27. Scaleybark Development Agreement Amendment

Action: **A. Approve the Second Amendment to the General Development Agreement and the Sixth Amendment to the Purchase and Sale Agreement with Scaleybark Partners, LLC.**

B. Authorize the City Manager to execute any additional documents necessary to implement the amendment.

Staff Resources: Peter Zeiler, Neighborhood & Business Services
Tina Votaw, Transit

Explanation

- Scaleybark Partners, LLC has requested an extension of deadlines to the four specific activities listed below as they work to complete streetscape and linear park designs as required in their Purchase and Sale Agreement (PSA) with the City.
- In 2009, Scaleybark Partners joined Cherokee South End LLC, the adjacent property owner, to create a larger project site. As a result, Scaleybark Partners has been engaged in new site planning activity, including modification of proposed street networks. Continued market challenges created by economic stagnation have also driven modifications to their site design.
- Staff recommends approval of the date extensions as identified below. The extension to complete the parking deck at the Scaleybark Station does not impact CATS or transit riders as they will continue to use the existing parking lot at the Scaleybark Station until such time as the parking deck is available.

Activity	Original Date per PSA	Amended Dates per 5th Amendment	New Proposed Amended Dates per 6th Amendment
1. Linear Park construction start	February 15, 2009	January 15, 2011	January 15, 2012
2. Streetscape Improvement construction start	May 15, 2009	January 15, 2011	January 15, 2012
3. Pre-marketing expenditures of $500,000	February 15, 2009	January 15, 2011	January 15, 2012
4. CATS Park and Ride Deck completion	February 28, 2013	February 28, 2014	February 28, 2016

Background

- In June 2007, City Council approved a Purchase and Sale Agreement (PSA) for the sale of approximately 16 acres of land along South Boulevard for $6,985,000 to Scaleybark Partners, LLC. Council approved four subsequent Amendments to the PSA which:
  - extended the Buyer's Examination Period
  - extended the closing date
  - adjusted the final purchase price to $5,185,000 upon discovery of detrimental subsurface conditions during due diligence.

- The City and Scaleybark Partners closed on the property transaction on Feb. 29, 2008.
- Scaleybark Partners has since satisfied all payment obligations due to the City for the property.
- In June 2010, Council approved a sixth amendment for certain technical changes to the PSA to help accommodate a Low Income Tax Credit application made by the Charlotte-Mecklenburg Housing Partnership in cooperation with Scaleybark Partners. They were denied for the 2010 application and will reapply for 2011 per the PSA and Development Agreement. The June 2010 Sixth amendment was thereby voided. This new request therefore becomes the Sixth Amendment.
- The Sixth Amendment to the PSA and the Second Amendment to the General Development Agreement (both documents need to be updated) would extend the deadlines by adding one year to the linear park construction and streetscape commencement, one year to the required premarketing expenditures and two years to the completion of the CATS Park and Ride parking deck.