

## Town Council Staff Report



**Subject: Revised proposal to NFS for road ROW**

**Author: Town Manager**

**Date: Jan 23, 2020**

**Type of Item: Action**

### Summary Recommendation/Council Motion

Approve submission of the revised proposal for right-of-way to the Kaibab National Forest, official title "Proposal for Special Use Authorization, 36 CFR 212.6 and 36 CFR Pt.251, Subpart B, New Application for Transportation and Utility Systems and Facilities on Federal Lands"

### Executive Summary

- The Town of Tusayan owns two parcels of land of about 20 acres each that the Town would like to use for construction of workforce housing. These are located in areas known as 10X to the east of the center of Town, and Kotzin to the northwest of the center of Town.
- Access to these parcels is through the Kaibab National Forest and the existing roads are inadequate to serve development of this land.
- The Town desires to have permission from the Forest Service to improve roads and rights-of-way to the Town-owned land in order to begin development of the privately owned and town-owned land. Stilo Development Group owns land adjacent to the Town's land and has the same need for improved roads. The Town and Stilo are co-applicants on this proposal to the Forest Service.
- The Forest Service has a formal process that is required for use of FS lands and roads, and it include submission of "Proposal for Special Use Authorization, New Application for Transportation and Utility Systems and Facilities on Federal Lands." This process requires analysis and public comment through the National Environmental Policy Act (NEPA).
- In 2014 the Town Council approved Amendment 1 to PADA No. 2011-11-02. These amendments included a requirement that the Town apply to the Forest Service for the use of the ROW for improved road access and utilities to the Kotzin and 10X parcels.
- The Town of Tusayan submitted its first application to the Forest Service in 2014 and it was returned to the Town in 2016. The Forest Service returned that initial application without completing all analysis or making a decision about the

requested special use. They did identify comments from stakeholders regarding concerns about groundwater use and potential commercial densities.

- In September of 2019 the Town Council approved submitting a new and revised proposal to the Forest Service.
- After that submittal, there were several meetings by Town representatives with the Forest Service staff, and an on-site walking meeting near the Kotzin property to look at access options. After listening to community and FS concerns, the Town worked to revise the proposal. The attached proposal is the result and it is ready now to be submitted to the Forest Service.
- The changes since the 2014 proposal include:
  - New alignment for the primary access/utility corridor to Kotzin Ranch.
  - The voluntary adoption of environmental protection measures designed to alleviate concerns over indirect effects of the proposed action including Stilo Development Group's commitment to:
    - A 33% reduction in density of commercial uses on the Kotzin and Ten-X properties.
    - The perpetual prohibition of the use of groundwater from within the Coconino Plateau Groundwater Sub-basin for commercial development on the two properties which will be subject to enforcement.
- Changes to the September 2019 draft proposal resulting in the current proposal:
  - New alignment for the proposed primary access/utility corridor to Kotzin Ranch. Specifically, the southern alignment was moved away from the roundabout at Long Jim Loop to a location farther north at the the existing FR 605M (SR 64 northern access to Long Jim Loop). This route is north of the town center area and will avoid the Grand Canyon Unified School District property/sports complex and homes, and generally follows already existing roads and trails.
  - Only one paved road (the southern alignment) is proposed for access to Kotzin, rather than two paved roads.
  - The northern access to Kotzin remains but will primarily serve as an emergency access corridor, will not contain utilities, and is proposed to remain unpaved, resulting in reduced disturbance of NFS lands.
  - Geographic area and map of the Coconino Plateau Groundwater Sub-basin included.
  - Change to proposed road alignments, using already existing Forest Service roads and trails, as much as possible.

- The U S Forest Service has a formal system and process for reviewing proposals such as this one for use of right-of-way to privately owned in-holding land. That process is illustrated on Attachment E at the end of this staff report.
- According to the steps illustrated on that flowchart, the Town and Stilo as applicants are shown as the “Developer.” The Town’s current proposal is now in about the middle of the second page of the process, ready to be screened by the FS Staff.
- The next step would be for the FS to accept this proposal as an application. Once that happens, the flow chart shows three more pages of analysis, including review required by the National Environmental Policy Act (NEPA). This process will analyze potential impacts of the road easements, how it conforms to other existing FS plans, and will allow opportunities for public comment.

### Acronyms

- FS = Forest Service
- NEPA = National Environmental Policy Act
- NFS = National Forest Service
- PADA = Pre=Annexation and Development Agreement
- ROW = right-of-way
- SR= State Route

### The Problem

- For more than 30 years the people of Tusayan have recognized a need for housing and additional services for residents. Because nearly all the existing housing is employer-owned, it is not possible for anyone to buy their own home in Tusayan. Employers provide housing as part of employment. When employees lose their job, they lose their employer-owned home.
- The Town owns land it would like to use for development of workforce housing that could be purchased by the people of Tusayan. The Town set up a Housing Authority with the intention of developing housing that could be purchased by people who work in Tusayan.
- Stilo Development Group owns land adjacent to the Town-owned land that it would like to develop according to its approved zoning.
- Right-of-Way is needed from the Forest Service to allow road improvements and the installation of utilities.

### Background

- Stilo was the name of a portfolio of real estate in Italy that was purchased by a combination of the Percassi Group and a private equity fund in the late

1990s. That joint venture became known as Stilo. The Percassi Group is a large retail and property development company in Bergamo, Italy. Stilo Development Group USA has owned 11 inholdings in the Kaibab National Forest and has been active in the Grand Canyon region for over 20 years.

- In 2011 the Town Council approved the Pre-Annexation and Development Agreement no. 2011-11-02 that allowed the annexation of the Stilo-owned properties at Kotzin and 10X, and outlined requirements for Stilo and for the Town in regard to development of the Stilo and Town property, including infrastructure, land use for housing and commercial uses.
  - In 2014 the Town Council approved Amendment 1 to PADA No. 2011-11-02. These amendments included a requirement that the Town would apply to the Forest Service for the use of the ROW for improved road access and utilities to the Kotzin and 10X parcels. In 2014, Stilo donated 40 acres of land to the Town of Tusayan as required in the PADA.
  - Under the 1st Amended PADA, the Town agreed to be the applicant for the proposal to the Forest Service for use and improvement of right-of-way.
  - The proposed projects and donation of land to the Town is intended to provide affordable housing for local area residents and new visitor amenities in the area, with sustainability and quality as its core features.
  - This proposal for Right-of-way to the Forest Service is consistent with the Kaibab Forest Plan, specifically “management at a landscape scale by taking an ‘all-lands approach,’ and specifies strategies to achieve the desired conditions and objectives in the Plan, including working closely with partners and across administrative boundaries to meet common objectives.”
  - Stilo has committed that if the proposal to the FS is approved, it will consent to a 33% reduction in the authorized density of the two parcels and will agree not to use groundwater for future commercial development purposes. These commitments were made in response to public comments received during the scoping period.

## **Alternatives for Town Council to Consider**

**1. Recommended Alternative:** Approve the revised proposal for submission to the Kaibab National Forest.

### Pros

- a. Submitting the proposal begins the Forest Service process of analysis and public comment.

- b. Submission of a proposal is the necessary first step for making application for permission to use FS right-of-way to improve roads and install infrastructure such as water lines, power lines, and wastewater collection lines, as well as any pedestrian trails along the roads.
- c. The Town has an adopted goal of developing the land it owns for affordable work force housing that would allow people working in Tusayan an option other than employer-owned housing. This proposal is the first step to making that housing possible.
- d. The Town is required by Amendment 1 to PADA No. 2011-11-02 signed Jan. 22, 2014 to submit this proposal and apply for use of the ROW.

#### Cons

- a. This submittal will bring a great deal of attention to the Town. In the past there were many objections from across the country, often based on faulty or incomplete understanding of the proposal. Such public attention requires time and energy for response, which detracts from the other work of the Town.

#### Consequences of Selecting This Alternative

Permission to use and improve the right-of-way is necessary if the Town is ever to see any development on the Kotzin or 10X parcels.

**2. Null Alternative:** The Town could choose to not submit the proposal to the Forest Service.

Pros: Avoids the work and responsibility of the application process and analysis.

Cons: The Town is required by Amendment 1 to PADA No. 2011-11-02 signed Jan. 22, 2014 to submit this proposal and apply for use of the ROW, so failing to submit the application would be a violation of that agreement.

#### **Funding Source**

The Town and Stilo are co-applicants to the Forest Service and are sharing the costs to do so. The Town's portion of any expense will be paid from the General Fund.

#### **Attachments**

- A. Proposal for Special Use Authorization, New Application for Transportation and Utility Systems and Facilities on Federal Lands dated January 2020.
- B. Pre-Annexation and Development Agreement No. 2011-11-02 signed Nov. 4, 2011.
- C. Amendment 1 to PADA No. 2011-11-02 signed Jan. 22, 2014.
- D. Amendment 2 to PADA No. 2011-11-02 signed June 1, 2016.
- E. Flowchart 3-FD-d: US Forest Service Special Use Authorization
- F. Criteria for the screening as discussed in the Forest Service flow chart