



ITEM NO.3c

**TOWN OF PRESCOTT VALLEY  
STAFF REPORT**

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**DATE:** December 4, 2025

**TO:** Mayor & Town Council

**THROUGH:**

**FROM:** Gilbert Davidson, Town Manager

**DEPARTMENT:** Town Manager's Office

**AGENDA TYPE:** New Business (for Review, Comment, And/or Possible Action)

**SUBJECT:** Development Agreement Fain Family and AP&S Proposed Government Tank Rock Harvesting Site - Discussion Only [Gilbert Davidson, Town Manager]

**VISION 2024 FOCUS AREA:** Enhancing the health of neighborhoods by promoting well-being for all through safety, infrastructure, housing, connectivity, recreational space, and community engagement.

**SUMMARY/BACKGROUND:**

In 1996, the Town of Prescott Valley accepted a gift from a Fain Family affiliate of approximately 96 acres to develop a regional park and related recreational facilities ("Fain Park"). In the process the Fain Family retained ownership of property adjacent to the west and east of Fain Park that remained in unincorporated Yavapai County. Four parcels to the west (APNs 103-08-077, 22 acres, 103-08-077a, 2 acres, 103-08-076a, 66 acres, and 103-08-050f, 25 acres), are collectively referred to as the "West Fain Park Site". Portions of the West Fain Park Site have since been used informally by Fain Park patrons for such things as viewing old mining artifacts and hiking.

Currently, the Fain Family leases property to Asphalt Paving & Supply ("AP&S") for rock harvest operations, including property adjacent to the east of Fain Park (APN 103-08-050z, 362 acres) ("AP&S Facility"). As harvesting of hard rock supplies winds down at the AP&S Facility, the Fain Family has intended to expand hard rock production on the designated portion of the West Fain Park Site as part of its lease with AP&S.

On January 6, 2021, a related Fain Family entity and AP&S applied to the Town for a right-of-way permit to carry excavated materials from the West Fain Park Site across a portion of Fain Park for crushing and other processing at the AP&S Facility. Said permit was approved at the time but never used. Therefore, the permit was closed on April 16, 2021. When the entity and AP&S applied for permit renewal on February 7, 2022, the application was denied as being inconsistent with the Town's then-current strategic plan. On February 14, 2022, the Town issued a press release indicating opposition to any rock harvest operations at the West Fain Park Site.

After discussions with the Town, the Fain Family and the Town settled on an alternative site. On October 24, 2023, an application was filed with the Town for a General Plan Amendment ("GPA23-024") and Zoning Map Change ("ZMC23-024") for approximately 40 acres located inside the Town (APN 402-14-004, "Government Tank Rock Harvest Site"). The Fain Family held multiple open houses to educate the public about the alternative site, produced a drone video, and took elected state and local officials out to the site. But beginning in December 2023, opponents of the new Site circulated and eventually submitted a petition under Subsection 2.3.1 of the Prescott Valley General Plan 2035 to require GPA23-024 (a minor amendment) to be processed instead as a major amendment. Therefore, in consultation with Town staff the Fain Family put the two applications on hold. On April 26, 2024, the Town Clerk issued a letter indicating that sufficient signatures had been submitted to require GPA23-024 to be processed as a major amendment. Under the General Plan and ARS 9-461.06, major amendments require certain additional public notices, time requirements, hearings, and Town Council vote percentages.

On June 6, 2024, a Complaint was filed in Yavapai County Superior Court seeking a Special Action against procedures the Town had indicated it planned to follow per ARS 9-461.06 if GPA23-024 was pursued. The Superior Court eventually agreed to require the Town to mail certain additional notices (and allow another 60 days to pass) before any such hearings might be held by the Planning and Zoning Commission. However, no hearings were ever scheduled. On April 26, 2025, GPA23-024 lapsed.

Focus then renewed on possible gravel mine operations at the West Fain Park Site. This led to meetings by groups from the nearby StoneRidge neighborhood to discuss the pros and cons of gravel mine operations at the West Fain Park Site versus the Government Tank Rock Harvest Site. It was noted that moving away from operations at the West Fain Park Site would protect the long-term viability of Fain Park (and potentially provide for its expansion). Operations at the Government Tank Rock Harvest Site would be farther from nearby homes than Operations at the West Fain Park Site. This suggested the possibility of a development agreement per ARS 9-500.05 between the Fain Family, AP&S, and the Town to specifically address Fain Park protection and expansion and reduce proximity to nearby homes.

In anticipation of such a development agreement, the Fain Family (in consultation with Town staff) applied again to the Town for approvals to allow location of rock harvest operations on the Government Tank Rock Harvest Site. The applications include what is now a major General Plan Amendment from Village PAD A-1 to Industrial Land Use ("GPA25-001", August 15, 2025), and a Zoning Map Change from R1L-70 (Residential; Single Family Limited) to IG (Industrial General) ("ZMC25-008", August 15, 2025). The Zoning Map Change includes a request for a

Conditional Use Permit for mining in accordance with Town Code 13-13-090 and 13-13-110).

### **Draft Development Agreement**

The Planning and Zoning Commission held its first hearing for GPA25-001 on November 10, 2025. The second hearing will be held on December 8, 2025, after which the Commission will determine whether to recommend approval to the Town Council. The Commission will also hold a hearing on ZMC25-008 at its December 8, 2025 meeting, and will then determine whether to recommend approval of that application to the Council. The Council is then scheduled to hold its own hearings on GPA25-001 and ZMC25-008 at its regular meeting on December 11, 2025. It will then decide whether to approve GPA25-001 by Resolution, and whether to conduct the first reading of the Ordinance needed to approve ZMC25-008. Any second reading of the Ordinance and possible approval of ZMC25-008 would occur at the regular Council meeting scheduled for January 8, 2026.

A draft Development Agreement between the Town, the Fain Family, and AP&S is now attached for review by the Town Council as part of this Study Session. Any final Development Agreement will need to first be considered for possible adoption by Resolution prior to any actions on GPA25-001 and ZMC25-008 at the December 11, 2025 meeting.

Here are main points of the draft Development Agreement:

\*\*\* Fain Family and AP&S agree to refrain from any rock harvesting at the West Fain Park Site while GPA25-001 and ZMC25-008 are being considered (including during any referendum process on this Agreement or any approvals up to the date of any canvassing of a vote). If the approvals are eventually adopted (and Fain Family and AP&S haven't exercised their one-year rescision right), they (and any affiliates, successors, and assigns) shall forever refrain from Operations at the West Fain Park Site.

\*\*\* Fain Family and AP&S will have a one-year period to require the Town Council to take necessary actions to rescind this Agreement and any of the approvals given if for any reason they decide operations at the Government Tank Rock Harvest Site may not be in their interest. In that case this Agreement and the approvals are null and void;

\*\*\* if the Town Council enters into this Agreement but declines to approve either of the applications (or they are referred and fail at a resulting public vote), then the Town's options regarding subsequent Operations at the West Fain Park Site are limited to -

- (a) taking reasonable actions to ensure Operations mitigations apply to the West Fain Park Site as would have applied to the Government Tank Rock Harvest Site,
- (b) taking reasonable actions to ensure applicable Operations safety conditions are adhered to,
- (c) taking reasonable actions to protect any public roadways beyond reasonable wear and tear, and

(d) taking reasonable actions to ensure the traveling public is protected from access or safety concerns based on engineering standards.

[NOTE: if the Fain family and AP&S request rescission of the Agreement and the approvals within the year described above, none of these limitations would apply.]

\*\*\* Drilling, controlled detonation, and crushing at the Government Tank Rock Harvest Site may not occur more often than 4 distinct blasting occasions per calendar year (a “blasting occasion” being a separate blasting contract that may require multiple individual blasts). Hauling may occur as needed. White noise backup alarms shall be used on all vehicles hauling material to the extent permitted by applicable state and national mining standards and other considerations of employee safety.

\*\*\* Hours of Operations are limited to Monday through Saturday, between 7:00 a.m. and 7:00 p.m. Adequate self-contained restrooms, dumpsters, and lighting shall be provided at all times during Operations.

\*\*\* Operations must comply with all applicable Federal, State, and Local laws, including (but not limited to) notice to residents within 1,000 feet prior to any controlled detonation, dark sky compliance, conformance to Town Code lighting standards, and signage to facilitate noise complaints and other public complaints/comment.

\*\*\* Fain Family, AP&S, and their affiliates agree not to seek approvals to expand the Government Tank Rock Harvest Site (including any Operations therein) within 15 years.

\*\*\* No water well shall be drilled and operated on the Government Tank Rock Harvest Site during the term of the Agreement.

\*\*\* The Access Road between Government Tank Rock Harvest Site and the AP&S Facility will be designed and constructed at no cost to the Town. Where it crosses Old Black Canyon Highway it will be reinforced per the reasonable requirements of the Town Engineer.

\*\*\* AP&S shall implement dust control measures for the Access Road in compliance with applicable law.

\*\*\* Within 12 months after this Agreement and the two approvals become final (including after any referendum period and vote that approved them), the Fain Family (or appropriate affiliates) will convey to the Town at no cost a designated portion of the West Fain Park Site shown in Exhibit A-3. The conveyance will be subject to two conditions -

(a) no portion may be used for purposes other than public park, public recreation, and open space, and

(b) if the Town chooses to adopt any new ad valorem taxes or any new transaction privilege (or excise) taxes (or similar fee as a condition of zoning) on commercial leaseholds after November 2025 that would apply to any real property of Fain Family, its affiliates, successors, and assigns, then the Town shall quarterly rebate any such

taxes up to the value calculated by adjusting for inflation the original gift value as reported to the IRS (using the CPI-U).

\*\*\* The initial Agreement term shall be 20 years but shall automatically renew for successive 10-year periods for so long as either site may contain commercially viable hard rock and is being actively used for rock/material harvesting (but not longer than a total of 50 years). Upon the final expiration without renewal of this Agreement, no Party shall have any further obligations under the Agreement. But such termination shall not affect any of the approvals, permits, deeds, or site plans adopted or approved by the Town as of the date of such termination.

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**RECOMMENDED MOTION:**

N/A Not Applicable – No Action Requested.

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**STAFF RECOMMENDATION:**

N/A Not Applicable – No Action Requested.

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**FISCAL ANALYSIS:**

There are no direct expenditures required by the Town as a result of eventually adopting the draft Development Agreement. The primary purpose of the Agreement is to avoid expenditures that might become necessary to avoid impacts of gravel operations that might occur at the West Fain Park Site. There are contingent future financial impacts related to the value of the designated portion of the West Fain Park Site that might be initially conveyed to the Town at no cost.

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**Council Action at the Meeting:** N/A

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**ATTACHMENTS:** Yes