEGORY	REFERENCE	PERFORMANCE REQUIREMENT	PROGRESS	STATUS
Number of residential units approved	DA 3.01(a), 9.01; DG 3.3	Maximum of 16,000 possible residential units	No residential units submitted to date	In compliance
Number of residential units built	DA 9.01	N/A	No residential permits issued	In compliance
Overall density	DA 3.01(c)	9.35 dwelling units/acre maximum	0.00 units per acre as currently entitled	In compliance
Anticipated Phases of development for the next calendar year	DA 3.02	Develop per Master Development Plan Phasing Plan	Anticipated that no development will occur in 2010 or 2011	In compliance. Current phasing plan is not time sensitive

Table 2: LAND USE AND MAINTENANCE REQUIREMENTS						
CATEGORY	DESCRIPTION	DATE APPROVED	OWNER ACTION	CITY ACTION	REFERENCE	STATUS
General Plan Amendment	TND District	01/18/06 CC; 09/19/07 CC	Submit application for General Plan Amendment for Project Area	Process in conformance with Title 19. Amend Centennial Hills Land Use Plan	DA 3.05(a), 3.18	In compliance. Centennial Hills Land Use Plan of General Plan updated
Rezoning	T-D District	05/16/07 CC; 09/19/07 CC	Submit application for Rezoning of Project Area	Process in conformance with Title 19. Amend zoning map	DA 3.05(b)	In compliance (ZON-20543 and ZON-22351)
Gaming Enterprise Overlay District	155,000 SF (portion of 51.37 acres)	09/19/07 CC	Comply with NRS requirements	Ensure compliance with NRS	DA 3.05(c)(vi)	In compliance (ZON-20475)

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Table 2: LAND USE AND MAINTENANCE REQUIREMENTS

CATEGORY	DESCRIPTION	DATE APPROVED	OWNER ACTION	CITY ACTION	REFERENCE	STATUS
Hotel/Casino	155,000 SF	09/19/07 CC; expires 09/19/11	Submit applications for Special Use Permit for non-restricted gaming and Site Development Plan Review for Hotel/Casino	Process applications in conformance with Title 19	DA 3.05(c)(iv-vi)	In compliance. SUP approved. SDR not yet submitted
Parent Tentative Map	110 pods on 1,712 acres	12/20/07 PC; expires 12/20/11	Submit application for Parent Tentative Map	Process application in conformance with Title 18 and schedule hearing	DA 3.05(c)(i)	In compliance.
Parent Final Map	110 pods on 1,712 acres	2nd FMTR approved 01/31/08 (Admin)	Submit and record Parent Final Map according to scheduled time limitations	Provide summary of comments to Builder; schedule workshop with Builder within 10 days of FMTR approval.	DA 3.05(c)(ii)	City in compliance. Final Map not recorded. 1st FMTR approved 10/23/07; workshop held 10/23/07.
Kyle Canyon Town Center Standards	Requirement for development of the Town Center and Urban Mixed Use land use districts	Not complete	Submit standards no later than 02/08/09 or issuance of 3,500th residential building permit, whichever is earlier	Process application and schedule hearing for recommendation	DA 3.21(a)	Not in compliance
Master Homeowners' Association	Maintenance of sidewalks, common areas and landscaping within ROW	Not complete	Organize Master HOA at time of Parent Final Map recordation	None	DA 4.01(a)	In compliance. Parent Final Map not recorded

Table 3A: INFRASTRUCTURE REQUIREMENTS

FACILITY	OWNER ACTION	CITY ACTION	REFERENCE	PROGRESS	STATUS
Development Phasing Schedule	Submit a draft phasing schedule to city prior to the Effective Date	None	DA 3.02(b)	Not completed	Not in compliance
Telecommunications	Within six months of recordation of parent final map, submit a Telecommunications Facilities Map to indicate location of facilities	Staff review, with Planning Commission and City Council hearings	DA 3.13(b)	No action. Parent final map has not been recorded.	N/A (Compliance cannot be determined until after Final Map has recorded.)

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Table 3A: INFRASTRUCTURE REQUIREMENTS					
FACILITY	OWNER ACTION	CITY ACTION	REFERENCE	PROGRESS	STATUS
Optical Fiber in ROW	Negotiate phasing plan agreement with city and pay designated fees	Permit installation of optical fiber within city ROW as agreed	DA 3.14	Agreement not submitted to city	N/A (Compliance cannot be determined until after Final Map has recorded.)
Flood Control	Within 60 days of completion of the first temporary detention basin, deposit \$100,000 into special account to reimburse city's costs to maintain basins	Maintain all permanent flood control facilities as identified on the CCRFCD Master Plan Update. Maintain all temporary detention basins identified in the Master Drainage Study	DA 4.04	No facilities constructed to date	In compliance
Street Improvement Phasing	Submit a phasing plan and estimated sequence for all required on-property and off-property street improvements as a part of the Master Traffic Study	None	DA 7.04(d)	Completed— Master Traffic Study approved 04/24/07, subject to more detailed studies as development occurs.	In Compliance. Phasing included as part of traffic study
Drainage Improvement Phasing	Submit a phasing and sequencing plan for all drainage improvements within the Community as a part of the Master Drainage Plan	None	DA 7.07(e)	Completed— Master Drainage Plan conditionally approved 03/29/07; 1st update approved 08/14/07; 2nd update approved 01/31/08; 3rd update submitted 06/22/10	In Compliance. Contains sequencing plan for general drainage improvements, but not for each pod.
Sheep Mountain Parkway (Dedication of Northern Alignment ROW)	Dedicate Section 1 Land and Providence Land to city prior to recordation of Parent final map	None	DA 7.05(a)(i), (ii)	Not complete; original diagonal alignment now sought	In compliance. Status of completion affects other terms of Agreement
Sheep Mountain Parkway (Vacation of Southern Alignment ROW)	None	By 09/07/07, file action to vacate existing ROW	DA 7.05(a)(iv)	City filed VAC-23811 on 08/09/07. City Council tabled item on 02/06/08, pending results of EIS and Owner decision whether to dedicate land needed for Parkway.	City in compliance. Vacation is contingent on Owner dedication of land for Northern Alignment

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Table 3A: INFRASTRUCTURE REQUIREMENTS					
FACILITY	OWNER ACTION	CITY ACTION	REFERENCE	PROGRESS	STATUS
Kyle Canyon Interchange	Pay city \$10 million for construction within 60 days of notification from city that design is complete	Complete construction of the Kyle Canyon/U.S. 95 interchange within 48 months of design agreement	DA 7.06(a)	Design not complete. Placed on hold January 2009	Deadline has not been reached
Horse Drive Interchange	None	Complete construction of Horse Drive/U.S. 95 interchange by 02/08/10	DA 7.06(b)	Notice to proceed construction 06/08/09; 70% construction complete	In compliance
Special Improvement District	Request formation of SID (optional)	Process application and hold City Council hearing	DA 8.01	Application not filed	In compliance (not time-sensitive)

Table 3B: INFRASTRUCTURE REQUIREMENTS (PHASING SCHEDULE)					
FACILITY	OWNER ACTION	CITY ACTION	REFERENCE	PROGRESS	STATUS
Access to Developer Builder Parcels	Pave two lanes of the main access to any specific Designated Builder Parcel (DBP)	None	DA 3.02(c)	No action. Parent final map has not been recorded.	N/A (Compliance cannot be determined until after Final Map has recorded.)
Sewer Connection	Provide a working sanitary sewer connection prior to final inspection of any dwelling units within a DBP	None	DA 3.02(c)	No permits issued to date. Offsite site design approval pending	N/A (Compliance cannot be determined until after Final Map has recorded.)
Village Streets (Construction)	Construct permanent improvements to all major access Village Streets prior to issuance of building permits beyond 50% of all units within a DBP	Provide status of number of residential permits to Master Developer or Designated Builder	DA 3.02(c)	No permits issued to date	N/A (Compliance cannot be determined until after Final Map has recorded.)
Village Streets (Completion)	Substantially complete all Village Streets within 24 months of start of construction	None	DA 3.02(c)	Street construction not commenced. Parent final map has not been recorded.	N/A (Compliance cannot be determined until after Final Map has recorded.)

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Table 3B: INFRASTRUCTURE REQUIREMENTS (PHASING SCHEDULE)

FACILITY	OWNER ACTION	CITY ACTION	REFERENCE	PROGRESS	STATUS
Offsite Improvements	Substantially construct offsites adjacent to DBPs prior to issuance of building permits beyond 75% of all units within the DBP	Provide status of number of residential permits to Master Developer or Designated Builder	DA 3.02(c)	No permits issued to date	N/A (Compliance cannot be determined until after Final Map has recorded.)
Landscaping	Complete all required landscaping on streets adjacent to DBPs within two months of the final inspection of the final unit within the DBP	None	DA 3.02(c)	No permits issued to date	N/A (Compliance cannot be determined until after Final Map has recorded.)

Table 4: PUBLIC FACILITY REQUIREMENTS

FACILITY/ LOCATION	OWNER ACTION	CITY ACTION	REFERENCE	PROGRESS	STATUS
Fire Station (SW corner of Grand Teton Drive and Hualapai Way)	By 02/08/09, pay city \$1 million towards construction of station	None	DA 5.02(a)	Payment has not been made	Not in compliance
Fire Safe Community Program (FSCP)	Within 90 days of city sending written notice that city has established the FSCP, pay city \$50,000 towards cost of city's obligations pursuant to the Agreement	By 11/06/07, establish and promote a FSCP	DA 5.02(d)	Draft resolution to establish program on hold until future of community decided	Not in compliance City has not established program. Payment due 90 days after program is established.
Police Services (Location TBA)	Pay city \$218 per residential unit towards construction of Metro substation	None	DA 5.04	No residential permits issued to date	N/A (No permits may be obtained until Parent Final Map records)
School Improvements	Dedicate to CCSD up to 72 total acres for school sites shown on Master Land Use Plan.	None	DA 5.01	Land not dedicated	In compliance (Not time-sensitive)
Regional Transportation Center (Location TBA)	Dedicate to RTC up to 2.5 gross acres for a transit hub.	None	DA 5.03(a)	Land not dedicated	In compliance (Not-time sensitive)

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Table 5A: PARK AND TRAIL REQUIREMENTS – Development and Review						
FACILITY	PERFORMANCE REQUIREMENT	OWNER ACTION	CITY ACTION	AGREEMENT REFERENCE	PROGRESS	STATUS
HOA Park Development	Begin construction of HOA parks within 90 days of city final plan approval. Complete HOA parks within 18 months of start of construction	Construct parks and dedicate to the city or Master HOA as specified in Park Agreement	Accept parks in lieu of residential construction tax up to a maximum of 16,000 units	PA (1), (5D), (6); Exhibit C	Drawings not submitted. No parks under construction or completed	In compliance
Park Area Review	Submit conceptual plan prior to issuance of 500th residential permit within each Park Area	Submit conceptual plan for all parks located within specific Park Areas	Review conceptual plans and actual construction drawings; notify Developer when 400th permit is issued in each Park Area	PA (2), (5B), (5C); Exhibit D	Trigger for commencement of construction not reached	In compliance
Park Plans	Prepare 90% construction drawings/specs for all parks no later than 180 days following city approval of conceptual plans. Submit 100% drawings within 90 days of city completion of 90% plan review.	Design park plans as specified on conceptual plan	Review and comment on park plans	PA (3), (5C); Exhibit C	Conceptual plan not submitted. No parks under construction or completed	In compliance

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Table 5B: PARK AND TRAIL REQUIREMENTS - Facilities

FACILITY	PERFORMANCE REQUIREMENT	OWNER ACTION	CITY ACTION	AGREEMENT REFERENCE	PROGRESS	STATUS
Indian Hills Park (11.31 acres)	Begin construction within 180 days of confirmation from city that plans are sufficient to acquire permits and that adequate flood control facilities are in place.	Construct park and dedicate all amenities to city. Begin construction by 09/17/08. Complete park by 03/17/10.	Accept parks in lieu of residential construction tax; begin maintenance within 30 days of park completion	PA (1), (5E), (7); Exhibit C	Park not under construction. Flood control facilities confirmed 02/27/08; 100% design plans complete—delivered to Focus 03/17/08. MOU between city and CCSD for infrastructure approved 06/04/08 CC	Not in compliance
Iron Mountain Park (9.77 acres)	Begin construction within 180 days of confirmation from city that 7,000th residential permit has been issued and that adequate flood control facilities are in place.	Construct park and dedicate all amenities to city	Accept parks in lieu of residential construction tax; begin maintenance within 30 days of park completion	PA (1), (5F), (7); Exhibit C	Trigger for commencement of construction not reached	In compliance
Moccasin Park (15.67 acres)	Begin construction within 90 days of city final approval. Complete park within 18 months of commencement of construction.	Construct park and dedicate both land and amenities to the city	Accept parks in lieu of residential construction tax; begin maintenance within 30 days of park completion	PA (1), (7); Exhibit C	Plans not submitted. Construction not commenced	In compliance
Paseos (7.6 acres)	Begin construction within 90 days of city final approval. Complete within 18 months of commencement of construction.	Construct landscaping, open space and trails and dedicate to the Master HOA	Accept parks in lieu of residential construction tax	PA (1); Exhibit C	Plans not submitted. Construction not commenced	In compliance

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Arroyos (50.6 acres gross, 21.6 acres improved)	Begin construction within 90 days of city final approval. Complete within 18 months of commencement of construction.	Construct landscaping, open space and trails and dedicate to the Master HOA	Accept parks in lieu of residential construction tax	PA (1); Exhibit C	Plans not submitted. Construction not commenced	In compliance
Community Centers (5 total)	Construct at park sites	Construct community centers; dedicate to the city or Master HOA as specified in Parks Agreement	Accept parks in lieu of residential construction tax	PA (1); Exhibit C	Plans not submitted. Construction not commenced	In compliance

Table 6: TRANSPORTATION IMPROVEMENT REQUIREMENTS

CATEGORY	REFERENCE	PERFORMANCE REQUIREMENT	PROGRESS	STATUS
Traffic Improvements	DA 7.04(a); 3.02(c)	Design and construct all Village Streets as indicated in Master Traffic Study	No Village Streets completed or under construction at this time. Traffic Study update to be submitted late July 2010	In compliance
Traffic Signal Improvements	DA 7.04(b)	Construct all signals identified in Master Traffic Study	No traffic signals completed or under construction at this time	In compliance

ANALYSIS

In accordance with Subsection 9.01 of the Development Agreement, the Owner/Master Developer is required to submit an annual report documenting the extent of the Master Developer's and the city's material compliance with the terms of the Development Agreement during the preceding review period. Nevada Revised Statutes Subsection 278.0205 requires a review of the development of the community for which this report summarizes. This review is for the period from August 2009 to August 2010. The next review period will end in August 2011.

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In September 2008, Wachovia Bank, acting as managing creditor of 41 creditors, foreclosed on the Kyle Canyon property. A new entity called KAG Property, LLC (“Master Developer”) was formed to assume ownership of the Kyle Canyon property. In February 2009 and April 2009, notices of Noncompliance and Opportunity to Cure were sent by the city to the Master Developer, pursuant to Subsection 10.01 of the Agreement. Also under this section, the two parties agreed to allow for a six month period beginning 04/01/09 for the Master Developer to cure the items of noncompliance. At the end of the six-month period, the Master Developer unveiled a strategic plan prepared by Hart Howerton Strategic Planning Consultants that provided a focus for the master land use plan and provided recommendations for future development; however, items of noncompliance remained unresolved, as they do at present.

Development Agreement Review Requirements

Subsection 9.01 of the Agreement requires the development report to include, without limitation, (a) data showing the total number of residential units built and approved on the date of the report; (b) specific densities within each subdivision and within the Community as a whole; and (c) the status of development within the Community and the anticipated phases of development for the next calendar year. The Master Developer’s representative, Carwin Advisors, has prepared the development report for this review.

The following details the status of the requirements of Subsection 9.01 of the Development Agreement, as reported by the Master Developer.

- Residential Units

Table 1 above shows progress made in planning and construction of residential units in the Project Area. Of the 16,000 residential units of all types allowed within the Community, none have been approved or built. Building permits cannot be issued until such time as the Parent Final Map records and individual lots are subsequently platted.

- Densities

The overall maximum density of the Project Area is determined by dividing the maximum number of units (16,000) by the overall Project Area (1,712 acres). As there are no residential units built at this time and no individual subdivisions within the Project Area, the current overall density is zero units per acre and no breakdown of specific densities across the Project Area is possible. Table 1 above summarizes this information.

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- **Anticipated Status of Development**

Table 1 indicates that the Master Developer does not expect any development to occur in 2010 or 2011. In March 2010 a draft conceptual land use plan reducing the number of potential residential units to 9,000 was presented to the city for review and comment. Within the next 12 months, a street network plan, lotting studies, and updates to the existing traffic and drainage studies will be completed. The Master Developer, public services, Clark County School District and the city are collaborating to amend the Development Agreement and Parks Agreement so that the revised land use plan can proceed through the development process. The Kyle Canyon Design Guidelines will be amended to closely align with Title 19 development standards. Final approval of the amended Development Agreement and Parks Agreement, the amended Design Guidelines and Kyle Canyon land use plan is expected by Spring 2011.

Other Terms of the Agreement

Tables 2 through 6 show the extent of compliance with the major terms of the Agreement. In many cases, compliance cannot be determined at this time, as action is contingent upon recordation of the Parent Final Map. As the land use plan is in the process of amendment, a new Tentative Map and Final Map will be required for review and approval. Otherwise, the Master Developer remains in non-compliance with the same items of the Development Agreement and Parks Agreement that it was in 2009.

Development has not commenced within the Kyle Canyon master plan area. The city is working with the Master Developer to proceed with a new land use plan that incorporates the original diagonal Sheep Mountain Parkway alignment that bisects the property. Because the current Development Agreement and Parks Agreement were conceived based on an alignment of the Sheep Mountain Parkway that mostly skirted the property, revisions to these documents as well as the Kyle Canyon Design Guidelines are also being considered. Updates to the Master Traffic and Drainage Studies will also be completed to reflect the amended plan.

FINDINGS

- The development report submitted by the Master Developer complies with all Subsection 9.01 requirements and therefore approval of the required review is recommended.
- The Master Developer remains in non-compliance with four time-sensitive items contained in the Development Agreement and Parks Agreement, as summarized below. The city has stated its intent to work with the Master Developer to find mutually beneficial solutions to the difficulties currently presented by the Development Agreement; however, the city will continue to document each instance of non-compliance as it occurs.

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Items in the Development Agreement currently in noncompliance status

Master Developer Requirement	Noncompliance Date	DA Reference
Submittal of draft phasing schedule for development of the Community	08/08/07	3.02(b)
Construction of Indian Hills Park	09/17/08	3.02(e); 6.01; Park Agreement (1), (5e), (7); Exhibit C
Submittal of Kyle Canyon Town Center standards	02/08/09	3.21(a)
Payment to city of \$1 million toward construction of fire station	02/08/09	5.02(a)

- The following tasks are imminent under the terms of the current Agreements. Proposed amendments to the land use plan will require amendment of the Agreements, in which case these tasks will be subject to change.

<i>OUTSTANDING ITEMS REQUIRING COMPLIANCE</i>	
Owner/Master Developer	
• Master Developer shall pay \$1,000,000 to city of Las Vegas towards the construction of a fire station at a site located at the southwest corner of Grand Teton Drive and Hualapai Way. • Submit Kyle Canyon Town Center Standards for city approval. • Obtain building permits and begin construction of Indian Hills Park, with completion by 03/17/10. • Submit a draft phasing schedule to city for development of the Master Planned Community • Dedicate Section 1 and Providence lands to city for development of northern alignment of Sheep Mountain Parkway prior to recordation of Parent Final Map • Address staff comments from Final Map Technical Review and record Parent Final Map prior to expiration of Parent Tentative Map • Pay city \$50,000 towards the promotion of a Fire Safe Community Program within 90 days of the city's written confirmation that the program has been established	
City of Las Vegas	
• Establish and promote a Fire Safe Community Program • Vacate BLM right-of-way for existing southern alignment of Sheep Mountain Parkway (if Section 1 and Providence lands are dedicated)	

NOTICES MAILED

NEWSPAPER ONLY

APPROVALS

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PROTESTS

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