



## Village Planning Committee Meeting Summary Z-81-18-6

<b>Date of VPC Meeting</b>	January 8, 2019
<b>Request From</b>	RE-35 (12.00 acres)
<b>Request To</b>	R1-18 (10.36 acres) RE-35 (1.64 acres)
<b>Proposed Use</b>	Single-Family Residential
<b>Location</b>	Approximately 320 feet west of the northwest corner of 22nd Place and Rovey Avenue
<b>VPC Recommendation</b>	Approval
<b>VPC Vote</b>	10-2 (Beckvar and Abbott)

### **VPC DISCUSSION & RECOMMENDED STIPULATIONS:**

5 cards were submitted in support wishing to speak.  
6 cards were submitted in support not wishing to speak.  
4 cards were submitted in opposition wishing to speak.

**Ms. Maja Brkovic** provided an overview of the request noting the projects location, surrounding uses, surrounding zoning, general plan designation and staff's findings and recommendation.

**Ms. Karen Beckvar** asked for clarification regarding the request, specifically in regard to the tennis court lot. **Ms. Brkovic** noted that the tennis court lot was current an amenity area for the residential subdivision to the east. She noted that the rezoning would result in the lot becoming privately owned and developed and no longer belong to the HOA. She indicated that the applicant planned on developing a single family residence on the lot and would maintain the tennis court for themselves. **Ms. Beckvar** asked if the property was already sold and if it was, did it put the subdivision out of compliance. **Ms. Brkovic** confirmed Ms. Beckvar' s statements.

**Mr. Tom O'Malley** asked if all of the homeowners within the subdivision have consented in the rezoning. **Ms. Brkovic** noted that they have all provided letters of authorization for the request.

**Brennan Ray**, Burch & Cracchiolo, representing the applicant, provided an overview of the request noting that his client purchased the property from the HOA in 2016. He provided an overview of the current condition of the tennis court lot and noted that the request was consistent with the General Plan designation. He noted that the private

deeds and restrictions permitted his client to develop on the lot while the zoning did not. He provided an overview of the elevations and noted that the development would be compatible with the surrounding area.

**Chairman Jay Swart** asked what the size of the existing lots were. **Mr. Ray** noted that he did not have that information but believed that they were about half an acre in size.

**Ms. Hayleigh Crawford** asked if there was a dispute in regard to the access easement. **Mr. Ray** noted that there were no issues in regard to the easement.

**Mr. Tom O'Malley** asked if there was ever an agreement between Rocky Acres and the HOA in regard to using the tennis court for all residents. **Mr. Ray** noted that he did not believe that there was ever an agreement to allow Rocky Acres residents to use the tennis court.

**Vice Chairman Fischbach** noted that there were court proceedings set in place if Rocky Acres residents wanted to claim beneficial interest in the tennis court property to vindicate rights they may have on the subject site. **Mr. Ray** noted that there were processes set in place if the Rocky Acres residents wanted to pursue that avenue.

**Chairman Jay Swart** asked that Mr. Taylor Earl address the committee.

**Taylor Earl**, Earl Curley and Lagarde P.C., representing the Bethany Home HOA, noted that all of the property owners within 2200 Bethany Home subdivision have signed letters of authorization for the rezoning proposal. He noted that he represented the board and not the individual owners. He noted that the tennis court was heavily underutilized and became a significant burden on the HOA because of its access to the canal which resulted in security issues.

**Ms. Beckvar** asked if the vacant lot was privately owned or owned by the HOA. **Mr. Earl** noted that it was privately owned.

**Mr. Fischbach** asked if there were challenges in regard to vagrancy due to the location of the canal. **Mr. Earl** noted that there were many challenges with securing the property considering its proximity to the canal.

**Chairman Jay Swart** opened the floor for public comments.

**Mr. Michael Valder**, president of Rocky Acres environmental protection association, resident in the area and in opposition of the request, made the following comments regarding the proposal:

- Not compatible with the surrounding properties.
- All other properties within Rocky Acres are required to be 2 acres in size.
- Noted that there were restricted deeds in the subdivision that did not allow the development of the lot.

**Mr. Jay Wiggins**, resident in the area and in opposition of the request made the following comments regarding the proposal:

- Concerned about the wildlife living on the tennis court lot.

- Bought his house with the understanding that the lot next to him was undevelopable.
- Concerned about views being blocked.
- Sought information out from the City of Phoenix and was provided information regarding the lot and the open space. He was told by the City that the lot was flagged and that it would not be allowed to develop under the current zoning.
- Indicated that the lot would have to obtain a variance for access along the easement and to have a lot without legal frontage.
- Noted that the lot should be sold back to the HOA.
- Concerned about the precedent that this case would set.

**Mr. Randy Javitz**, resident in the area and in opposition of the request made the following comments regarding the proposal:

- Noted that the tennis court site was within the Rocky Acres subdivision.
- Provided a petition form the Rocky Acres HOA.
- Noted that the request was simply for financial gain.
- Neighborhood meeting was held but no answers were given regarding the clause of the contract regarding the sale.
- Noted that the lot was a critical transitional area between the canal and the Rocky Acres subdivision.
- Noted the importance of environmental protections and maintenance of open space.
- Noted that the access way to the canal should remain open.

**Ms. Ruth Chmelik**, resident in the area and in opposition of the request made the following comments regarding the proposal:

- Noted that the applicant did not have rights to water on the site and asked how he would gain that access.

**Chairman Jay Swart** asked that staff address the letter written by the City of Phoenix and handed out by Mr. Wiggins.

**Ms. Brkovic** noted that the letter was a memo written by the Site Development supervisor noting the issue on the lot and explaining why it was not developable in its current state. She noted that the letter was not written as a result of the rezoning case.

**Ms. Beckvar** asked for clarification regarding the open space and the density. **Ms. Brkovic** noted that the tennis court lot was included as part of the Bethany Home subdivision open space to permit the 14 lots. She indicated that the subdivision would have been permitted 12 lots without the additional open space.

**Mr. Vincent Reenan**, resident in the area and in support of the request made the following comments regarding the proposal:

- Resident since 2007, on the board for 6 years.
- Amenity has not been used by the Bethany Home subdivision.
- Tennis courts are typically built north/south facing not east/west facing.
- Tennis court had become a bourdon for the HOA and was not safe.
- Access to the lot could not be controlled at night.

**Ms. Marilyn Alexander**, resident in the area and in support of the request made the following comments regarding the proposal:

- Lives to the east of the tennis court lot.
- The area needed to be cleaned up, development of the tennis court lot would improve property values.

**Mr. Doug Northup**, resident in the area and in support of the request made the following comments regarding the proposal:

- Noted that the location of the lot was not within the community.
- Development of the lot would improve the area and clean up an underutilized site.

**Mr. Brennan Ray** noted that the proposal was not for a 38 lot subdivision but rather a single family home that was compatible to the area. He noted the nature of the surrounding properties was the reason why his client wanted to live in the area. He indicated that he did not want to go too far into the deed restrictions unless the committee wanted him to but explained that his client was exempt from the two-acre rule and was able to develop on the lot. He indicated that his client was working with the Water Services Department to make sure that access to water can be attained.

**Ms. Ronda Beckerleg Thraen** noted that many neighbors noted concerns about wildlife roaming on the site and asked if the development of the home would result in the restriction of wildlife entering onto the property.

**Mr. Ray** noted that the development would not be walled off to restrict wild life entering onto the property.

**Ms. Beckvar** asked if there was fencing around the current tennis court lot. **Mr. Ray** noted that there was.

**Ms. Crawford** asked if the lot was publically listed. **Mr. Earl** noted that the applicant approached the HOA to purchase the lot and that the HOA agreed because the applicant wanted to build a single family home on the site.

#### **Motion:**

**Ms. Ronda Beckerleg Thraen** made a motion to approve Z-81-18-6 per staff's stipulations. She noted that the development of the lot was compatible with the surrounding uses.

**Mr. William Fischbach** seconded the motion.

#### **Discussion:**

**Ms. Karen Beckvar** noted that she believed that although a single-family home was the best alternative use on the tennis court site she would not be in support of the proposal.

**Mr. Tom O'Malley** noted that he was supportive of the proposal but did not want a precedent to be set moving forward.

**Mr. Greg Abbott** noted that he would not be in support of the case and indicated that the HOA had a responsibility to maintain the open space.

**Roll Call:**

**Yes:** Jay Swart, William Fischbach, Ronda Beckerleg Thraen, Hayleigh Crawford, Andrea Hardy, Kathryn Langmade, Lee Miller, Ashley Nye, Tom O'Malley and Ryan Trauscht.

**No:** Greg Abbott and Karen Beckvar.

**Vote:** 10-2

Motion approved.

**STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS:**

Staff has no comments.