



Village Planning Committee Meeting Summary
Z-36-22-4
INFORMATION ONLY

Date of VPC Meeting	June 8, 2022
Request From:	R-5 SP and C-3 SP
Request To:	R-5 and C-3
Proposed Use:	Removal of a Special Permit to allow all underlying C-3 and R-5 uses
Location	Southwest corner of 31st Avenue and McDowell Road

VPC DISCUSSION:

Applicant Presentation:

Benjamin Graff, representing the applicant with Quarles & Brady, provided an overview of the proposed special permit removal case Z-36-22-4. **Mr. Graff** provided the zoning history of the site noting the underlying R-5 (Multifamily Residence District) and C-3 (General Commercial) zoning districts, described the current use of the subject site as Bret Tarver Preschool owned by Isaac Elementary School District, and summarized the surrounding land uses and zoning designations. **Mr. Graff** summarized the Special Permit Case No. Z-SP-23-67-4 which allowed for a school for the handicapped and displayed the boundaries of the Special Permit. **Mr. Graff** stated that the Phoenix Planning Commission initiated the removal of the Special Permit on April 7, 2022, because the Special Permit is unenforceable and out of compliance with the Americans with Disabilities Act and the Fourteenth Amendment. **Mr. Graff** displayed the timeline of the subject property noting the original annexation, the initiation of the Special Permit, the expansion of the property boundary and the Special Permit, the United States Supreme Court decision that the requirement for a Special Permit for handicapped facilities violates the Equal Protection Clause, and the initiation to remove the Special Permit from the subject property. **Mr. Graff** concluded the presentation by stating that the request is to remove the Special Permit and that the City Attorney's office has already deemed the Special Permit invalid and that the removal is a zoning map update to allow for the underlying land uses.

Questions from the committee:

Chair Gene Derie asked if there is a proposed development for the subject site. **Mr. Graff** stated that the property owners of the subject site have had numerous discussions with potential developers and that one of the proposed projects would be affordable housing. **Mr. Graff** added that the site did not have the tax credits needed

from the Arizona Department of Housing for the affordable housing development project but that that would still be a potential development option for the subject site.

Chair Derie added that his late wife had teaching experience in Tolleson in the 1960s and as a result, his late wife worked at this school for the disabled between 1973 and 1974 with her first husband. **Chair Derie** stated that the committee will not vote on this item as it was an information only presentation and concluded his statement by noting that the Special Permit is unenforceable and out of compliance with the Americans with Disability Act, thus making it unconstitutional.

Public Comment:

None.

Applicant Response:

None.

Committee Discussion:

None.

Staff comments regarding VPC Recommendation:

None.