

# ATTACHMENT D

PLEASE RESPOND ELECTRONICALLY TO TERESA GARCIA 2ND FLOOR, 602-262-7399



## City of Phoenix

PLANNING & DEVELOPMENT DEPARTMENT

**To:** Departments Concerned

**Date:** May 10, 2024

**From:** Joshua Bednarek

Planning & Development Department Director

**Subject: P.H.O. APPLICATION NO. PHO-1-24--Z-8-21-8 – Notice of Pending Actions by the Planning Hearing Officer**

1. Your attention is called to the fact that the **Planning Hearing Officer** will consider the following case at a public hearing on **June 12, 2024**.
2. Information about this case is available for review at the Zoning Counter in the Planning and Development Department on the 2nd Floor of Phoenix City Hall, telephone 602-262-7131, Option 6.
3. Staff, please indicate your comments and respond electronically to [pdd.pho@phoenix.gov](mailto:pdd.pho@phoenix.gov) or you may provide hard copies at the Zoning Counter in the Planning and Development Department on the second floor of Phoenix City Hall by **May 17, 2024**.

### **DISTRIBUTION**

Mayor's Office (Tony Montola), 11th Floor  
City Council (Stephanie Bracken), 11th Floor  
Aviation (Jordan D. Feld )  
CED (Michelle Pierson), 20th Floor  
Fire Prevention (Joel Asirsan), 2nd Floor  
Neighborhood Services (Gregory Gonzales, Lisa Huggins), 4th Floor  
Parks & Recreation (Todd Shackelford), 16th Floor  
Public Transit (Michael Pierce)  
Street Transportation Department (Maja Brkovic, Josh Rogers, Alan Hilty, Chris Kowalsky), 5th Floor  
Street Transportation - Ped. Safety Coordinator (Kurt Miyamoto), 5th Floor  
Street Transportation - Floodplain Management (Tina Jensen, Priscilla Motola, Rudy Rangel), 5th Floor  
Water Services (Don Reynolds, Victor Romo), 8th Floor  
Planning and Development (Joshua Bednarek, Tricia Gomes), 3rd Floor  
Planning and Development/Information Services (Ben Ernyei, Andrew Wickhorst), 4th Floor  
Planning and Development/Historic Preservation Office (Kevin Weight), 3rd Floor  
Planning Hearing Officer (Byron Easton, Teresa Garcia), 2nd Floor  
Village Planner (Samuel Rogers, South Mountain Village)  
Village Planning Committee Chair (Trent Marchuk, South Mountain Village)



Fee	Fee Waived	Fee Date	Purpose
\$1,725.00	\$0.00	04/26/24	PHO (3+ stipulations)

**PHO Project Narrative - 36th & Southern  
Proposed Single-Family Subdivision  
(PHO-1-24—Z-8-21)**



**800 feet north of the NWC of 36th Street & Southern Avenue  
Phoenix, Arizona**

PREPARED BY



For

**K. HOVNANIAN HOMES**

**Submitted:** April 26, 2024



## **Introduction**

This PHO request is for an awkwardly shaped infill parcel north of the northwest corner of 36<sup>th</sup> Street and Southern Avenue. The original zoning case for R-3 (Z-8-21-8) was approved by the City Council back on July 1, 2021. That project contemplated an uncommon, rear-loaded residential product and never moved forward. Now, a well-respected and experienced homebuilder, K. Hovnanian Homes ("KHOV"), is proposing a single-family townhome development with opportunities for home ownership for young families and first-time homebuyers.

This community will cover two properties, shown in the map. This narrative will discuss the stipulations applicable to the northern parcel (Parcel B), which consists of 18.4 acres. The property is challenging because it is an infill parcel and because of its irregular shape. Not only is the north property line slanted sharply along the canal, but the western property line is also slanted. This creates development inefficiencies, which makes site planning more difficult. As the aerial reveals, despite development occurring in the area, this parcel has remained vacant and undeveloped.



The proposed community will include both Parcel A and Parcel B. Combining the two parcels into one community is a superior option to leaving the two parcels to develop separately. KHOV is proposing 192 townhomes for Parcel B, which conforms to an associated zoning stipulation, and another 40 townhomes for Parcel A. Because these parcels were the subjects of two separate zoning cases, separate PHO applications and narratives are being filed for each.

The zoning approval for the subject site of this PHO request (Parcel B) was granted in 2021, subject to 26 stipulations, many of which were particular to the product type proposed at that time—a rear-loaded condo project. But the proposed community never developed. KHOV is now proposing a different residential product and different residential plan: a fee-title ownership townhome

community. We believe this community will fit harmoniously into the fabric of the area and act as a buffer between the industrial and commerce park uses to the east and the residential to the west.

### **Creating Opportunities for Home Ownership in Today's Housing Market**

As home prices and interest rates have increased, and wages have not increased commensurately, a growing number of Arizonans are being priced out of the opportunity to buy a home. This has been one of the contributing factors to the increase of multifamily development over the past several years. Although new construction is taking place, many are still being left out of options for home ownership, particularly starter homes.

The rising cost of labor and materials is almost forcing developers to focus on housing products at higher price points. But KHOV is doing its best to provide a quality product that meets a needed price point. Since townhomes can be developed within the existing R-3 zoning on the property, no rezoning is necessary. What is needed are fair and reasonable modifications to stipulations that were associated with the design for the condo community previously approved.

KHOV has been developing the same type of townhome-style community in other areas of Phoenix. Those communities have been well received. They are providing opportunities to young families and to individuals looking for a more reasonable price point for their home investment.

We believe the requests in this PHO are fair and reasonable. It is understood that with PHO requests, different types of residential products will require tweaks to the original stipulations. But we have endeavored to preserve the spirit of the stipulations while adapting them to fit this new community.

In the end, the proposed community will be a quality addition to the village's stock of residential options. The proposed stipulations will help tailor the zoning to the proposed product type and will help ensure we can bring home ownership opportunities at a price point that is desperately needed.

### **Requests**

#### *Stipulation No. 7*

The product type from the original zoning case was uncommon and featured rear-loaded garages (i.e. where garages occurred in the back of the unit, instead of the front). That design choice meant the front of several units faced 36<sup>th</sup> Street and the park. We are requesting to delete this stipulation. Stipulation 7 reflected that design choice:

~~7. Individual dwelling units adjacent to 36<sup>th</sup> Street and Esteban Park shall provide an entryway that is either elevated, depressed or includes a feature such as a low wall not exceeding 40 inches in height to accentuate the primary entrance, plus orientated towards the public street or public park, as approved by the Planning and Development Department.~~

Because units faced onto 36<sup>th</sup> Street and the park, this stipulation reflected that design and added language to emphasize those frontages. We view this stipulation modification request similar to a request to amend a site plan stipulation. Site plan stipulations lock in the design the developer was proposing at the time of zoning. When a new proposal comes forward, the stipulation often needs to be revised to reflect the new plan. Indeed, in this case, staff said in the staff report that it wanted to avoid the typical stipulation requiring general conformance to the site plan (see staff report excerpt in the footnote).<sup>1</sup> As an alternative, staff stipulated to *elements* of the developer's plan, which included stipulation 7.

The prior developer was proposing rear-loaded garages, which put the primary entrance on the opposite side. Those garages could not face 36<sup>th</sup> Street because it is a minor collector, and it would be inappropriate to have a row of residential driveways on a minor collector. So, that meant 36<sup>th</sup> Street was designated to be the fronts of the units. The same is true of the park. The developer couldn't locate driveways and garages on the park, so the side of the units facing the park became the fronts of the units.

But KHOV is introducing a more traditional product, with front-loaded garages. Stipulation 7 would require us to put our primary building entries on 36<sup>th</sup> Street and the park. But we cannot do that because that would put the garage driveways on 36<sup>th</sup> Street and against the park—where driveways won't work.

So, again, Stipulation 7 is like a stipulation requiring general conformance to a site plan. This stipulation matched the prior developer's design, but it is incompatible with the new product being proposed—which is an attractive product that has been well received in other areas of the City.

Additionally, trying to force this stipulation to work for KHOV's rear yards on 36<sup>th</sup> Street would be a problem. Doing so would create an inferior product for homeowners. Effectively, it would require KHOV to eliminate the rear yards along

---

<sup>1</sup> The staff report from that case reads: "Conformance to the conceptual site plan provided by the applicant is not recommended by staff in order to allow additional flexibility to the applicant in incorporating additional residential units as part of this development during the site plan review process up to 12.5 dwelling units per gross acre."



36<sup>th</sup> Street and make them all front yards and front entryways. But homeowners want the privacy and security of a rear yard. Making the rear yard function as front entries, with either no walls or only 40" walls would not be secure for small children or pets that need outdoor space that is secure. Enforcing this stipulation on KHOV's product would make these lots so unmarketable that KHOV would not proceed with the project.

This is particularly true when one considers the view these homeowners would be facing along 36<sup>th</sup> Street. The views would be into the commerce park and industrial properties across the street. Google photos below:



These industrial and commerce park developments were developed prior to the surrounding residential, and there was clearly little consideration for setbacks, transitions, and/or landscape buffers to make the industrial and commerce park uses transition better with the residential uses. The resulting condition is unsightly, and nobody would want to front their new home onto that view. But that is the condition, and it is not going to change.

In summary, Stipulation 7 was reflective of the prior product type and the rear-loaded garages. It is not compatible with KHOV's traditional front-loaded garage product and, thus, is no longer a reasonable requirement. We ask that it be deleted in its entirety.

Stipulation No. 14.a

Stipulation 14.a requires direct connection between individual dwelling units along 36<sup>th</sup> Street and the sidewalk. It reads:

~~14.a. Direct connection to the sidewalk along 36<sup>th</sup> Street for individual dwelling units adjacent to this street.~~

This stipulation is similar to Stipulation No. 7, discussed above. This stipulation was part of the design scheme of that prior community, which couldn't put its rear-loaded garages and driveways onto 36<sup>th</sup> Street and instead put the front of the units onto 36<sup>th</sup> Street. With their units fronting 36<sup>th</sup> Street, it made perfect sense to ensure a connection between the front yard and the sidewalk. Indeed, it's hard to imagine a scenario where those front yards wouldn't install a direct connection.

But, again, with traditional front-loaded garages, we cannot face the townhomes onto 36<sup>th</sup> Street because it is a minor collector. Thus, without the townhomes facing 36<sup>th</sup> Street, this stipulation is no longer relevant to the design of the community. We ask that this stipulation be deleted in its entirety.

Stipulation No. 15

Stipulation No. 15 contemplates a public open space on the corner of the property, next to the park. This too made more sense with the prior product type. Stipulation No. 15 reads:

~~15. The development shall provide a minimum 1,000 square foot publicly accessible pedestrian seating node and amenity area along the most northern portion of the development adjacent to the western edge of 36<sup>th</sup> Street (future cul-de-sac portion) to include the following elements at a minimum, as approved by the Planning and Development Department:~~

~~a. Two benches or seating features.~~



- b. ~~Bicycle repair station ("fix it station") provided and maintained in an area of high visibility and separated from vehicular maneuvering areas, where applicable. The repair station shall include: standard repair tools affixed to the station; a tire gauge and pump affixed to the base of the station or the ground; and a bicycle repair stand which allows pedals and wheels to spin freely while making adjustments to the bike.~~
- c. ~~Amenity area that includes either/or combination of a community garden, art feature, nature walk, natural features such as boulders or fountains, or other uniquely identifying features.~~
- d. ~~A landscaped accent area, exclusive of perimeter landscaping and right-of-way, planted and maintained with at least three plant materials including a series of annuals that will each maintain a constant bloom throughout the year.~~

This stipulation contemplates a public area at the north end of 36<sup>th</sup> Street. This too made more sense with the prior product type because of the units facing 36<sup>th</sup> Street. This can be seen in the rendering below:



In this image, the public node is directly in front of several units.

However, with the current design, this public area would be behind the subject community. A public amenity at the end of 36<sup>th</sup> Street would not be monitored and would likely not be used by the members of the proposed subdivision with regularity. This stipulation would require the HOA to maintain and police this public

space that would be located outside of the boundaries of its community. That is an unfair burden to place on an HOA.

The most recent google photos show the space next to this area being used as a type of gym with a boxing bag and other boxing equipment. Our concern is this space continuing to be used in ways that were not intended and for HOA board members to be tasked with enforcing usage rules.



If this space were private and internal to the community, then rules and regulations could be more easily enforced by residents and members of the HOA board. Indeed, pedestrian seating nodes are proposed to be throughout the development, but they are for the use of community homeowners and their guests. The HOA will have no issue enforcing rules for these spaces and paying to



maintain their usability. But asking normal residents who are on the HOA board to enforce rules against members of the public, especially in a space outside of the community's perimeter wall, is an unfair and impractical burden.

What the google images above also reveal is how close this space is to the public park. If these types of seating amenities are needed in the area, it would be best to locate them in the park. The City is equipped with a police department to secure this space and to ensure it is used as intended, and the City has a parks and recreation department with the resources to ensure the space is maintained.

This stipulation made more sense with the prior product, with homes facing onto the space. But with this more traditional townhome product, requiring this public space will inevitably create a long-term problem and burden for the future HOA board members.

We respectfully request the deletion of Stipulation No. 15.

#### Stipulation No. 10

Stipulation No. 10 relates to the design of perimeter walls. Our request is simply to add more design options:

10. All perimeter walls visible from a public street shall include material and textural differences, such as stucco and/or split face block with a decorative element, such as **COLUMNS, COLOR ACCENTS**, tile or stamped designs, as approved by the Planning and Development Department.

We agree with the intent of the stipulation but seek a slight modification to allow more design options for the perimeter walls. The concept of the stipulation remains the same, to create an enhanced perimeter wall design. Allowing columns or color accents as another design feature will enhance the visual aesthetics of the perimeter wall, which is the clear goal of the stipulation. Columns and color accents can provide visual breaks in long wall spans and therefore create a better visual streetscape. The slight modification in the wording does not change the intent behind the stipulation; it only improves the design characteristic options.

#### Stipulation No. 11

The intent of Stipulation No. 11 was to provide a list of amenities and design elements throughout the property. Our request merely seeks to modify one sub portion of Stipulation No. 11. KHOV's community design does not include a clubhouse, due to various factors discussed below. Accordingly, our proposed modification of stipulation 11 is below:

11. The development shall include the following amenities and elements at a minimum, distributed between the open space area(s) throughout the site, as approved by the Planning and Development Department:

- a. Swimming pool.
- ~~b. Clubhouse.~~
- ~~e~~b. Two picnic areas, each with one barbecue grill, shade ramada and a picnic table.
- ~~e~~c. Five benches distributed throughout the development, including one bench located within close proximity to 36th Street.
- ~~e~~d. Turf area(s) of no less than a combined 1,000 square feet.
- ~~f~~e. Community garden area(s) of no less than a combined 1,000 square feet that will each include a garden tool library, irrigation, and one bench or seating feature.

We will explain the reasoning behind this modification.

First, clubhouses are very difficult to warrant on a project this small. These facilities are very expensive to install and for the HOA to maintain. They work in large communities, when the cost of maintenance is spread out over many units and there is a greater likelihood that it will actually be used enough to justify its cost.

But with a community of this size, the cost of maintenance to each owner is high and the level of use is simply not high enough to justify it. Selecting amenities in a for-sale community isn't just about the upfront cost, but it is about the ongoing cost. Although some community members might use it, we need to find amenities that lots of residents will use and that do not have the same high cost of maintenance. Otherwise, it becomes an albatross around the necks of the community members long term.

Additionally, the times when a clubhouse might be used are for gatherings. But this property is right next to Esteban Park. There is little justification to make residents pay for an amenity that could be had for free (as part of their already-paid taxes) right next door. Esteban Park provides ramadas, baseball fields, dog park, tot lot, basketball court, tennis courts, pedestrian paths, and open space, which can be used for gatherings by residents, instead of a single clubhouse that will generally go unused.

Additionally, clubhouses are often used in large apartment complexes. In that context, a clubhouse often makes sense. First, there are often many units to support the cost. Second, the residents only have a small balcony for their outdoor space. So, the level of community amenities has to be increased to compensate. But with a small ownership community, with individual backyards, those elements are not present.

The community will be well amenitized, including featuring a swimming pool that most communities do not have. But requiring a pool and a clubhouse on this community would be a burden and would unnecessarily raise the cost of home purchases and the cost of HOA fees.

We request to slightly modify Stipulation No. 11 to remove the requirement for a clubhouse.

#### Stipulation No. 12

Stipulation No. 12 provides for shade within the open space areas throughout the community. We are retaining that intent, but we are merely requesting to modify the percentage requirement from 50 to 25. Below is our proposed revision:

12. Open space areas shall have a minimum of ~~50~~**25** percent shade, including amenity and seating areas, and a minimum of 50 percent live vegetative cover (shrubs, grasses, or groundcover plants), as approved by the Planning and Development Department.

A requirement for 50 percent shade in *all* open space areas is a major burden to place on this community. For example, consider the adjacent Esteban Park. If this requirement was imposed on the park, almost 30 acres of the 60 acres would need to be shaded—which is *much* more than is currently the case.

A 50 percent shade requirement would mandate a lot of extra trees and a lot of extra watering—creating a maintenance and financial burden on the future HOA and on water usage. Additionally, that level of shade will shrink KHOV's flexibility to make practical and usable open space areas. Trees are an important element of those spaces, to be sure, but too many trees shrink areas for soccer, frisbee, football, and other such activities, which tend to be among the most used elements of community open spaces for family-oriented communities like this one.

Additionally, these open space areas need to double as retention basins. Some trees are okay, but that high level of shade will require so many trees that it creates the risk of not being able to effectively design retention basins to function properly.

This type of stipulation may make more sense in urban areas with tall buildings. There, the buildings themselves provide a large percentage of the shade onto the open space. And there are fewer families with small children in those urban settings, which means less need to preserve the same type of free-play nature of these open spaces.



KHOV supports the placement of shade within its communities, but the 50 percent threshold is too much to place on this community. A 25 percent shade requirement is still above and beyond the ordinance requirement and is a sufficient and reasonable amount of shading for open space areas. This modified requirement will provide an appropriate amount of shading while still allowing for open space areas to be highly usable, clear from obstruction of trees and available for proper retention design.

We respectfully request modifying Stipulation No. 12 as proposed.

Stipulation No. 13

Stipulation No. 13 provides for a minimum percentage of shade for pedestrian paths. This request seeks to modify the pedestrian paths shade requirement 75% to 50%. Below is our proposed revision to Stipulation 13.

13. Pedestrian paths shall be shaded to a minimum of ~~75~~**50** percent using architectural shade and/or shade trees at full maturity, as approved by the Planning and Development Department.

As noted above, KHOV plans to incorporate shade as an important element in this community, but a 75 percent shade requirement is not necessary and will create an additional maintenance and financial burden on the future HOA fees. We are not opposing the shade requirements but respectfully request changing the percentage from 75 percent to 50 percent. 50 percent shade requirement for pedestrian paths is in line with the City's WU Code ordinance for shade requirements for public spaces and is sufficient and a reasonable amount of shading for pedestrian paths. Arguably, a suburban community should not be required to match the shading requirements of the walkable *urban* code. But here, we are willing to match that code. However, exceeding that urban standard is burdensome on the future HOA.

Note that we are not asking for a reduction to the shade requirement of Stipulation No. 16, which requires 75 percent shade for the sidewalk on 36<sup>th</sup> Street.

We respectfully request modifying Stipulation No. 13 as proposed.

Stipulation No. 17

Stipulation No. 17 relates to bicycle parking spaces. We are not asking to remove this requirement. We are simply asking for flexibility to locate these spaces where they will be more utilized, which is within the community's amenity areas. Our requested change is as follows:

17. A minimum of four bicycle parking spaces shall be provided through Inverted U and/or artistic racks located near ~~each vehicular point of ingress~~

or egress **THE AMENITIES AREA** and installed per the requirements of Section 1307.H. of the Phoenix Zoning Ordinance, as approved by the Planning and Development Department. Artistic racks shall adhere to the City of Phoenix Preferred Designs in Appendix K of the Comprehensive Bicycle Master Plan.

The concept of the stipulation remains the same, to provide bicycle parking. The modified language will simply allow the bicycle parking to be near the location where residents will ride their bikes to: the community's amenity areas.

It also places these bicycle parking spaces in a more secure location that can be monitored by the community. There is a higher chance of these bicycle parking spaces being used if they are located near the amenities/open space.

This slight modification does not change the intent behind the stipulations; it only improves the usability of the bicycle parking.

We respectfully request approval of the proposed modification to Stipulation No. 17.

#### Stipulation No. 20

The intent of stipulation No. 20 is to have the developer complete the improvements for the existing cul-de-sac at the north end of 36th Street. Oddly, the stipulation called for a 50' radius cul-de-sac when the existing half of the cul-de-sac was set up for a 45' radius. So, we are asking for the following modification:

20. The developer shall complete the ~~50~~**45**-foot radius cul-de-sac termination at 36th Street, as approved by the Planning and Development Department.

If a 50' radius were required, it would not match the existing conditions and would require additional right-of-way from the adjacent industrial property owner to the east. Or it would require us to put a new bulb entirely on our half of the street, which would be a disproportionate roadway exaction and would result in a double bulb.



We respectfully request the modification of Stipulation No. 20 as proposed.

### **Conclusion**

We believe the modifications requested in this PHO are reasonable in light of the change in proposed product type and the need for ownership housing options that are accessible by first-time home buyers. This original case had 26 stipulations, and we are preserving the vast majority of those stipulations. Even on those stipulations we have asked to modify, most of them have been largely preserved in terms of their intent. Others have been modified simply to reflect a new product type.

We refer the City to the attached summary of these 26 stipulations. This summary helps to highlight how much KHOV will continue to go above and beyond the ordinance, even with the requested modifications.

Additionally, we have been careful in our requests, trying our best to leave stipulations in place if they could be met, even if they were not typical of KHOV's communities or its preferences. The requests in this narrative are those that we need to ask for relief on.

KHOV brings to this community its depth of experience with design and its understanding of what is needed to make sustainable residential communities that are attractive to homebuyers, function well, have reasonable HOA fees, and where residents are able to keep their community maintained year over year.

This property is positioned between more single-family homes to the west and industrial and commerce park development to the east. It needs to function as a

transition property. We believe this community does that. We also believe these modifications are practical and fair and ensure the community is well positioned to succeed in the long term.

We urge the City to grant the requested relief.

Stip#	Summary	Stip Language
1	<p>***** <b>NO CHANGE</b> *****</p> <p>Building Elevations:</p> <ul style="list-style-type: none"> <li>• Variety of colors and materials</li> <li>• Material minimums for elevations when adjacent to public streets and parks.</li> <li>• Architectural embellishments</li> </ul>	<p>Building elevations shall be developed to the following standards, as approved by the Planning and Development Department:</p> <ol style="list-style-type: none"> <li>Building elevations shall contain multiple colors, exterior accent materials and textural changes that exhibit quality and durability such as brick, stone, colored textured concrete or stucco, to provide a decorative and aesthetic treatment, as approved by the Planning and Development Department.</li> <li>Building elevations adjacent and oriented to public streets and the public park, shall contain a minimum of 25 percent brick, masonry, stone or another exterior accent material that exhibits quality and durability.</li> <li>All building elevations shall contain architectural embellishments and detailing such as textural changes, pilasters, offsets, recesses, variation in window size and location, pitched roofs and/or overhang canopies, as approved by the Planning and Development Department.</li> </ol>
2	<p>***** <b>NO CHANGE</b> *****</p> <ul style="list-style-type: none"> <li>• Maximum Building Height is 30 feet.</li> <li>• Maximum stories is two.</li> </ul>	<p>Building height shall be limited to two stories and 30 feet.</p>
3	<p>***** <b>NO CHANGE</b> *****</p> <ul style="list-style-type: none"> <li>• No balconies on upper floors facing other SFR homes.</li> </ul>	<p>There shall be no balconies on the upper floors of residential dwellings adjacent or oriented toward single-family residential homes not part of this development.</p>



4	<p>***** <b>NO CHANGE</b> *****</p> <ul style="list-style-type: none"> <li>Increased landscaping standards in landscape setbacks: <ul style="list-style-type: none"> <li>Evergreen trees 20' on center adjacent or facing SFR homes.</li> <li>Use drought-tolerant trees.</li> <li>50% 2" caliper &amp; 50% - 3" caliper.</li> <li>5 five-gallon shrubs per tree</li> </ul> </li> </ul>	<p>The required landscape setbacks shall be planted to the following standards, as described below and as approved or modified by the Planning and Development Department:</p> <ul style="list-style-type: none"> <li>a. Large canopy evergreen trees 20 feet on center, or in equivalent groupings, shall be planted where residential units are adjacent or oriented towards single-family residential homes not a part of this development.</li> <li>b. Large canopy drought-tolerant trees 20 feet on center, or in equivalent groupings, shall be utilized unless otherwise stated.</li> <li>c. 50 percent 2-inch caliper, 40 percent 3-inch caliper and 10 percent 4- inch caliper trees shall be utilized.</li> <li>d. Five 5-gallon shrubs per tree, and additional shrubs or live groundcover, shall provide minimum 75 percent live cover at maturity.</li> </ul>
5	<p>***** <b>NO CHANGE</b> *****</p> <ul style="list-style-type: none"> <li>Maximum of 192 dwelling units</li> </ul>	<p>The development shall be limited to a maximum density of 192 dwelling units.</p>
6	<p>***** <b>NO CHANGE</b> *****</p> <ul style="list-style-type: none"> <li>Primary and secondary access along 36<sup>th</sup> Street</li> </ul>	<p>The development shall provide a primary and secondary vehicular access to the site along 36th Street. The secondary access point may serve as vehicular ingress and egress, or limited to vehicular egress and emergency access only, as approved or modified by the Planning and Development Department.</p>
7	<p>***** <b>REQUEST TO DELETE</b> *****</p>	<p><del>Individual dwelling units adjacent to 36th Street and Esteban Park shall provide an entryway that is either elevated, depressed or includes a feature such as a low wall not exceeding 40 inches in height to accentuate the primary entrance, plus oriented towards the public street or public park, as approved by the Planning and Development Department.</del></p>

8	<p style="text-align: center;"><b>***** NO CHANGE *****</b></p> <ul style="list-style-type: none"> <li>• Primary entrance shall include:             <ul style="list-style-type: none"> <li>○ Connective pathways to exterior of community.</li> <li>○ Detached pedestrian pathway.</li> <li>○ Median at entry.</li> <li>○ Alternative surface for driveway entry.</li> </ul> </li> </ul>	<p>The primary entrance to the development from 36th Street shall include the following elements, as approved by the Planning and Development Department:</p> <ol style="list-style-type: none"> <li>a. Pedestrian pathways connecting the interior of the development to the public sidewalks along both sides of the vehicular entryway into the development.</li> <li>b. The pedestrian pathways shall be detached from the primary vehicular entryway with a minimum 5-foot wide landscaped accent area provided on both sides of the entryway into the development. The landscaped accent areas shall provide a visually unique character with drought- tolerant plant materials providing seasonal interest and 75 percent live cover.</li> <li>c. A median island of no less than 5 feet in width shall be located centrally within the vehicular entryway into the development and accented by a minimum of three drought-tolerant trees, and drought-tolerant, ornamental, flowering shrubs to provide a minimum 75 percent live cover. Twenty five percent of the required live cover may be ground cover plants.</li> <li>d. The driveway surface shall be constructed of decorative pavers, stamped or colored concrete, or another material, other than those used to pave the parking surfaces, as approved by the Planning and Development Department.</li> </ol>
9	<p style="text-align: center;"><b>***** NO CHANGE *****</b></p> <ul style="list-style-type: none"> <li>• View fencing or partial view fencing along public park perimeters</li> </ul>	<p>Perimeter walls adjacent to the public park shall be limited to open view fencing or a combination of maximum three feet of solid masonry topped by open view fencing, as approved by the Planning and Development Department.</p>

10	<p>***** MINOR CHANGE *****</p> <ul style="list-style-type: none"> <li>Material and texture variation for perimeter walls and design features.</li> </ul>	<p>All perimeter walls visible from a public street shall include material and textural differences, such as stucco and/or split face block with a decorative element, such as <b><u>COLUMNS, COLOR ACCENTS</u></b>, tile or stamped designs, as approved by the Planning and Development Department.</p>
11	<p>***** DELETE b. *****</p> <ul style="list-style-type: none"> <li>Amenities requirement: <ul style="list-style-type: none"> <li>Pool</li> <li>Clubhouse</li> <li>Two picnic areas</li> <li>Five benches</li> <li>Turf</li> <li>Community Gardens</li> </ul> </li> </ul>	<p>The development shall include the following amenities and elements at a minimum, distributed between the open space area(s) throughout the site, as approved by the Planning and Development Department:</p> <ul style="list-style-type: none"> <li>a. Swimming pool.</li> <li><del>b. Clubhouse.</del></li> <li><del>b</del><b>e</b>. Two picnic areas, each with one barbecue grill, shade ramada and a picnic table.</li> <li><del>d</del><b>c</b>. Five benches distributed throughout the development, including one bench located within close proximity to 36th Street.</li> <li><del>e</del><b>d</b>. Turf area(s) of no less than a combined 1,000 square feet.</li> <li><del>f</del><b>e</b>. Community garden area(s) of no less than a combined 1,000 square feet that will each include a garden tool library, irrigation, and one bench or seating feature.</li> </ul>
12	<p>***** MINOR CHANGE *****</p> <ul style="list-style-type: none"> <li>Open space shade percentage.</li> </ul>	<p>Open space areas shall have a minimum of <del>50</del><b>25</b> percent shade, including amenity and seating areas, and a minimum of 50 percent live vegetative cover (shrubs, grasses, or groundcover plants), as approved by the Planning and Development Department.</p>
13	<p>***** MINOR CHANGE *****</p> <ul style="list-style-type: none"> <li>Path shade percentage.</li> </ul>	<p>Pedestrian paths shall be shaded to a minimum of <del>75</del><b>50</b> percent using architectural shade and/or shade trees at full maturity, as approved by the Planning and Development Department.</p>

14	<p>**** REQUEST TO DELETE 14.a only ****</p> <ul style="list-style-type: none"> <li>• Pedestrian thoroughfares: <ul style="list-style-type: none"> <li>○ Two pedestrian paths to 36<sup>th</sup> Street sidewalk.</li> <li>○ Illuminate and install a main path through site.</li> <li>○ Visually contrasting materials for paths and vehicular crossings.</li> <li>○ Provide various connections throughout community.</li> </ul> </li> </ul>	<p>The developer shall provide a system of pedestrian thoroughfares, as described below and as approved or modified by the Planning and Development Department:</p> <ul style="list-style-type: none"> <li>a. <del>Direct connection to the sidewalk along 36th Street for individual dwelling units adjacent to this street.</del></li> <li>b. The developer shall provide a minimum of two pedestrian paths connecting to the sidewalk along 36th Street, exclusive of pedestrian connections along vehicular entryways.</li> <li>c. Illuminated by pedestrian scale lighting per Section 1304(H)5 for a pathway connecting 36th Street along the primary entrance, passing through a central amenity area, and terminating at the west property line.</li> <li>d. Where pedestrian paths and vehicular crossings exist, the pathway shall be constructed of decorative pavers, stamped or colored concrete, or other pavement treatments that visually contrasts parking and drive aisle surfaces. Vehicular crossings shall be kept to a minimum.</li> <li>e. Connections to/between: <ul style="list-style-type: none"> <li>1) All residential dwellings.</li> <li>2) All amenity facilities and active open space areas.</li> <li>3) The sidewalk along 36th Street.</li> </ul> </li> </ul>
----	--	---

15	<p>***** REQUEST TO DELETE *****</p>	<p><del>The development shall provide a minimum 1,000 square foot publicly accessible pedestrian seating node and amenity area along the most northern portion of the development adjacent to the western edge of 36th Street (future cul-de-sac portion) to include the following elements at a minimum, as approved by the Planning and Development Department:</del></p> <p><del>Two benches or seating features.</del></p> <p><del>Bicycle repair station ("fix it station") provided and maintained in an area of high visibility and separated from vehicular maneuvering areas, where applicable. The repair station shall include: standard repair tools affixed to the station; a tire gauge and pump affixed to the base of the station or the ground; and a bicycle repair stand which allows pedals and wheels to spin freely while making adjustments to the bike.</del></p> <p><del>Amenity area that includes either/or combination of a community garden, art feature, nature walk, natural features such as boulders or fountains, or other uniquely identifying features.</del></p> <p><del>A landscaped accent area, exclusive of perimeter landscaping and right of way, planted and maintained with at least three plant materials including a series of annuals that will each maintain a constant bloom throughout the year.</del></p>
16	<p>***** <b>NO CHANGE</b> *****</p> <ul style="list-style-type: none"> <li>Public sidewalk along 36th Street shall be detached with a minimum five-foot-wide landscaped strip.</li> <li>3" caliper trees in landscape strip, 25' on center.</li> <li>75% shade on public sidewalk.</li> </ul>	<p>The public sidewalk along 36th Street shall be detached with a minimum five- foot wide landscaped strip located between the sidewalk and back of curb and planted to the following standards, as approved by the Planning and Development Department:</p> <p>Minimum 3-inch caliper large canopy, single-trunk, shade trees placed a minimum of 25 feet on center or in equivalent groupings to provide shade to a minimum 75 percent of the sidewalk.</p>



		<p>Drought tolerant vegetation designed to grow to a maximum mature height of 24 inches and achieve 75 percent live coverage.</p> <p>Where utility conflicts exist, the developer shall work with the Planning and Development Department on alternative design solutions consistent with a pedestrian environment.</p>
17	<p>***** MINOR CHANGE *****</p> <p>Change location of bicycle parking spaces.</p>	<p>A minimum of four bicycle parking spaces shall be provided through Inverted U and/or artistic racks located near <del>each vehicular point of ingress or egress</del> <b>THE AMENITIES AREA</b> and installed per the requirements of Section 1307.H. of the Phoenix Zoning Ordinance, as approved by the Planning and Development Department. Artistic racks shall adhere to the City of Phoenix Preferred Designs in Appendix K of the Comprehensive Bicycle Master Plan</p>
18	<p>***** NO CHANGE *****</p> <ul style="list-style-type: none"> <li>Traffic calming measures at all vehicular points of ingress/ egress.</li> </ul>	<p>The developer shall provide traffic calming measures at all vehicular points of ingress/ egress to slow vehicles departing the development and crossing the public sidewalks, as approved by the Planning and Development Department.</p>
19	<p>***** NO CHANGE *****</p> <ul style="list-style-type: none"> <li>Dedication of right-of-way for 36<sup>th</sup> Street.</li> </ul>	<p>The developer shall dedicate a minimum of 5 feet of right-of-way for a total 30- foot half-street right-of-way, and construct the west half of 36th Street, as approved by the Planning and Development Department.</p>
20	<p>***** MINOR CHANGE *****</p> <ul style="list-style-type: none"> <li>Improvement of 36<sup>th</sup> Street Cul-de-sac.</li> </ul>	<p>The developer shall complete the <del>50</del><b>45</b>-foot radius cul-de-sac termination at 36th Street, as approved by the Planning and Development Department.</p>

21	<p>***** <b>NO CHANGE</b> *****</p> <ul style="list-style-type: none"> <li>Existing irrigation facilities along 36th Street undergrounded and/or relocated.</li> </ul>	Existing irrigation facilities along 36th Street are to be undergrounded and/or relocated outside of City right-of-way. Contact SRP to identify existing land rights and establish appropriate process to relocate facility. Relocations that require additional dedications or land transfer require completion prior to obtaining plat and/or civil plan review approval.
22	<p>***** <b>NO CHANGE</b> *****</p> <ul style="list-style-type: none"> <li>Construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, median islands, landscaping and other incidentals.</li> </ul>	The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, median islands, landscaping and other incidentals, as per plans approved by the Planning and Development Department. All improvements shall comply with all ADA accessibility standards.
23	<p>***** <b>NO CHANGE</b> *****</p> <ul style="list-style-type: none"> <li>Requires recordation of a Notice of Prospective Purchasers of Proximity to Airport.</li> </ul>	The developer shall record a Notice of Prospective Purchasers of Proximity to Airport in order to disclose the existence and operational characteristics of Phoenix Sky Harbor International Airport (PHX) to future owners or tenants of the property.
24	<p>***** <b>NO CHANGE</b> *****</p> <ul style="list-style-type: none"> <li>Requires granting and recording an aviation easement to the City of Phoenix.</li> </ul>	The developer shall grant and record an aviation easement to the City of Phoenix for the site, per the content and form prescribed by the City Attorney prior to final site plan approval.
25	<p>***** <b>NO CHANGE</b> *****</p> <ul style="list-style-type: none"> <li>In the event archeological materials are encountered, the developer shall cease all ground-disturbing activities within a 33- foot radius of the discovery.</li> </ul>	In the event archeological materials are encountered during construction, the developer shall immediately cease all ground-disturbing activities within a 33- foot radius of the discovery, notify the City Archeologist, and allow time for the Archeology Office to properly assess the materials.
26	<p>***** <b>NO CHANGE</b> *****</p> <ul style="list-style-type: none"> <li>Requires recordation of Prop 207 Waiver.</li> </ul>	Prior to preliminary site plan approval, the landowner shall execute a Proposition 207 waiver of claims form. The waiver shall be recorded with the Maricopa County Recorder's Office and delivered to the City to be included in the rezoning application file for record.



**City of Phoenix**  
PLANNING & DEVELOPMENT DEPARTMENT

July 16, 2021

Benjamin Tate  
Withey Morris, PLC  
2525 E. Arizona Biltmore Circle  
Phoenix, Arizona 85016

Dear Applicant:

RE: Z-8-21-8 and GPA-SM-1-21-8 – Approximately 100 feet north of the northwest corner of 36th Street and Wayland Drive

Please be advised that the Phoenix City Council, in accordance with the provisions of Section 601 of the Zoning Ordinance, as amended, has on July 1, 2021, approved Zoning Ordinance # G-6872 and Resolution 21937.

Development and use of the site are subject to compliance with all applicable codes and ordinances.

Sincerely,

Joshua Bednarek, LEED AP ND  
Planning and Development Deputy Director

Attachment: Signed Ordinance & Resolution

c: 36th & Southern, LLC, 7377 E. Doubletree Ranch Rd., #270, Scottsdale, AZ 85258  
Tricia Gomes, PDD–Planning–Special Projects Administrator (Electronically)  
Racelle Escolar, PDD–Planning–Planner III (Electronically)  
Enrique Bojorquez-Gaxiola, PDD–Planning–Village Planner (Electronically)  
Ben Kim, PDD–GIS (Electronically)  
Sina Matthes, City Council (Electronically)

ORDINANCE G-6872

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP ADOPTED PURSUANT TO SECTION 601 OF THE CITY OF PHOENIX ORDINANCE BY CHANGING THE ZONING DISTRICT CLASSIFICATION FOR THE PARCEL DESCRIBED HEREIN (CASE Z-8-21-8) FROM R1-6 (SINGLE-FAMILY RESIDENCE DISTRICT) TO R-3 (MULTIFAMILY RESIDENCE DISTRICT).

---

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX, as follows:

SECTION 1. The zoning of an 18.41-acre site located approximately 100 feet north of the northwest corner of 36th Street and Wayland Drive in a portion of Section 25, Township 1 North, Range 3 East, as described more specifically in Exhibit "A", is hereby changed from "R1-6" (Single-Family Residence District) to "R-3" (Multifamily Residence District).

SECTION 2. The Planning and Development Director is instructed to modify the Zoning Map of the City of Phoenix to reflect this use district classification change as shown in Exhibit "B".

SECTION 3. Due to the site's specific physical conditions and the use district applied for by the applicant, this rezoning is subject to the following stipulations, violation of which shall be treated in the same manner as a violation of the City of Phoenix Zoning Ordinance:

1. Building elevations shall be developed to the following standards, as approved by the Planning and Development Department:
  - a. Building elevations shall contain multiple colors, exterior accent materials and textural changes that exhibit quality and durability such as brick, stone, colored textured concrete or stucco, to provide a decorative and aesthetic treatment, as approved by the Planning and Development Department.
  - b. Building elevations adjacent and oriented to public streets and the public park, shall contain a minimum of 25 percent brick, masonry, stone or another exterior accent material that exhibits quality and durability.
  - c. All building elevations shall contain architectural embellishments and detailing such as textural changes, pilasters, offsets, recesses, variation in window size and location, pitched roofs and/or overhang canopies, as approved by the Planning and Development Department.
2. Building height shall be limited to two stories and 30 feet.
3. There shall be no balconies on the upper floors of residential dwellings adjacent or oriented toward single-family residential homes not part of this development.
4. The required landscape setbacks shall be planted to the following standards, as described below and as approved or modified by the Planning and Development Department:
  - a. Large canopy evergreen trees 20 feet on center, or in equivalent groupings, shall be planted where residential units are adjacent or oriented towards single-family residential homes not a part of this development.
  - b. Large canopy drought-tolerant trees 20 feet on center, or in equivalent groupings, shall be utilized unless otherwise stated.
  - c. 50 percent 2-inch caliper, 40 percent 3-inch caliper and 10 percent 4-inch caliper trees shall be utilized.
  - d. Five 5-gallon shrubs per tree, and additional shrubs or live groundcover, shall provide minimum 75 percent live cover at maturity.

Where utility conflicts exist, the developer shall work with the Planning and Development Department on alternative design solutions consistent with a pedestrian environment.

5. The development shall be limited to a maximum density of 192 dwelling units.

6. The development shall provide a primary and secondary vehicular access to the site along 36th Street. The secondary access point may serve as vehicular ingress and egress, or limited to vehicular egress and emergency access only, as approved or modified by the Planning and Development Department.

Del

7. Individual dwelling units adjacent to 36th Street and Esteban Park shall provide an entryway that is either elevated, depressed or includes a feature such as a low wall not exceeding 40 inches in height to accentuate the primary entrance, plus oriented towards the public street or public park, as approved by the Planning and Development Department.

8. The primary entrance to the development from 36th Street shall include the following elements, as approved by the Planning and Development Department:

- a. Pedestrian pathways connecting the interior of the development to the public sidewalks along both sides of the vehicular entryway into the development.
- b. The pedestrian pathways shall be detached from the primary vehicular entryway with a minimum 5-foot wide landscaped accent area provided on both sides of the entryway into the development. The landscaped accent areas shall provide a visually unique character with drought-tolerant plant materials providing seasonal interest and 75 percent live cover.
- c. A median island of no less than 5 feet in width shall be located centrally within the vehicular entryway into the development and accented by a minimum of three drought-tolerant trees, and drought-tolerant, ornamental, flowering shrubs to provide a minimum 75 percent live cover. Twenty five percent of the required live cover may be ground cover plants.
- d. The driveway surface shall be constructed of decorative pavers, stamped or colored concrete, or another material, other than those used to pave the parking surfaces, as approved by the Planning and Development Department.

9. Perimeter walls adjacent to the public park shall be limited to open view fencing or a combination of maximum three feet of solid masonry topped by open view fencing, as approved by the Planning and Development Department.

Mod

10. All perimeter walls visible from a public street shall include material and textural differences, such as stucco and/or split face block with a decorative element, such as tile or stamped designs, as approved by the Planning and Development Department.



11. The development shall include the following amenities and elements at a minimum, distributed between the open space area(s) throughout the site, as approved by the Planning and Development Department:

Del

- a. Swimming pool.
- b.** Clubhouse.
- c. Two picnic areas, each with one barbecue grill, shade ramada and a picnic table.
- d. Five benches distributed throughout the development, including one bench located within close proximity to 36th Street.
- e. Turf area(s) of no less than a combined 1,000 square feet.
- f. Community garden area(s) of no less than a combined 1,000 square feet that will each include a garden tool library, irrigation, and one bench or seating feature.

Mod

- 12.** Open space areas shall have a minimum 50 percent shade, including amenity and seating areas, and a minimum of 50 percent live vegetative cover (shrubs, grasses, or groundcover plants), as approved by the Planning and Development Department.

Mod

- 13.** Pedestrian paths shall be shaded to a minimum of 75 percent using architectural shade and/or shade trees at full maturity, as approved by the Planning and Development Department.

14. The developer shall provide a system of pedestrian thoroughfares, as described below and as approved or modified by the Planning and Development Department:

Del

- a.** Direct connection to the sidewalk along 36th Street for individual dwelling units adjacent to this street.
- b. The developer shall provide a minimum of two pedestrian paths connecting to the sidewalk along 36th Street, exclusive of pedestrian connections along vehicular entryways.
- c. Illuminated by pedestrian scale lighting per Section 1304(H)5 for a pathway connecting 36th Street along the primary entrance, passing through a central amenity area, and terminating at the west property line.
- d. Where pedestrian paths and vehicular crossings exist, the pathway shall be constructed of decorative pavers, stamped or colored concrete, or other pavement treatments that visually contrasts parking and drive aisle surfaces. Vehicular crossings shall be kept to a minimum.

e. Connections to/between:

- (1) All residential dwellings.
- (2) All amenity facilities and active open space areas.
- (3) The sidewalk along 36th Street.

Del

15. The development shall provide a minimum 1,000 square foot publicly accessible pedestrian seating node and amenity area along the most northern portion of the development adjacent to the western edge of 36th Street (future cul-de-sac portion) to include the following elements at a minimum, as approved by the Planning and Development Department:

- a. Two benches or seating features.
- b. Bicycle repair station ("fix it station") provided and maintained in an area of high visibility and separated from vehicular maneuvering areas, where applicable. The repair station shall include: standard repair tools affixed to the station; a tire gauge and pump affixed to the base of the station or the ground; and a bicycle repair stand which allows pedals and wheels to spin freely while making adjustments to the bike.
- c. Amenity area that includes either/or combination of a community garden, art feature, nature walk, natural features such as boulders or fountains, or other uniquely identifying features.
- d. A landscaped accent area, exclusive of perimeter landscaping and right-of-way, planted and maintained with at least three plant materials including a series of annuals that will each maintain a constant bloom throughout the year.

16. The public sidewalk along 36th Street shall be detached with a minimum five-foot wide landscaped strip located between the sidewalk and back of curb and planted to the following standards, as approved by the Planning and Development Department:

- a. Minimum 3-inch caliper large canopy, single-trunk, shade trees placed a minimum of 25 feet on center or in equivalent groupings to provide shade to a minimum 75 percent of the sidewalk.
- b. Drought tolerant vegetation designed to grow to a maximum mature height of 24 inches and achieve 75 percent live coverage.

Where utility conflicts exist, the developer shall work with the Planning and Development Department on alternative design solutions consistent with a pedestrian environment.

Mod

17. A minimum of four bicycle parking spaces shall be provided through Inverted U and/or artistic racks located near each vehicular point of ingress or egress and installed per the requirements of Section 1307.H. of the Phoenix Zoning Ordinance, as approved by the Planning and Development Department. Artistic racks shall adhere to the City of Phoenix Preferred Designs in Appendix K of the Comprehensive Bicycle Master Plan.
18. The developer shall provide traffic calming measures at all vehicular points of ingress / egress to slow vehicles departing the development and crossing the public sidewalks, as approved by the Planning and Development Department.
19. The developer shall dedicate a minimum of 5 feet of right-of-way for a total 30-foot half-street right-of-way, and construct the west half of 36th Street, as approved by the Planning and Development Department.

Mod

20. The developer shall complete the 50-foot radius cul-de-sac termination at 36th Street, as approved by the Planning and Development Department.
21. Existing irrigation facilities along 36th Street are to be undergrounded and/or relocated outside of City right-of-way. Contact SRP to identify existing land rights and establish appropriate process to relocate facility. Relocations that require additional dedications or land transfer require completion prior to obtaining plat and/or civil plan review approval.
22. The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, median islands, landscaping and other incidentals, as per plans approved by the Planning and Development Department. All improvements shall comply with all ADA accessibility standards.
23. The developer shall record a Notice of Prospective Purchasers of Proximity to Airport in order to disclose the existence and operational characteristics of Phoenix Sky Harbor International Airport (PHX) to future owners or tenants of the property.
24. The developer shall grant and record an aviation easement to the City of Phoenix for the site, per the content and form prescribed by the City Attorney prior to final site plan approval.
25. In the event archeological materials are encountered during construction, the developer shall immediately cease all ground-disturbing activities within a 33-foot radius of the discovery, notify the City Archeologist, and allow time for the Archeology Office to properly assess the materials.
26. Prior to preliminary site plan approval, the landowner shall execute a Proposition 207 waiver of claims form. The waiver shall be recorded with the Maricopa County Recorder's Office and delivered to the City to be included in the rezoning application file for record.

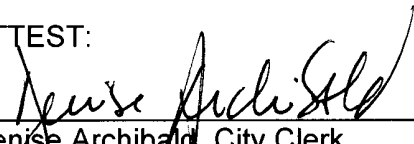
SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

PASSED by the Council of the City of Phoenix this 1<sup>st</sup> day of July 2021.




MAYOR

ATTEST:

  
Denise Archibald, City Clerk

APPROVED AS TO FORM:  
Cris Meyer, City Attorney

By:  \_\_\_\_\_

David Benton, Chief Counsel

*Pml*

REVIEWED BY:

  
Ed Zuercher, City Manager

PM:efl:LF21-1602:7-01-21:2262227\_1.docx

Exhibits:

- A – Legal Description (1 Page)
- B – Ordinance Location Map (1 Page)

EXHIBIT A

LEGAL DESCRIPTION FOR Z-8-21-8

A portion of Parcels E and G as shown on A SUBDIVISION OF LOTS 48-60-61 BARTLETT-HEARD LANDS, recorded in Book 14 of Plats, Page 34, records of Maricopa County, Arizona, located in the Southwest quarter of Section 25, Township 1 North, Range 3 East of the Gila and Salt River Base and Meridian, being more particularly described as follows;

BEGINNING at Northwest corner of FINAL PLAT FOR CARDENAS VILLAS @ YANCHE SUBDIVISION, recorded in Book 864 of Maps, Page 05, records of said county; Thence North 07 Degrees 16 Minutes 44 Seconds West along the West line of said Parcels E and G a distance of 499.84 feet to an angle point on the West line of said Parcel G; Thence North 50 Degrees 03 Minutes 07 Seconds East along the Northwesternly line of said Parcel G a distance of 1213.65 feet to the centerline of South 36<sup>th</sup> Street; Thence South 00 Degrees 03 Minutes 56 Seconds East along said centerline a distance of 1257.01 feet; Thence South 88 Degrees 48 Minutes 27 Seconds West along the North line of said FINAL PLAT FOR CARDENAS VILLAS @ YANCHE SUBDIVISION a distance of 868.72 feet to the POINT OF BEGINNING.

The above described parcel contains 18.393 acres.

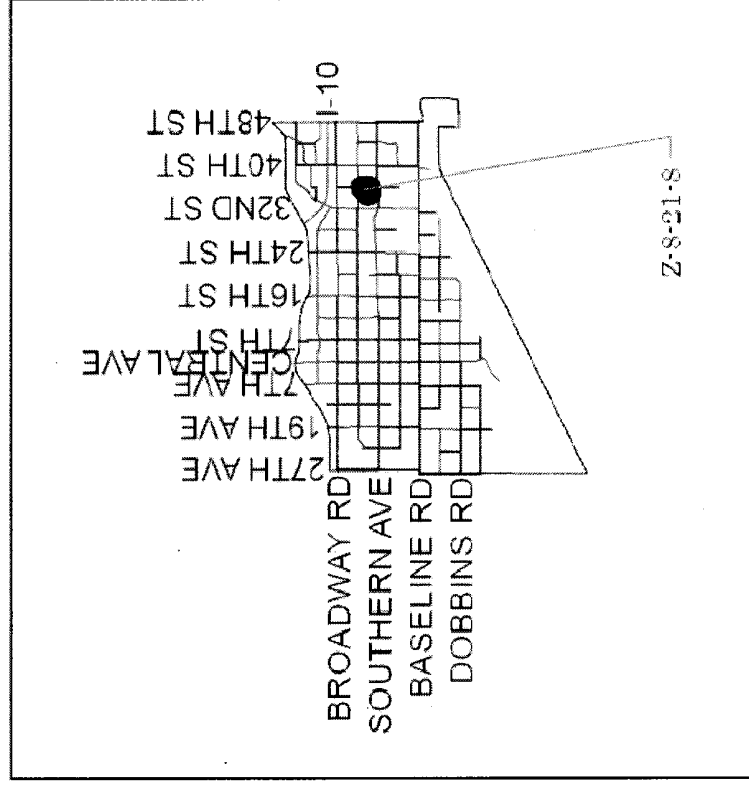
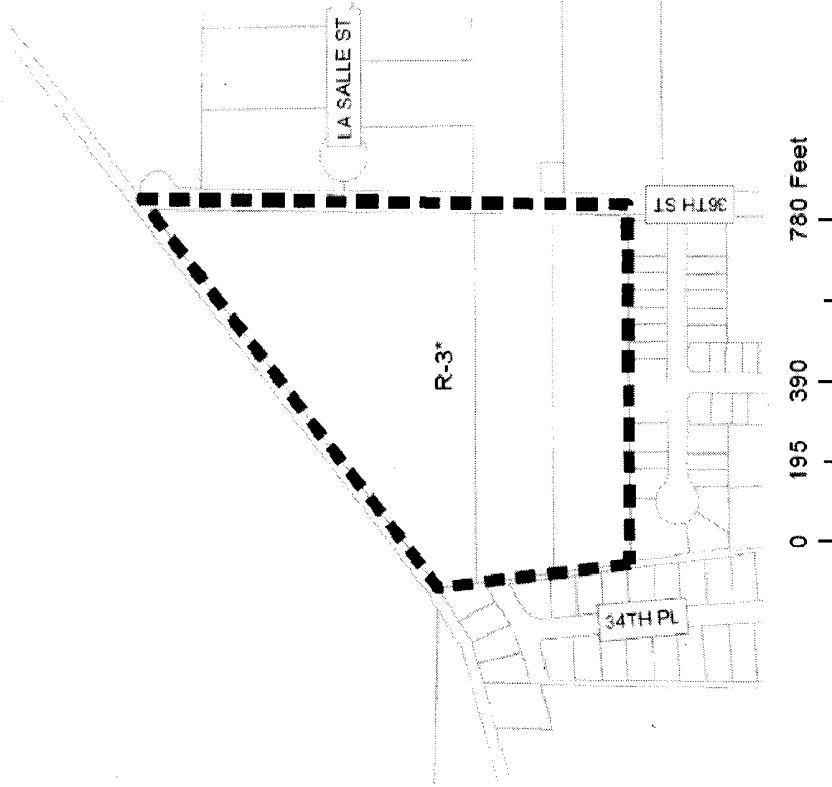


# ORDINANCE LOCATION MAP

EXHIBIT B

ZONING SUBJECT TO STIPULATIONS: \*  
SUBJECT AREA: ■■■■■

Zoning Case Number: Z-S-21-8  
Zoning Overlay: N/A  
Planning Village: South Mountain



NOT TO SCALE



Drawn Date: 5/28/2021

## RESOLUTION 21937

A RESOLUTION ADOPTING AN AMENDMENT TO THE 2015  
GENERAL PLAN FOR PHOENIX, APPLICATION GPA-SM-1-21-8,  
CHANGING THE LAND USE CLASSIFICATION FOR THE  
PARCEL DESCRIBED HEREIN.

---

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PHOENIX, as  
follows:

SECTION 1. The 2015 Phoenix General Plan, which was adopted by  
Resolution 21307, is hereby amended by adopting GPA-SM-1-21-8. The 18.41 acres  
of property located approximately 100 feet north of the northwest corner of 36th Street  
and Wayland Drive is designated as Residential 10 to 15 dwelling units per acre.

SECTION 2. The Planning and Development Director is instructed to  
modify the 2015 Phoenix General Plan to reflect this land use classification change as  
shown below:

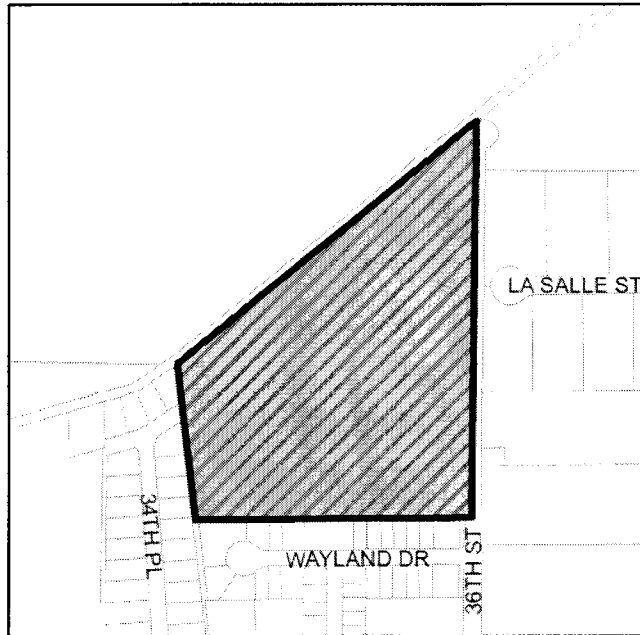
**PROPOSED CHANGE:**

Residential 10 to 15 ( 18.41+/- Acres)



Proposed Change Area

Residential 10 to 15 du/acre



PASSED by the Council of the City of Phoenix this 1<sup>st</sup> day of July 2021.

MAYOR

ATTEST:

Denise Archibald, City Clerk

07.08.2021



APPROVED AS TO FORM:

Cris Meyer, City Attorney

By:

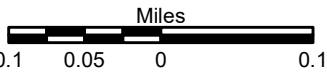
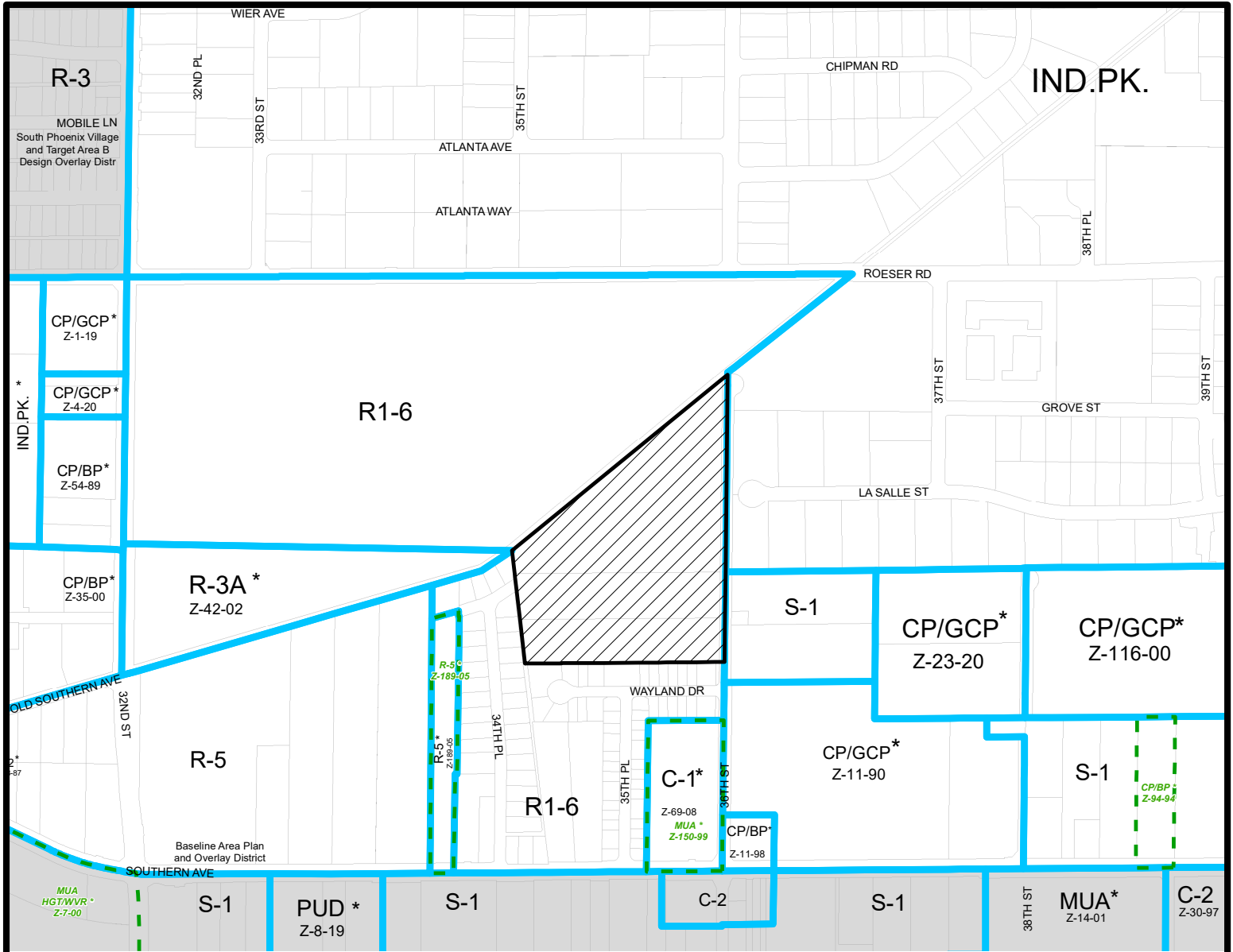
David Benton, Chief Counsel

Pml

REVIEWED BY:

Ed Zuercher, City Manager

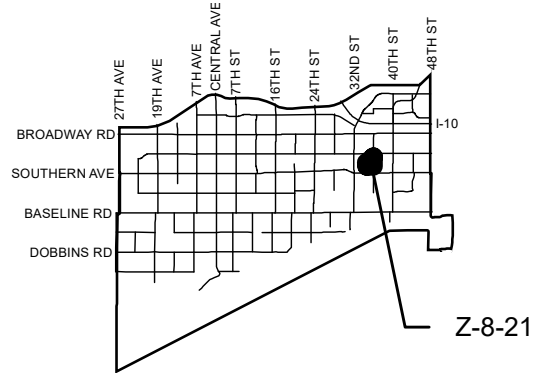
PML:efl:LF21-1601:7-01-21:2262220\_1.docx



**SOUTH MOUNTAIN VILLAGE**  
CITY COUNCIL DISTRICT: 8



**City of Phoenix**  
PLANNING AND DEVELOPMENT DEPARTMENT



**APPLICANT'S NAME:** Withey Morris PLC

**APPLICATION NO.** Z-8-21

GROSS AREA INCLUDING 1/2 STREET  
AND ALLEY DEDICATION IS APPROX.

**18.41 Acres**

**DATE:** 3/5/2021  
**REVISION DATES:**

**AERIAL PHOTO &  
QUARTER SEC. NO.**  
QS 3-35

**ZONING MAP**  
D-10

**REQUESTED CHANGE:**

**FROM:** R1-6 ( 18.41 a.c.)

**TO:** R-3 ( 18.41 a.c.)

**MULTIPLES PERMITTED**

R1-6

R-3

**CONVENTIONAL OPTION**

97

267

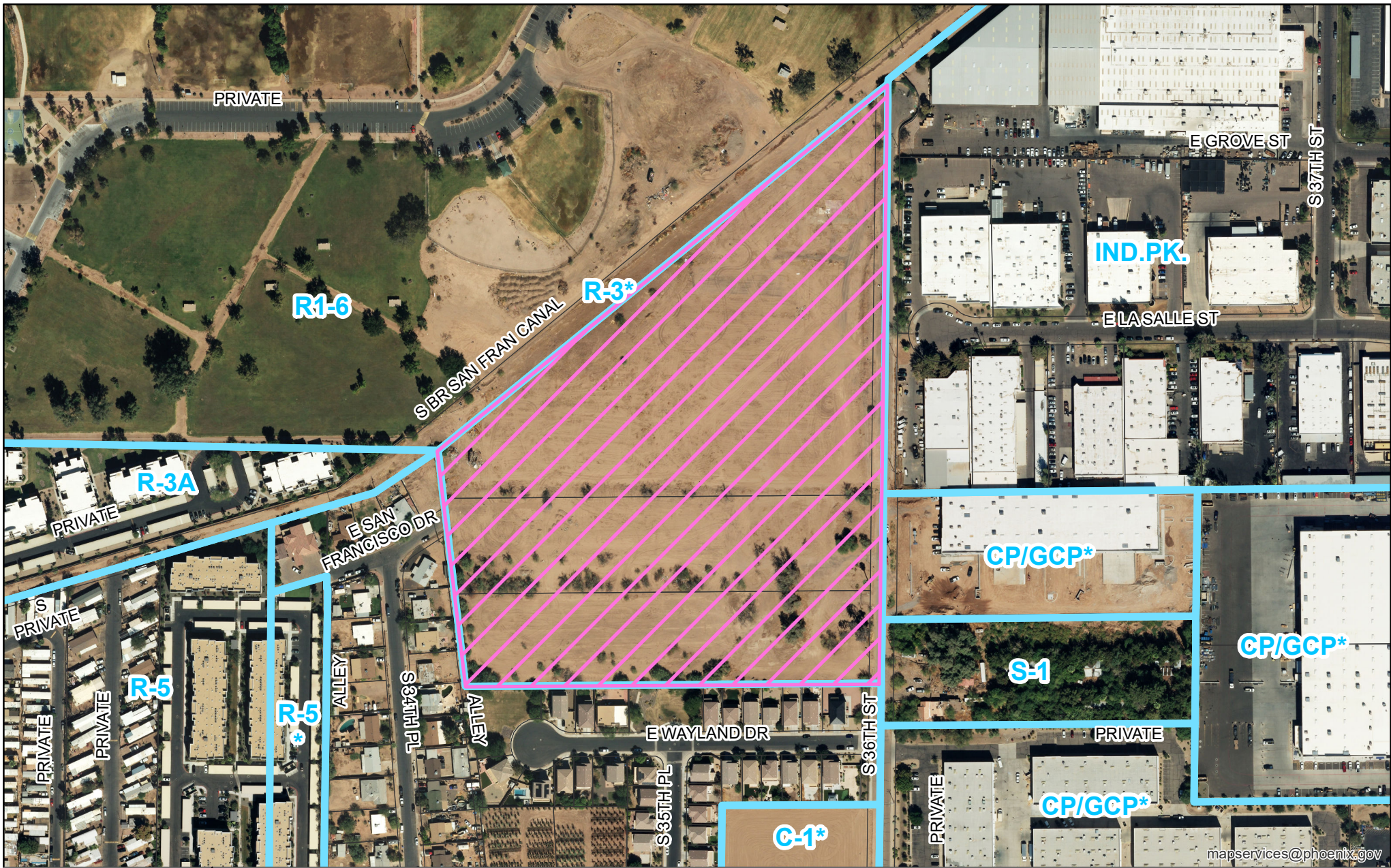
**\* UNITS P.R.D. OPTION**

119

320

\* Maximum Units Allowed with P.R.D. Bonus





PHO-1-24--Z-8-21-8

Property Location: Approximately 910 feet north of the northwest corner of 36th Street and Southern Avenue



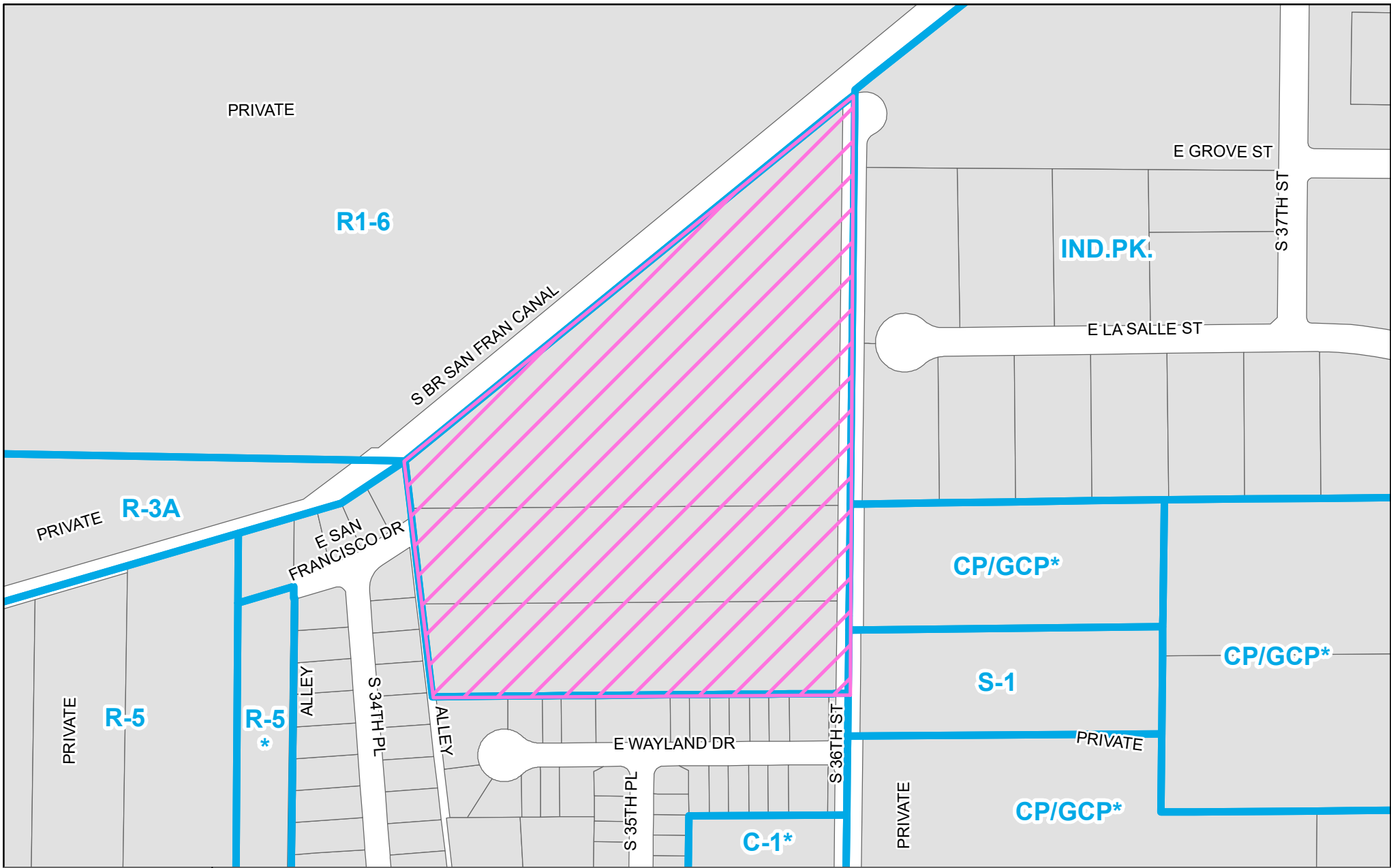
City of Phoenix  
PLANNING AND DEVELOPMENT DEPARTMENT

Planning & Development Department

0 130 260 520 Feet







PHO-1-24--Z-8-21-8

Property Location: Approximately 910 feet north of the northwest corner of  
36th Street and Southern Avenue



City of Phoenix  
PLANNING AND DEVELOPMENT DEPARTMENT

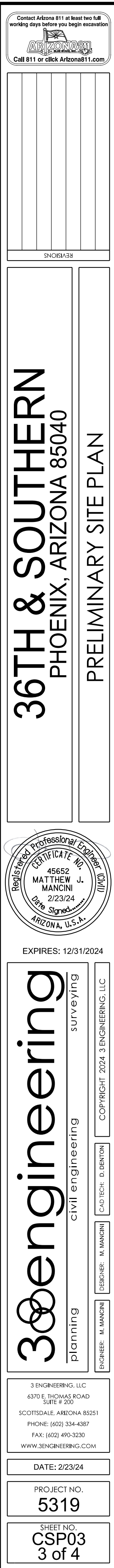
Planning & Development Department

0 130 260 520 Feet







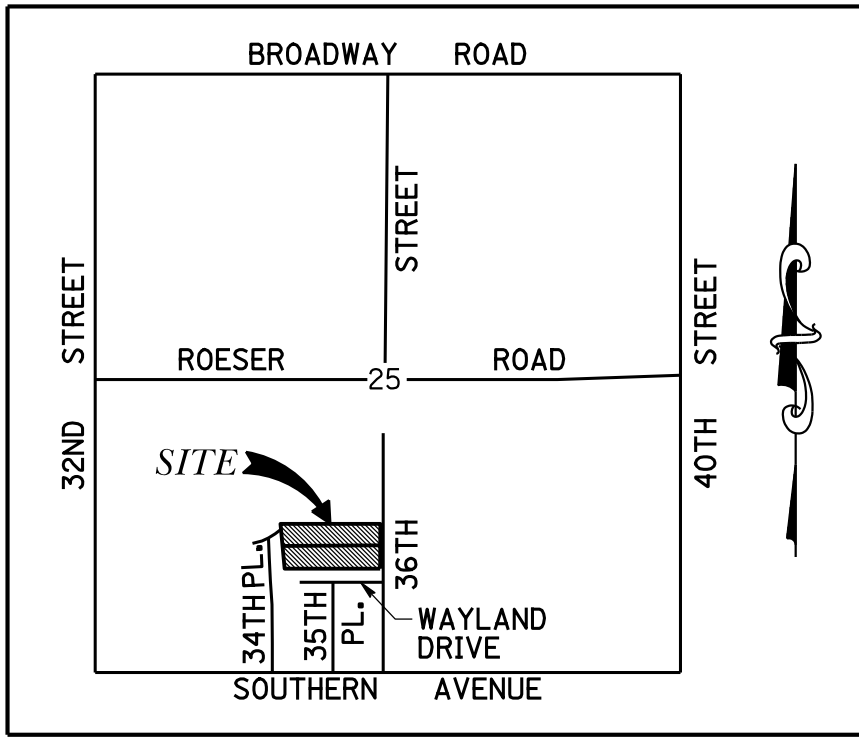






PRELIMINARY SITE PLAN  
FOR  
TOWNHOMES ON 36TH ST.  
MULTI-FAMILY  
NORTH OF 36TH ST. & SOUTHERN AVE., PHOENIX, ARIZONA 85040  
LOCATED IN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST  
OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA


INDEX OF SHEETS	
SHEET NO.	DESCRIPTION
PSP01	PRELIMINARY SITE PLAN - COVER
PSP02	PRELIMINARY SITE PLAN



VICINITY MAP  
N.T.S.

SITE PLAN NOTES: (CITY OF PHOENIX)

1. DEVELOPMENT AND USE OF THIS SITE WILL CONFORM WITH ALL APPLICABLE CODES AND ORDINANCES
2. ALL NEW OR RELOCATED UTILITIES WILL BE PLACED UNDERGROUND
3. STRUCTURES AND LANDSCAPING WITHIN A TRIANGLE MEASURED BACK 10' FROM THE PROPERTY LINE AND 20' ALONG THE PROPERTY LINE ON EACH SIDE OF THE DRIVEWAY ENTRANCES WILL BE MAINTAINED AT A MAXIMUM HEIGHT OF 3'
4. ANY LIGHTING WILL BE PLACED SO AS TO DIRECT THE LIGHT AWAY FROM ADJACENT RESIDENTIAL DISTRICTS AND WILL NOT EXCEED ONE FOOT CANDLE AT THE PROPERTY LINE. NO NOISE, ODOR OR VIBRATION WILL BE EMITTED AT ANY LEVEL EXCEEDING THE GENERAL NOISE, ODOR OR VIBRATION EMITTED BY USES IN THE AREA OUTSIDE THE SITE
5. OWNERS OF PROPERTY ADJACENT TO PUBLIC RIGHT-OF-WAY WILL HAVE RESPONSIBILITY FOR MAINTAIN ALL LANDSCAPING LOCATED WITHIN THE RIGHTS-OF-WAY, IN ACCORDANCE WITH APPROVED PLANS
6. AFTER FINAL APPROVAL THE PROJECT WILL BE INSPECTED FOR ZONING COMPLIANCE DURING CONSTRUCTION AND PRIOR TO OCCUPANCY. THE APPLICANT IS TO NOTIFY D.S.D. PRIOR TO OCCUPANCY TO ARRANGE FOR INSPECTIONS. CALL 602-262-6981 AND REQUEST A DESIGN REVIEW INSPECTION
7. ALL ROOFTOP EQUIPMENT AND SATELLITE DISHES SHALL BE SCREENED TO THE HEIGHT OF THE TALLEST EQUIPMENT
8. ALL SERVICE AREAS SHALL BE SCREENED TO CONCEAL TRASH CONTAINERS, LOADING DOCKS, TRANSFORMERS, BACK-FLOW PREVENTERS AND OTHER MECHANICAL OR ELECTRICAL EQUIPMENT FROM EYE LEVEL ADJACENT TO ALL PUBLIC STREETS
9. BARED, RAZOR OR CONCERTINA WIRE (OR SIMILAR) OR CHAIN LINK SHALL NOT BE USED ON THIS SITE WHERE VISIBLE FROM PUBLIC STREETS OR ADJACENT RESIDENTIAL AREAS
10. SMOKE, GAS, AND ODOR EMISSIONS SHALL COMPLY WITH REGULATION III OF THE MARICOPA COUNTY AIR POLLUTION RULES AND REGULATIONS.
11. THE DISPOSAL OF ALL WASTE MATERIALS SHALL COMPLY WITH TITLE 9, CHAPTER 9, ARTICLES 18 AND 4 OF THE HAZARDOUS WASTE REGULATIONS AS ADOPTED BY THE ARIZONA HEALTH DEPARTMENT
12. ALL SIGNAGE REQUIRES SEPARATE APPROVALS AND PERMITS. I CONSENT TO THE REPRODUCTION OF THIS SITE PLAN PROVIDED THAT IF MODIFICATIONS ARE MADE, THE ARCHITECTS WHO MAKE SUCH CHANGES ASSUME FULL RESPONSIBILITY AND LIABILITY FOR THE MODIFIED PORTION OF THE PLAN.

 2-1-21  
SIGNATURE OF COPYRIGHT OWNER DATE  
DANIEL G. MANN  
PRINTED NAME OF COPYRIGHT OWNER

LEGAL DESCRIPTION (APN 122-70-008):

THE NORTH 4.11 ACRES OF TRACT "E" OF THE SUBDIVISION OF LOTS 48, 60 AND 61 BARTLETT-HEARD LANDS, ACCORDING TO THE PLAT OF RECORD AS BOOK 14 OF MAPS, PAGE 34, RECORDS OF MARICOPA COUNTY, ARIZONA;

EXCEPT ANY PORTION LYING WITHIN THE SOUTH 9.11 ACRES OF SAID TRACT "E."

LEGAL DESCRIPTION (APN 122-70-002):

THE NORTH 4.11 ACRES OF THE SOUTH 9.11 ACRES OF TRACT "E" OF A SUBDIVISION OF LOTS 48-60-61 BARTLETT-HEARD LANDS, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED AS BOOK 14 OF MAPS, PAGE 34.

LEGAL DESCRIPTION (APN 122-71-003):

TRACT "G", A SUBDIVISION OF LOTS 48-60-61 BARTLETT-HEARD LANDS, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED AS BOOK 14 OF MAPS, PAGE 34.

APN NUMBERS:

APN 122-70-002, APN 122-70-008  
& APN 122-71-003

ADDRESS:

5252, 5814 & 5822 S. 36TH STREET  
PHOENIX, ARIZONA 85040

APPLICANT:

AVENUE NORTH, LLC  
7377 E. DOUBLETREE RANCH ROAD, STE. 270  
SCOTTSDALE, ARIZONA 85258

CONTACT: RYAN HARTMAN  
PHONE: (480) 907-4010

CLIENT:

AVENUE NORTH, LLC  
7377 E. DOUBLETREE RANCH ROAD, STE. 270  
SCOTTSDALE, ARIZONA 85258

CONTACT: RYAN HARTMAN  
PHONE: (480) 907-4010

ENGINEER:

3 ENGINEERING  
6370 E. THOMAS ROAD, SUITE # 200  
SCOTTSDALE, ARIZONA 85251

CONTACT: DANIEL G. MANN, P.E.  
PHONE: (602) 334-4387  
EMAIL: DAN@3ENGINEERING.COM

NOTE:

BUILDINGS SHALL BE SPRINKLERED  
WITH NFPA 13R OR NFPA 13  
SPRINKLER SYSTEM

UNIT DATA						
UNIT NAME	UNIT TYPE	GROUND AREA (SF)	UNIT AREA (SF)	GARAGE AREA (SF)	UNIT COUNT	PERCENTAGE
**PLAN 1	2BR/2.5BA	1,070	1,517	506	84	43.30%
**PLAN 2	3BR/2.5BA	1,114	1,678	506	110	56.70%
TOTALS					194	100%

UNIT AVERAGE NET SF: 1,585

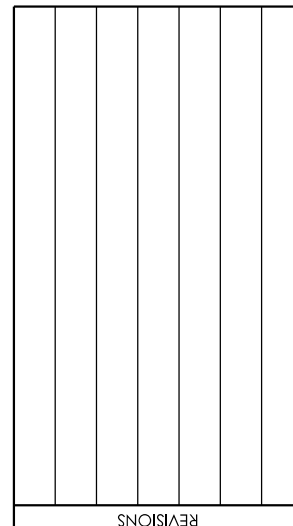
\*\* 2-STORY BUILDINGS, ALL BUILDINGS TYPE V-B

PROJECT DATA	
EXISTING/PROPOSED ZONING.....	R1-6 / R-3 AVERAGE LOT
GROSS AREA.....	18.393 ACRES..... 801,219 SF
NET AREA.....	17.625 ACRES..... 767,759 SF
OPEN SPACE.....	5% OF GROSS..... 40,061 SF REQ.
PROPOSED DENSITY.....	10.55 UNITS/ACRE
ALLOWED DENSITY.....	14.5 UNITS/ACRE
LOT COVERAGE.....	27.67% OF NET AREA..... 212,420 SF/767,759 SF
	212,420 SF BUILDINGS
OPEN SPACE PROVIDED.....	6.48% OF GROSS AREA..... 51,971 SF
PARKING LOT LANDSCAPE	
TOTAL PARKING AREA.....	29,925 SF
LANDSCAPE AREA REQUIRED.....	5%..... 1,497 SF
LANDSCAPE AREA PROVIDED.....	24.3%..... 7,265 SF
PARKING CALCULATIONS	
REQUIRED.....	84 X 1.5 = 126..... 2 BEDROOM UNIT
	110 X 2 = 220..... 3 BEDROOM UNIT
	84 X 0.5 = 42..... 0.5 GUEST/2 BED UNIT
	110 X 1 = 110..... 1 GUEST/3 BED UNIT
TOTAL GUEST REQUIRED.....	152 SPACES
TOTAL REQUIRED.....	498 SPACES
PROVIDE.....	169 UNCOVERED NON-ADA
	388 GARAGE SPACES
	6 UNCOVERED ADA
TOTAL GUEST PROVIDED.....	175 SPACES (INCLUDING 6 ADA)
TOTAL PROVIDED.....	563 SPACES (INCLUDING 4 ADA)

APPROVALS

KIVA #: 20-4112  
SDEV #: 2007970  
PAPP #: 2014841  
QS# : 3-35

Contact Arizona 911 at least two full working days before you begin excavation  
Call 911 or click Arizona911.com



TOWNHOMES ON 36TH ST.  
NORTH OF 36TH ST. & SOUTHERN AVE, PHOENIX, AZ 85040

PRELIMINARY SITE PLAN



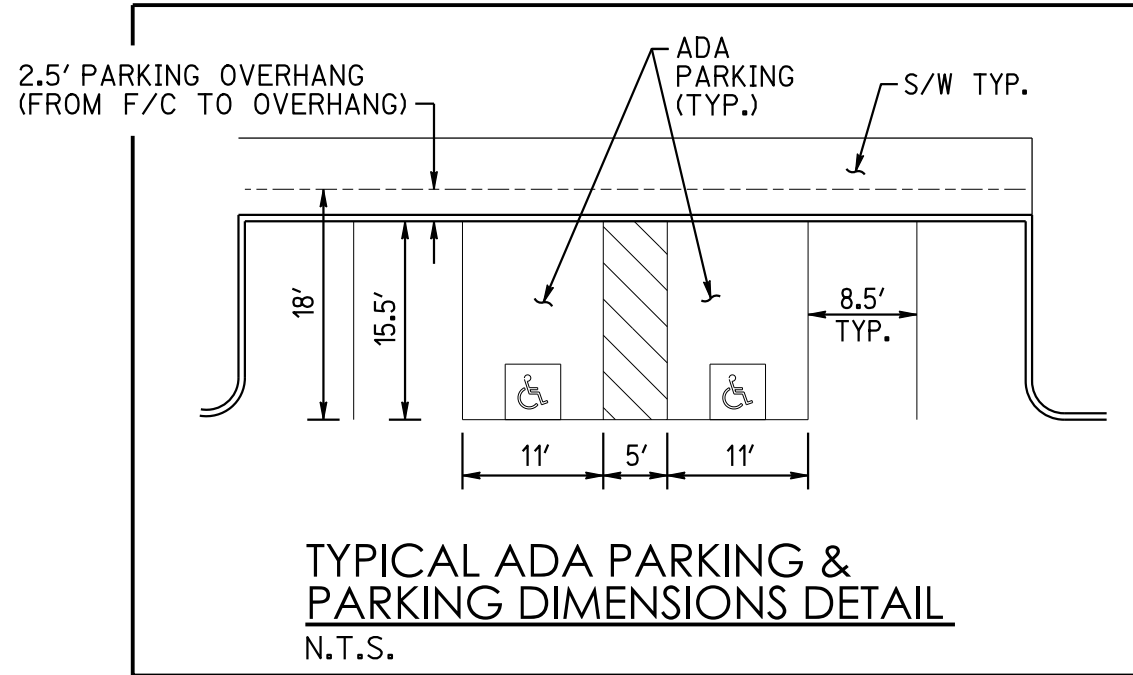
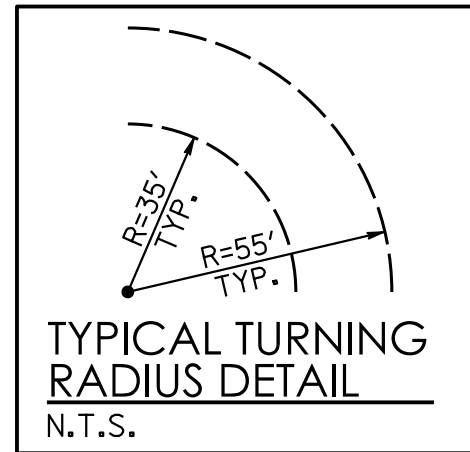
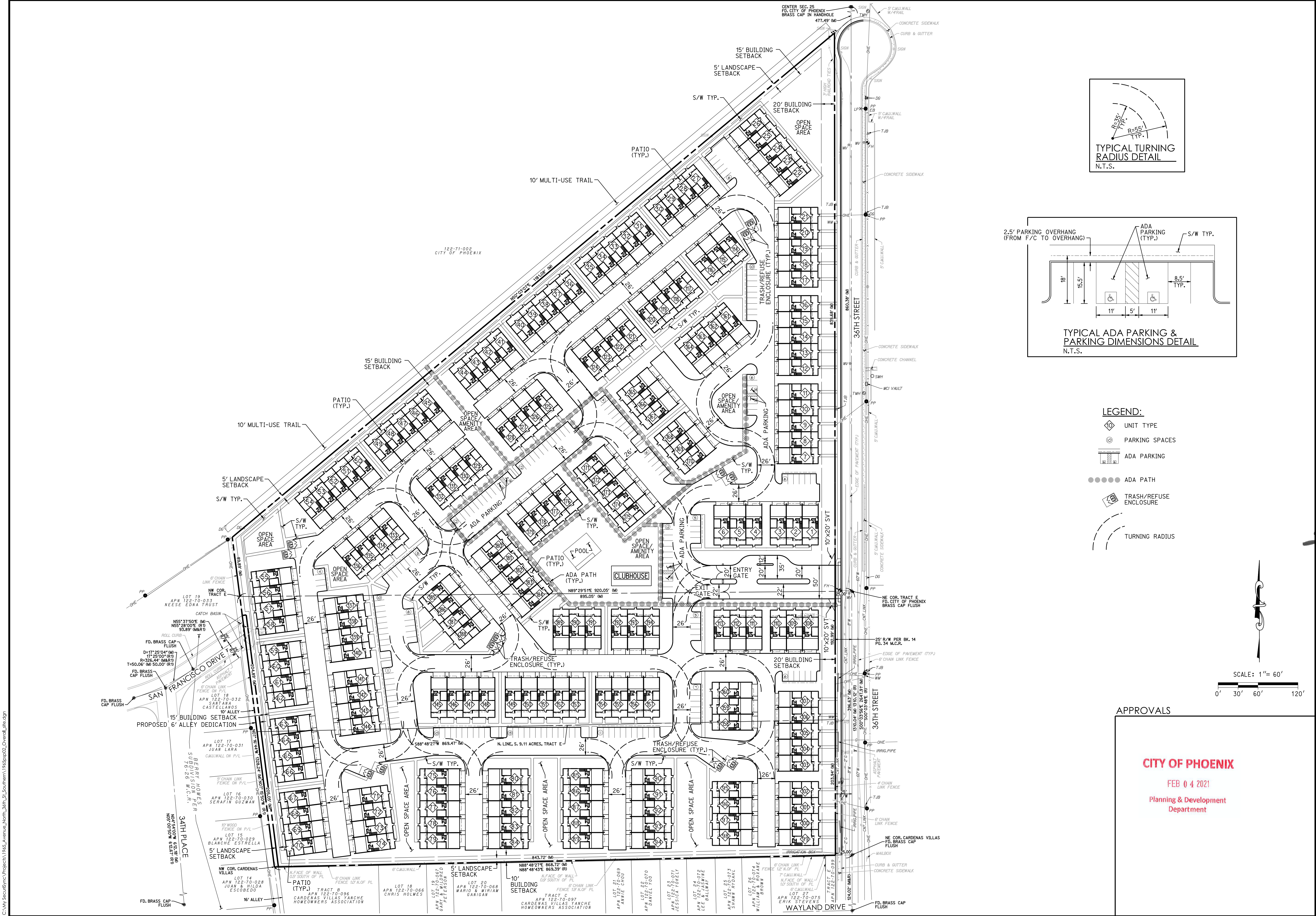
3 engineering  
planning  
civil engineering  
surveying  
COPYRIGHT 2021 3 ENGINEERING, LLC  
DRAFT: DANIEL G. MANN  
DESIGNED: DANIEL G. MANN  
ENGINEER: DANIEL G. MANN

3 ENGINEERING, LLC  
6370 E. THOMAS ROAD  
SUITE # 200  
SCOTTSDALE, ARIZONA 85251  
PHONE: (602) 334-4387  
FAX: (602) 490-3230  
WWW.3ENGINEERING.COM

DATE: 02/01/21  
PROJECT NO.  
1965  
SHEET NO.  
PSP01  
1 of 2



C:\MySecurSync\Projects\1965\_Avenue\_North\_36th\_St\_Southern\1965psp02\_Overall\_title.dgn



- LEGEND:**
- UNIT TYPE
  - PARKING SPACES
  - ADA PARKING
  - ADA PATH
  - TRASH/REFUSE ENCLOSURE
  - TURNING RADIUS

**APPROVALS**

**CITY OF PHOENIX**

FEB 0 4 2021

Planning & Development  
Department

Contact Arizona 911 at least two full working days before you begin excavation.

Call 911 or click Arizona911.com

PRELIMINARY SITE PLAN

**TOWNHOMES ON 36TH ST.**  
NORTH OF 36TH ST. & SOUTHERN AVE, PHOENIX, AZ 85040

**300engineering**  
civil engineering  
planning  
surveying

3 ENGINEERING, LLC  
6370 E. THOMAS ROAD  
SUITE # 200  
SCOTTSDALE, ARIZONA 85251  
PHONE: (480) 334-4387  
FAX: (480) 490-3230  
WWW.3ENGINEERING.COM

DATE: 02/01/21

PROJECT NO.  
**1965**

SHEET NO.  
**PSP02**  
2 of 2

3 ENGINEERING, LLC  
6370 E. THOMAS ROAD  
SUITE # 200  
SCOTTSDALE, ARIZONA 85251  
PHONE: (480) 334-4387  
FAX: (480) 490-3230  
WWW.3ENGINEERING.COM



Representative: Benjamin Tate, Withey Morris, PLC

Staff Recommendation: Approval.

VPC Action: The South Mountain Village Planning Committee heard the case on May 11, 2021 and recommended approval, by a vote of 11-0.

PC Action: The Planning Commission heard the case again on June 3, 2021 and recommended approval, per the South Mountain Village Planning Committee recommendation, by a vote of 8-0.

### **Location**

Approximately 100 feet north of the northwest corner of 36th Street and Wayland Drive

Council District: 8

Parcel Addresses: 5242, 5252, 5424, 5814 and 5822 S. 36th St.

### **Discussion**

Mayor Gallego mentioned Item 134 was a companion case to Item 135, and declared the public hearing open.

Benjamin Tate spoke in favor, and commented he was fortunate to have staff support on both Items 134 and 135 along with unanimous approval from the South Mountain Village Planning Committee and the Planning Commission.

Mayor Gallego declared the public hearing closed.

**The hearing was held. A motion was made by Vice Mayor Garcia, seconded by Councilwoman Stark, that this item be approved per the Planning Commission's recommendation, with adoption of the related resolution. The motion carried by the following vote:**

**Yes:** 9 - Councilwoman Ansari, Councilman DiCiccio, Councilwoman Guardado, Councilwoman O'Brien, Councilwoman Pastor, Councilwoman Stark, Councilman Waring, Vice Mayor Garcia and Mayor Gallego

**No:** 0

- 135 Public Hearing and Ordinance Adoption - Rezoning Application  
Z-8-21-8 - Approximately 100 Feet North of the Northwest Corner of  
36th Street and Wayland Drive (Ordinance G-6872)**

Request to hold a public hearing and amend the Phoenix Zoning Ordinance, Section 601, the Zoning Map of the City of Phoenix, by adopting Rezoning Application Z-8-21-8 and rezone the site from R1-6 (Single-Family Residence District) to R-3 (Multifamily Residence District) to allow a multifamily residential townhome community. This file is a companion case to GPA-SM-1-21-8 and should be heard immediately following.

**Summary**

Current Zoning: R1-6

Proposed Zoning: R-3

Acreage: 18.41 acres

Proposed Use: Multifamily residential townhome community (condominiums)

Owner: 36th Street & Southern, LLC

Applicant: Benjamin Tate, Withey Morris, PLC

Representative: Benjamin Tate, Withey Morris, PLC

Staff Recommendation: Approval, subject to stipulations.

VPC Action: The South Mountain Village Planning Committee heard this case on May 11, 2021 and recommended approval, per the staff recommendation with modifications by a vote of 11-0.

PC Action: The Planning Commission heard this case on June 3, 2021 and recommended approval, per the South Mountain Village Planning Committee recommendation with an additional stipulation by a vote of 8-0.

**Location**

Approximately 100 feet north of the northwest corner of 36th Street and Wayland Drive

Council District: 8

Parcel Addresses: 5242, 5252, 5424, 5814 and 5822 S. 36th St.

**The hearing was held. A motion was made by Vice Mayor Garcia, seconded by Councilwoman Stark, that this item be approved per the Planning Commission's recommendation, with adoption of the related**

**ordinance. The motion carried by the following vote:**

**Yes:** 9 - Councilwoman Ansari, Councilman DiCiccio,  
Councilwoman Guardado, Councilwoman O'Brien,  
Councilwoman Pastor, Councilwoman Stark, Councilman  
Waring, Vice Mayor Garcia and Mayor Gallego

**No:** 0

**137 Public Hearing and Ordinance Adoption - Planning Hearing Officer  
Application PHO-1-21--Z-48-07-1 - Approximately 400 Feet East of  
the Southeast Corner of I-17 and Arroyo Norte Drive (Ordinance  
G-6873)**

Request to hold a public hearing on the item and consider adoption of the  
Planning Commission recommendation on June 3, 2021.

**Summary**

Application: PHO-1-21--Z-48-07-1

Existing Zoning: C-2

Acreage: 16.0

Applicant: Law Office of David Cisiewski

Owner: Tom Tait, AV 203, LLC

Representative: Lisa Gage, FDG Acquisitions

**Proposal:**

1. Submittal of conceptual site plan and elevations for approval by the Planning Hearing Officer per Stipulation 1.
2. Modification of Stipulation 2 regarding approval of a comprehensive sign plan.
3. Technical corrections to Stipulations 3 and 7.

**Concurrence**

Village Planning Committee (VPC) Recommendation: The Rio Vista Village Planning Committee heard this request at their March 9, 2021 meeting and continued the item by a vote of 5-0. The Rio Vista Village Planning Committee heard this request at their April 13, 2021 meeting recommend approval by a vote of 4-2.

PHO Action: The Planning Hearing Officer heard this case on April 21,

7.      Application #:                    **Z-8-21-8 (Companion Case GPA-SM-1-21-8)**  
         From:                            R1-6  
         To:                                R-3  
         Acreage:                        18.41  
         Location:                      Approximately 100 feet north of the northwest corner of  
   36th Street and Wayland Drive  
         Proposal:                      Multifamily residential townhome community  
   (condominiums)  
         Applicant:                      Withey Morris, PLC  
         Owner:                            36th & Southern, LLC  
         Representative:                Benjamin Tate, Withey Morris, PLC

*Commissioner Gaynor arrived at 6:15 p.m., prior to the start of this case.*

Ms. Racelle Escolar stated that Item Nos. 6 and 7 are related cases and could be heard together, but separate motions are required. Both are located on 18.41 acres at approximately 100 feet north of the northwest corner of 36th Street and Wayland Drive.

Item No. 6 is GPA- SM-1-21-8 a request to amend the General Plan Land Use Map designation from Residential 3.5 to 5 dwelling units per acre to Residential 10 to 15 dwelling units per acre.

Item No. 7 is Z-8-21-8 a request to rezone from R1-6 (Single-Family Residence District) to R-3 (Multifamily Residence District) to allow a multifamily residential townhome community (condominiums).

The South Mountain Village Planning Committee recommended approval of the General Plan Amendment (GPA) and approval of the rezoning case with modifications by an 11 to 0 vote. The modifications were to Stipulation No. 5 to refer to the number of units rather than dwelling units per acre; and Stipulation No. 15 to make the pedestrian seating node at the north side of the site publicly accessible.

Staff recommended approval of the GPA and approval of Z-8-21-8 per the South Mountain Village Planning Committee recommendations, with the addition of the standard Proposition 207 waiver of claims stipulation as follows:

**PRIOR TO PRELIMINARY SITE PLAN APPROVAL, THE LANDOWNER SHALL EXECUTE A PROPOSITION 207 WAIVER OF CLAIMS FORM. THE WAIVER SHALL BE RECORDED WITH THE MARICOPA COUNTY RECORDER'S OFFICE AND DELIVERED TO THE CITY TO BE INCLUDED IN THE REZONING APPLICATION FILE FOR RECORD.**

Ms. Escolar stated that on speaker was registered in opposition to this item and one person in support. The representative was present to provide a presentation.



Chairwoman Shank asked Mr. Benjamin Tate, the representative to speak.

Mr. Benjamin Tate stated that he had a presentation available if the Commission wished to see it. They were fortunate to have a unanimous recommendation of support from the South Mountain Village, as well as a staff recommendation of approval, and as a testament to the applicant's efforts with the community, a tremendous amount of support from the neighborhood and local organizations, as they saw in their packets. He was happy to give a presentation, but in the interest of time, he could just answer any questions.

Chairwoman Shank suggested possibly giving him five minutes to speak following opposition.

Mr. Tate agreed and was happy to answer any concerns by the opposition.

Chairwoman Shank called on Mr. Andrew Biskind, registered in support.

Mr. Andrew Biskind stated that he is actually the applicant. He thanked the Commission and deferred to Mr. Tate. In the event they provided a presentation, he would be happy to make an introduction.

Chairwoman Shank called on Mr. Michael Neils, opposition speaker; however, his name was not listed on the call-in list.

Commissioner Busching stated that she was in support of the project; however, staff had read the stipulation for only the pedestrian seating nodes to be publicly accessible. She wanted to clarify that the stipulation was actually a stipulation for the pedestrian seating node and the amenity area. She wanted to ensure that people were aware of that.

Chairwoman Shank stated that they could entertain a motion and then asked staff to clarify.

Ms. Escolar responded that Mr. Neils, the opposition speaker, was on the phone.

Mr. Neils unfortunately experienced audio problems and was unable to respond.

Chairwoman Shank asked what the protocol was for this situation.

Ms. Escolar responded that it would be the Chairwoman's discretion. They could move on to hear the applicant's presentation or there could be discussion from the Planning Commission members.

Commissioner Johnson responded, saying that this is just a recommendation board and Vice-Chairman Howard was going to make a motion. His advice was to proceed.

Chairwoman Shank agreed and stated it was fair.

Vice-Chairman Howard stated that he wanted to commend the applicant on his work. They had a unanimous vote of approval from the South Mountain Village, which was no small task. He was confident that the applicant has done good work on this project. It was his pleasure to move to approve.

**Vice-Chairman Howard MOTIONED to approve Z-8-21-8, per the South Mountain Village Planning Committee recommendation, with the additional stipulation, as read into the record.**

**Commissioner Johnson SECONDED**, and the motion passed with a vote of 8-0 (Gorraiz absent).

Stipulations:

1. Building elevations shall be developed to the following standards, as approved by the Planning and Development Department:
  - a. Building elevations shall contain multiple colors, exterior accent materials and textural changes that exhibit quality and durability such as brick, stone, colored textured concrete or stucco, to provide a decorative and aesthetic treatment, as approved by the Planning and Development Department.
  - b. Building elevations adjacent and oriented to public streets and the public park, shall contain a minimum of 25 percent brick, masonry, stone or another exterior accent material that exhibits quality and durability.
  - c. All building elevations shall contain architectural embellishments and detailing such as textural changes, pilasters, offsets, recesses, variation in window size and location, pitched roofs and/or overhang canopies, as approved by the Planning and Development Department.
2. Building height shall be limited to two stories and 30 feet.
3. There shall be no balconies on the upper floors of residential dwellings adjacent or oriented toward single-family residential homes not part of this development.

4. The required landscape setbacks shall be planted to the following standards, as described below and as approved or modified by the Planning and Development Department:
  - a. Large canopy evergreen trees 20 feet on center, or in equivalent groupings, shall be planted where residential units are adjacent or oriented towards single-family residential homes not a part of this development;
  - b. Large canopy drought-tolerant trees 20 feet on center, or in equivalent groupings, shall be utilized unless otherwise stated;
  - c. Fifty percent 2-inch caliper, 40 percent 3-inch caliper and 10 percent 4-inch caliper trees shall be utilized;
  - d. Five 5-gallon shrubs per tree, and additional shrubs or live groundcover, shall provide minimum 75 percent live cover at maturity.

Where utility conflicts exist, the developer shall work with the Planning and Development Department on alternative design solutions consistent with a pedestrian environment.

5. The development shall be limited to a MAXIMUM density of 192 DWELLING UNITS ~~12.50 dwelling units per gross acre.~~
6. The development shall provide a primary and secondary vehicular access to the site along 36th Street. The secondary access point may serve as vehicular ingress and egress, or limited to vehicular egress and emergency access only, as approved or modified by the Planning and Development Department.
7. Individual dwelling units adjacent to 36th Street and Esteban Park shall provide an entryway that is either elevated, depressed or includes a feature such as a low wall not exceeding 40 inches in height to accentuate the primary entrance, plus oriented towards the public street or public park, as approved by the Planning and Development Department.
8. The primary entrance to the development from 36th Street shall include the following elements, as approved by the Planning and Development Department:
  - a. Pedestrian pathways connecting the interior of the development to the public sidewalks along both sides of the vehicular entryway into the development.
  - b. The pedestrian pathways shall be detached from the primary vehicular entryway with a minimum 5-foot wide landscaped accent area provided

on both sides of the entryway into the development. The landscaped accent areas shall provide a visually unique character with drought-tolerant plant materials providing seasonal interest and 75 percent live cover.

- c. A median island of no less than 5 feet in width shall be located centrally within the vehicular entryway into the development and accented by a minimum of three drought-tolerant trees, and drought-tolerant, ornamental, flowering shrubs to provide a minimum 75 percent live cover. Twenty five percent of the required live cover may be ground cover plants.
  - d. The driveway surface shall be constructed of decorative pavers, stamped or colored concrete, or another material, other than those used to pave the parking surfaces, as approved by the Planning and Development Department.
- 9. Perimeter walls adjacent to the public park shall be limited to open view fencing or a combination of maximum three feet of solid masonry topped by open view fencing, as approved by the Planning and Development Department.
- 10. All perimeter walls visible from a public street shall include material and textural differences, such as stucco and/or split face block with a decorative element, such as tile or stamped designs, as approved by the Planning and Development Department.
- 11. The development shall include the following amenities and elements at a minimum, distributed between the open space area(s) throughout the site, as approved by the Planning and Development Department:
  - a. Swimming pool.
  - b. Clubhouse.
  - c. Two picnic areas, each with one barbecue grill, shade ramada and a picnic table.
  - d. Five benches distributed throughout the development, including one bench located within close proximity to 36th Street.
  - e. Turf area(s) of no less than a combined 1,000 square feet.
  - f. Community garden area(s) of no less than a combined 1,000 square feet that will each include a garden tool library, irrigation, and one bench or seating feature.

12. Open space areas shall have a minimum 50 percent shade, including amenity and seating areas, and a minimum of 50 percent live vegetative cover (shrubs, grasses, or groundcover plants), as approved by the Planning and Development Department.
13. Pedestrian paths shall be shaded to a minimum of 75 percent using architectural shade and/or shade trees at full maturity, as approved by the Planning and Development Department.
14. The developer shall provide a system of pedestrian thoroughfares, as described below and as approved or modified by the Planning and Development Department:
  - a. Direct connection to the sidewalk along 36th Street for individual dwelling units adjacent to this street.
  - b. The developer shall provide a minimum of two pedestrian paths connecting to the sidewalk along 36th Street, exclusive of pedestrian connections along vehicular entryways.
  - c. Illuminated by pedestrian scale lighting per Section 1304(H)5 for a pathway connecting 36th Street along the primary entrance, passing through a central amenity area, and terminating at the west property line.
  - d. Where pedestrian paths and vehicular crossings exist, the pathway shall be constructed of decorative pavers, stamped or colored concrete, or other pavement treatments that visually contrasts parking and drive aisle surfaces. Vehicular crossings shall be kept to a minimum.
  - e. Connections to/between:
    - (1) All residential dwellings;
    - (2) All amenity facilities and active open space areas;
    - (3) The sidewalk along 36th Street.
15. The development shall provide a minimum 1,000 square foot PUBLICLY ACCESSIBLE pedestrian seating node and amenity area along the most northern portion of the development adjacent to the western edge of 36th Street (future cul-de-sac portion) to include the following elements at a minimum, as approved by the Planning and Development Department:
  - a. Two benches or seating features.

- b. Bicycle repair station ("fix it station") provided and maintained in an area of high visibility and separated from vehicular maneuvering areas, where applicable. The repair station shall include: standard repair tools affixed to the station; a tire gauge and pump affixed to the base of the station or the ground; and a bicycle repair stand which allows pedals and wheels to spin freely while making adjustments to the bike.
  - c. Amenity area that includes either/or combination of a community garden, art feature, nature walk, natural features such as boulders or fountains, or other uniquely identifying features.
  - d. A landscaped accent area, exclusive of perimeter landscaping and right-of-way, planted and maintained with at least three plant materials including a series of annuals that will each maintain a constant bloom throughout the year.
- 16. The public sidewalk along 36th Street shall be detached with a minimum five-foot wide landscaped strip located between the sidewalk and back of curb and planted to the following standards, as approved by the Planning and Development Department:
  - a. Minimum 3-inch caliper large canopy, single-trunk, shade trees placed a minimum of 25 feet on center or in equivalent groupings to provide shade to a minimum 75 percent of the sidewalk.
  - b. Drought tolerant vegetation designed to grow to a maximum mature height of 24 inches and achieve 75 percent live coverage.

Where utility conflicts exist, the developer shall work with the Planning and Development Department on alternative design solutions consistent with a pedestrian environment.

- 17. A minimum of four bicycle parking spaces shall be provided through Inverted U and/or artistic racks located near each vehicular point of ingress or egress and installed per the requirements of Section 1307.H. of the Phoenix Zoning Ordinance, as approved by the Planning and Development Department. Artistic racks shall adhere to the City of Phoenix Preferred Designs in Appendix K of the Comprehensive Bicycle Master Plan.
- 18. The developer shall provide traffic calming measures at all vehicular points of ingress / egress to slow vehicles departing the development and crossing the public sidewalks, as approved by the Planning and Development Department.



19. The developer shall dedicate a minimum of 5 feet of right-of-way for a total 30-foot half-street right-of-way, and construct the west half of 36th Street, as approved by the Planning and Development Department.
20. The developer shall complete the 50-foot radius cul-de-sac termination at 36th Street, as approved by the Planning and Development Department.
21. Existing irrigation facilities along 36th Street are to be undergrounded and/or relocated outside of City right-of-way. Contact SRP to identify existing land rights and establish appropriate process to relocate facility. Relocations that require additional dedications or land transfer require completion prior to obtaining plat and/or civil plan review approval.
22. The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, median islands, landscaping and other incidentals, as per plans approved by the Planning and Development Department. All improvements shall comply with all ADA accessibility standards.
23. The developer shall record a Notice of Prospective Purchasers of Proximity to Airport in order to disclose the existence and operational characteristics of Phoenix Sky Harbor International Airport (PHX) to future owners or tenants of the property.
24. The developer shall grant and record an aviation easement to the City of Phoenix for the site, per the content and form prescribed by the City Attorney prior to final site plan approval.
25. In the event archeological materials are encountered during construction, the developer shall immediately cease all ground-disturbing activities within a 33-foot radius of the discovery, notify the City Archeologist, and allow time for the Archeology Office to properly assess the materials.
26. **PRIOR TO PRELIMINARY SITE PLAN APPROVAL, THE LANDOWNER SHALL EXECUTE A PROPOSITION 207 WAIVER OF CLAIMS FORM. THE WAIVER SHALL BE RECORDED WITH THE MARICOPA COUNTY RECORDER'S OFFICE AND DELIVERED TO THE CITY TO BE INCLUDED IN THE REZONING APPLICATION FILE FOR RECORD.**

\*\*\*

- 6) **Z-18-21-8:** Presentation, discussion, and possible recommendation regarding a request to rezone approximately 5.10 acres located at the northwest corner of 10th Street and Baseline Road **from** R1-10 BAOD (Single-Family Residence District, Baseline Area Overlay District) **to** R-3A BAOD (Multifamily Residence, Baseline Area Overlay District) to allow an assisted living facility (community residence center).

**Enrique Bojorquez**, staff, introduced himself and rezoning case Z-18-21-8. He discussed the location of the site, noting surrounding land uses along Baseline Road and 10th Street. He discussed the existing General Plan Land Use map designation and policy goals, Baseline Area Master Plan, Western Canalscape, other policy documents, and the Baseline Area Overlay District in reference to this site. A comparison between the previously submitted site plan and the revised site plan provided after the staff report was published, was provided. The conceptual building elevations and materials were discussed. He concluded the presentation by providing a staff recommendation on the case and describing the proposed stipulations, as presented in the staff report.

**Darrin Jolas**, applicant with Vermillion Development, introduced himself and the Silver Birch product proposed for this community in South Mountain. Vermillion Development has approximately 940 residents and 450 employees throughout their communities. This proposed facility is of similar size to other facilities and will employ between 40 to 45 individuals who will assist the 100 or more residents at this facility.

**Sean Lake**, with Pew and Lake PLC, representing Vermillion Development, introduced himself and discussed the location of the site and requested zoning district. He provided an overview of the public outreach conducted so far and the positive public feedback received. The conceptual site plan depicts the layout of the assisted living facility that will operate 24-hours and provide housing opportunities through various financing methods for all individuals. He discussed the open space and amenity locations, including internal trails. The presentation ended by describing the conceptual building elevations and various color palettes.

**Marcia Busching** asked if this development will be fenced and if the facility will provide memory care services. She discourages walled developments.

**Mr. Lake** responded that there will be a fence and wall component to the development, but this is still being looked.

**Mr. Jolas** responded that this will be an assisted living facility with up to 20-percent of the building dedicated towards memory care services.

**Trent Marchuk** asked if there could be any assurances that this site will be developed as an assisted living facility and not another permitted use.

**Mr. Jolas** responded that his company is under contract with the option to purchase this property.

**Mr. Lake** responded that his team can work with staff to review options for this development.

**Mr. Marchuk** stated that most of the facilities from this company are being operated in the east coast. Why was South Phoenix selected to be the first facility in Arizona for this company?

**Mr. Jolas** responded that this area was selected following a market study which identified the need in this area for similar facilities.

**Greg Brownell** discussed the future use of the land if it was rezoned. He asked for clarification on the type of materials used in this building proposed.

**Mr. Jolas** responded that they will be using regionally appropriate durable materials such as stucco and metal panels.

**Mr. Brownell** asked what type of fencing material will be used along the Western Canal? Open view fencing is better along this use since it protects the views and he would encourage wrought iron fencing material along the canal.

**Mr. Jolas** responded that his team is open to suggestions.

**Mr. Brownell** prefers the term of “garden area” instead of “community garden” used in the stipulations. He discussed various gardening ideas.

**Mr. Jolas** discussed examples of raised bed garden amenities used in other projects to allow those individuals in wheel-chairs to garden.

**Gene Holmerud** supports wrought iron fencing elements and discussed his experience with the canals in this area. He discussed the architecture of another project to the east of this site.

**Twanna Ray** is pleased with the enhanced outreach conducted but would like further details about the facilities operated in Indiana by this company.

**Mr. Jolas** responded that in Arizona, residents of similar facilities have access to a Medicare waiver which can be used towards assisted living facility costs. This facility will also use the 4-percent tax credit offered by the Arizona Department of Housing to keep an affordable rate for residents.

**Edward Aldama** asked if this will be the first facility in Arizona by this company.

**Mr. Jolas** responded that this will be the first facility and they had looked across Arizona to examine demand for such facilities.

**Mr. Holmerud** suggested to keep open view fencing along the canals and clarified some of his previous comments.

**Mr. Marchuk** asked if a community benefit agreement was part of this project.

**Mr. Jolas** responded that this is not part of the project at the moment.

**Lee Coleman** mentioned that Stipulation No. 6 requires open view fencing along the canal.

**Chairwoman Daniels** opened and closed the public portion of the meeting given no requests to speak from the public on this item. She asked for further discussion or for a motion to be made on this item.

**MOTION – Z-18-21-8**

**Mr. Coleman** made a motion to approve case Z-18-21-8 per the staff recommendation in the staff report. **Mr. Holmerud** seconded the motion.

**VOTE:**

**12-0** Motion passes; None in dissent.

*Agenda items 7 and 8 were heard together.*

- 7) **GPA-SM-1-21-8 (Companion Case Z-8-21-8):** Presentation, discussion and possible recommendation on a request to amend the General Plan Land Use Map Designation on approximately 18.41 acres located approximately 100 feet north of the northwest corner of 36th Street and Wayland Drive **from** Residential 3.5 to 5 dwelling units per acre **to** Residential 10 to 15 dwelling units per acre to allow a multifamily residential townhome community (condominiums).
- 8) **Z-8-21-8 (Companion Case GPA-SM-1-21-8):** Presentation, discussion, and possible recommendation regarding a request to rezone approximately 18.41 acres located approximately 100 feet north of the northwest corner of 36th Street and Wayland Drive **from** R1-6 (Single-Family Residence District) **to** R-3 (Multifamily Residence District) to allow a multifamily residential townhome community (condominiums).

*8 requests to speak in support from members of the public were received regarding cases GPA-SM-1-21-8 and Z-8-21-8. Two other members of the public registered their support but did not wish to speak.*