

PLEASE RESPOND ELECTRONICALLY TO BRAD WYLAM 2ND FLOOR, 602-495-0383



City of Phoenix
PLANNING & DEVELOPMENT DEPARTMENT

To: Departments Concerned

From: Alan Stephenson
Planning & Development Department Director

Date: June 9, 2021

Subject: **P.H.O. APPLICATION NO. PHO-1-21--Z-51-20-2** – 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 **July 21, 2021**.
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 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 **June 16, 2021**.

DISTRIBUTION

Mayor's Office (Lisa Fernandez), 11th Floor
City Council (Matthew Heil), 11th Floor
Aviation (Sheldon Daisley)
CED (Michelle Pierson), 20th Floor
Fire Prevention (Aaron Conway), 2nd Floor
Light Rail (Joel Carrasco/Special TOD Only)
Neighborhood Services (Gregory Gonzales, Lisa Huggins), 4th Floor
Parks & Recreation (Natasha Hughes), 16th Floor
Public Transit (Kathryn Boris)
Public Works (Ray Dovalina, Kristina Jensen, Elise Moore, Rudy Rangel), 5th Floor
Street Transportation Department (Maja Brkovic, Alan Hilty, Chris Kowalsky), 5th Floor
Street Transportation - Ped. Safety Coordinator (Mailen Pankiewicz), 5th Floor
Water Services (Don Reynolds, Victor Romo), 8th Floor
Planning and Development (Alan Stephenson, Joshua Bednarek), 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 (Tricia Gomes, Adam Stranieri, Brad Wylam), 2nd Floor
Village Planner (David Simmons, Deer Valley Village)
Village Planning Committee Chair (Joseph A. Grossman, Deer Valley Village)



City of Phoenix

PLANNING AND DEVELOPMENT DEPARTMENT

APPLICATION FOR PLANNING HEARING OFFICER ACTION

APPLICATION NO: PHO-1-21--Z-51-20

Council District: 2

Request For: Stipulation Modification

Reason for Request: Modification of Stipulation 6 regarding the minimum landscape setback required along the west property line and along the frontage road. Modification of Stipulation 7 regarding the minimum landscape setback required along the south property line.

Owner	Applicant	Representative
Fred Bishop, et al. 400 E Van Buren St, 19th Floor Phoenix AZ 85004 (602) 382-6269 nwood@swlaw.com	Chuck Chisholm, K. Hovnanian Homes 20830 N Tatum Blvd Phoenix AZ 85050 (480) 824-4175 cchisholm@khov.com	Nick Wood Esq., Snell & Wilmer LLP 400 E Van Buren St, 19th Floor Phoenix AZ 85004 P: (602) 382-6269 F: (602) 382-6070 nwood@swlaw.com

Property Location: Approximately 4,000 feet north of the northeast corner of Black Canyon Highway and Jomax Road

Zoning Map: <u>P7</u>	Quarter Section: <u>50-22</u>	APN: <u>205-01-011H</u>	Acreage: <u>20.08</u>
Village: <u>Deer Valley</u>			
Last Hearing: <u>CC HEARING</u>			
Previous Opposition: <u>No</u>			
Date of Original City Council Action: <u>04/21/2021 230 PM</u>			
Previous PHO Actions: _____			
Zoning Vested: <u>R-3A</u>			
Supplemental Map No.: _____			
Planning Staff: <u>071773</u>			

An applicant may receive a clarification from the city of its interpretation or application of a statute, ordinance, code or authorized substantive policy statement. To request clarification or to obtain further information on the application process and applicable review time frames, please call 602-262-7131 (option 6), email zoning.mailbox@phoenix.gov or visit our website at <http://phoenix.gov/pdd/licensetimes.html>.

A Filing Fee had been paid to the City Treasurer to cover the cost of processing this application. The fee will be retained to cover the cost whether or not the request is granted

Fee	Fee Waived	Fee Date	Receipt	Purpose
\$1,080.00	\$0.00	05/21/2021	21-0046912	Original Filing Fee

Signature of Applicant: _____ DATE: _____

Hearing Results

Planning Hearing Officer	Planning Commission	City Council
Date: <u>07/21/2021 1000 AM</u>	Date: _____	Date: _____
Appealed?: _____	Appealed?: _____	
Action: _____	Action: _____	Action: _____

Snell & Wilmer

ONE ARIZONA CENTER
400 E. VAN BUREN, SUITE 1900
PHOENIX, AZ 85004-2202
602.382.6000 P
602.382.6070 F

Nicholas J. Wood
(602) 382-6269
nwood@swlaw.com

May 14, 2021

VIA E-MAIL

Planning Hearing Officer
Planning & Development Department
City of Phoenix
200 W Washington St
Phoenix, AZ 85003

Re: Planning Hearing Officer Application for the "I-17 North" Project, Case Z-51-20-2

Dear Planning Hearing Officer:

On behalf of K. Hovnanian, developer of quality residences, I am pleased to submit the following application for a Planning Hearing Officer ("PHO") approval of a minor modification to a stipulation of approval for the recently approved zoning case governing their future 285 resident townhome development in North Phoenix.

More specifically, we are requesting the addition of one word to Stipulation #6 and #7:

6. A minimum **AVERAGE** landscape setback of 20 feet shall be required along the west property line and along the frontage road. These landscape setbacks shall include minimum 3-inch caliper large canopy shade trees planted a minimum of 20 feet on center or in equivalent groupings, as approved by the Planning and Development Department.
7. A minimum **AVERAGE** landscape setback of 20 feet shall be required along the south property line and shall include minimum 2-inch caliper trees planted a minimum of 20 feet on center or in equivalent groupings, as approved by the Planning and Development Department.

This addition of "average" will allow for the development of the site plan (Exhibit A) that was utilized in the rezoning process, shown to the community and was part of the consideration of the project when approved by the City Council.

Snell & Wilmer

Planning Hearing Officer
May 14, 2021
Page 2

During the rezoning process the site plan was prepared under the typically applicable R-3A standards, including the provision of perimeter landscape buffers of 15 feet “adjacent to property line” (Section 616, Table B).

You will note that the site plan included the following perimeter setbacks:

PERIMETER SETBACKS:	
ADJ. TO PROPERTY LINE	=15'
ADJ. TO PUBLIC STREET	=20'

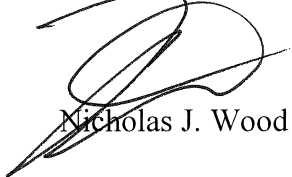
During the preliminary site plan approval process, it was noted that there were some lots that conflicted with twenty (20) feet required by the rezoning approval. After further evaluation by the design team, the site plan would be severely compromised to accommodate a full 20 feet. However, an “average” of 20 feet could be accommodated without impacts to the project’s design or unit yield.

Also, it is important to note that there were no concerns raised during the entitlement process regarding landscape setbacks and all adjacent uses are residential communities, which are compatible with the project. This request will result in more required landscape than the base R-3A requirements. Finally, the rear of the home lots that would otherwise be within the 20 foot area is private rear yard, so approval of this request will result in the same amount of area without building mass (i.e. the “landscape” area is the same, just some of it private yard vs shared landscape buffer).

We look forward to discussing this application in more detail at our hearing. Thank you for your consideration of this request and please advise if any additional information is desired to assist in your review.

Respectfully submitted,

Snell & Wilmer



Nicholas J. Wood

Planning Hearing Officer
May 14, 2021
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Exhibit A – Zoning Case Site Plan



ORDINANCE G-6838

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-51-20-2) FROM S-1 (RANCH OR FARM RESIDENCE) TO R-3A (MULTIFAMILY RESIDENCE DISTRICT).

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

SECTION 1. The zoning of a 20.08 acre site located approximately 4,000 feet north of the northeast corner of Black Canyon Highway and Jomax Road in a portion of Section 35, Township 5 North, Range 2 East, as described more specifically in Exhibit "A," is hereby changed from "S-1" (Ranch or Farm Residence District) to "R-3A" (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. The maximum building height shall be 30 feet.
2. The development shall be limited to a maximum of 285 units.
3. All elevations of the buildings shall contain architectural embellishments and detailing such as textural changes, pilasters, offsets, recesses, variation in window size and location, and/or overhang canopies, as approved by the Planning and Development Department.
4. A sidewalk and landscaping strip shall be provided along the Black Canyon Freeway Frontage Road and shall be detached with a minimum five-foot-wide landscape area 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 equivalent groupings to provide a minimum of 75 percent shade on adjacent sidewalks.
 - b. Drought tolerant shrubs and vegetative groundcovers.
5. An enhanced landscaped entry shall be provided at the main entryway into the development off of the frontage road with a minimum 300 square feet of landscaped area on each side of the entrance. The landscaped areas shall be planted and maintained with a variety of at least three different plant materials, as approved by the Planning and Development Department.
6. A minimum landscape setback of 20 feet shall be required along the west property line and along the frontage road. These landscape setbacks shall include minimum 3-inch caliper large canopy shade trees planted a minimum of 20 feet on center or in equivalent groupings, as approved by the Planning and Development Department.
7. A minimum landscape setback of 20 feet shall be required along the south property line and shall include minimum 2-inch caliper trees planted a minimum of 20 feet on center or in equivalent groupings, as approved by the Planning and Development Department.
8. There shall be a minimum of two private open space amenity areas. Each area shall provide, at a minimum, two of the following active amenity elements or other similar elements, as approved by the Planning and Development Department:
 - a. Swimming Pool
 - b. Fire Pit

- c. Pavilion or Ramada
 - d. Barbecue and Picnic Area
9. Perimeter walls adjacent to the frontage road and private drive to the north shall incorporate stone veneer, stonework, integral color CMU block or faux stone, and be compatible with the existing wall on the property line to the north, as approved by the Planning and Development Department.
 10. The developer shall submit a cross-access agreement prior to preliminary site plan approval for APN 204-23-001A to support future cross-access of Oberlin Way.
 11. All frontage improvements, access control and location of driveways shall be permitted and approved through ADOT.
 12. 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.
 13. The property owner shall record documents that disclose the existence, and operational characteristics of Phoenix Deer Valley Airport (DVT) to future owners or tenants of the property. The form and content of such documents shall be according to the templates and instructions provided which have been reviewed and approved by the City Attorney.
 14. The developer must file FAA Form 7460 and provide City FAA's no hazard determination prior to construction permit approval, as per plans approved by the Planning and Development Department.
 15. The developer shall grant and record an aviation easement to the City of Phoenix Aviation Department for the site, per the content and form prescribed by the City Attorney prior to final site plan approval.
 16. If determined necessary by the Phoenix Archaeology Office, the applicant shall conduct Phase I data testing and submit an archaeological survey report of the development area for review and approval by the City Archaeologist prior to clearing and grubbing, landscape salvage, and/or grading approval.
 17. If Phase I data testing is required, and if, upon review of the results from the Phase I data testing, the City Archaeologist, in consultation with a qualified archaeologist, determines such data recovery excavations are necessary, the applicant shall conduct Phase II archaeological data recovery excavations.

18. In the event archaeological 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 Archaeologist, and allow time for the Archaeology Office to properly assess the materials.
19. 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.

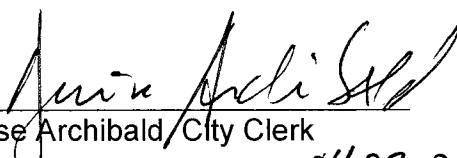
SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

PASSED by the Council of the City of Phoenix this 21st day of April, 2021.


MAYOR



ATTEST:


Denise Archibald, City Clerk
04-23-2021

APPROVED AS TO FORM:
Cris Meyer, City Attorney

By: DBenton
David Benton, Chief Counsel

Pml

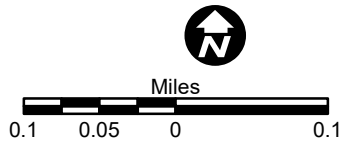
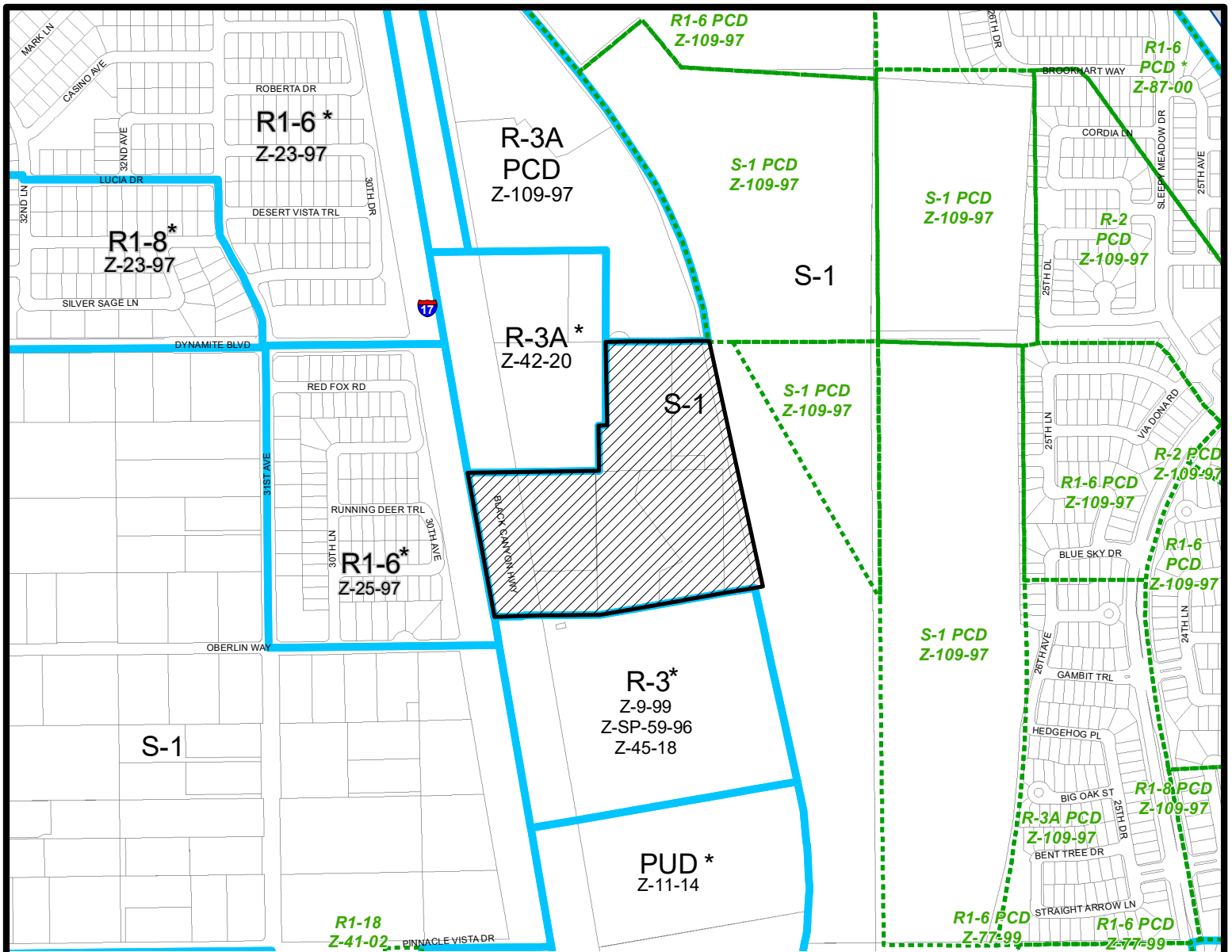
REVIEWED BY:

EZ
Ed Zuercher, City Manager

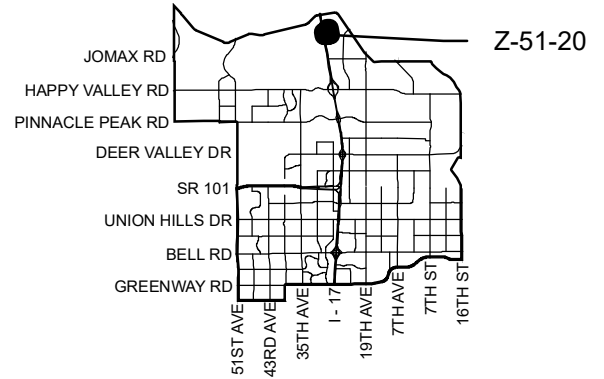
Exhibits:

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

PL:tml:LF21-0852:4-21-2021:2249134v1



DEER VALLEY VILLAGE
CITY COUNCIL DISTRICT: 2



APPLICANT'S NAME: Chuck Chisholm, K Hovnanian Homes

APPLICATION NO. Z-51-20

DATE: 11/19/2020
REVISION DATES:

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

20.08 Acres

AERIAL PHOTO &
QUARTER SEC. NO.

QS 50-22

ZONING MAP

P-7

REQUESTED CHANGE:

FROM: S-1 (20.08 a.c.)

TO: R-3A (20.08 a.c.)

MULTIPLES PERMITTED

S-1

R-3A

CONVENTIONAL OPTION

20

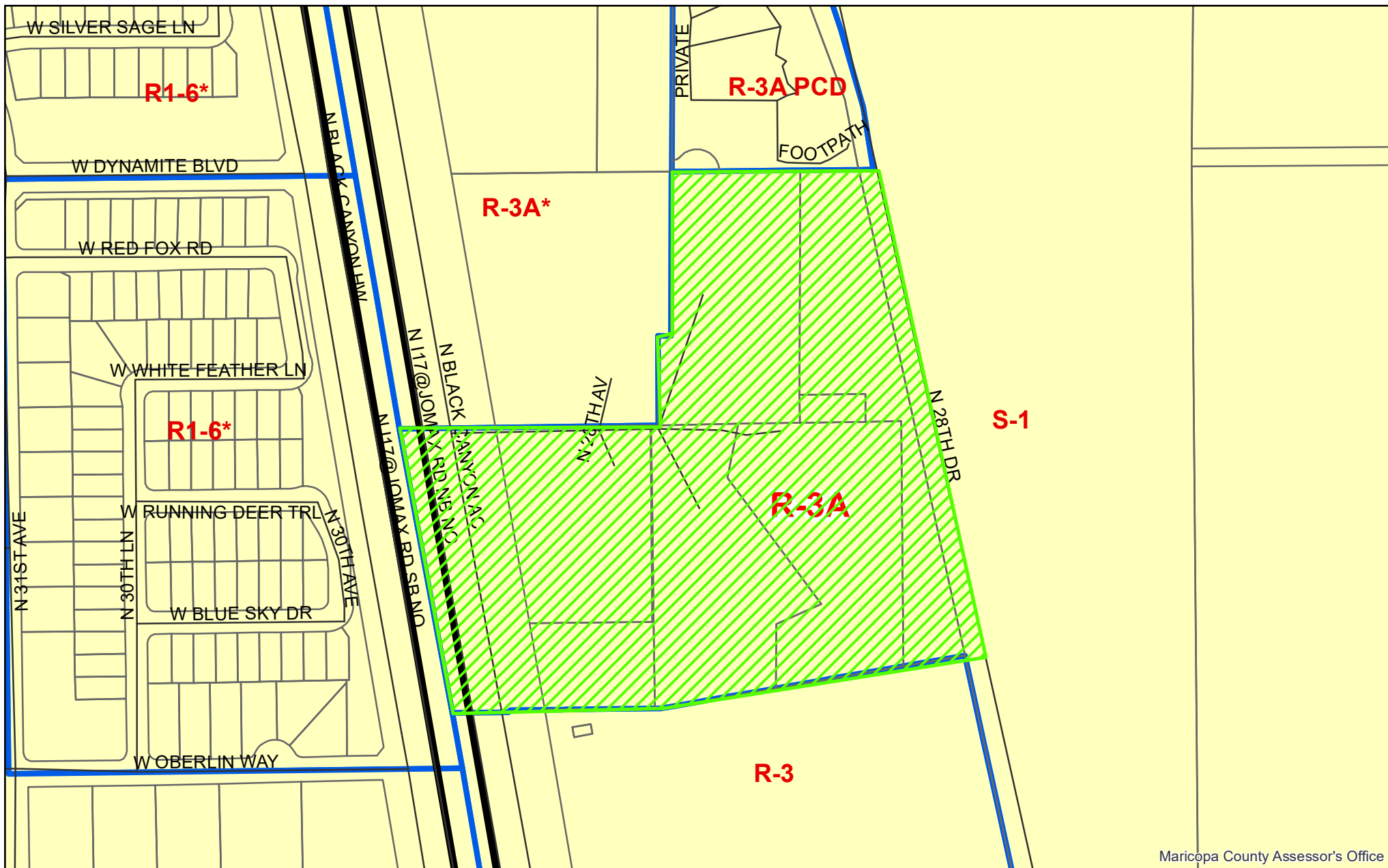
442

* UNITS P.R.D. OPTION

N/A

530

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



Maricopa County Assessor's Office

PHO-1-21--Z-51-20-2

Property Location: Approximately 4,000 feet north of the northeast corner of Black Canyon Highway and Jomax Road

Avenue (Ordinance G-6837)

This item was adopted.

- 80** Amend City Code - Ordinance Adoption - Rezoning Application Z-51-20-2 - Approximately 4,000 Feet North of the Northeast Corner of Black Canyon Highway and Jomax Road (Ordinance G-6838)

This item was adopted.

- 81** Amend City Code - Ordinance Adoption - Rezoning Application Z-6-21-7 - Southwest Corner of 35th Avenue and the Durango Street Alignment (Ordinance G-6836)

This item was adopted.

- 82** Amend City Code - Official Supplementary Zoning Map 1212 (Ordinance G-6834)

This item was adopted.

- 83** Public Hearing and Ordinance Adoption - Amend City Code - Rezoning Application Z-41-20-3 (Honor Health Outpatient Medical Center - Shea PUD) - Approximately 400 Feet West of the Northwest Corner of 54th Street and Shea Boulevard (Ordinance G-6840)

The hearing was held. This item was approved per the April 21, 2021 memo from the Planning and Development Director, with adoption of the related ordinance.

REPORTS FROM CITY MANAGER, COMMITTEES OR CITY OFFICIALS

000 CITIZEN COMMENTS

ADJOURN

REZONING CASES

9. **Application #:** **Z-51-20-2**
 From: S-1
 To: R-3A
 Acreage: 20.08
 Location: Approximately 4,000 feet north of the northeast corner of
 Black Canyon Highway and Jomax Road
 Proposal: Single-family residential
 Applicant: Chuck Chisholm, K. Hovnanian Homes
 Owner: Fred Bishop, et al.
 Representative: Nick Wood, Esq., Snell & Wilmer, LLP

Conflict: Sissie Shank recused herself from Item No. 9 due to a conflict of interest.

Ms. Racelle Escolar stated that Item No. 9 is Z-51-20-2, a request to rezone 20.08 acres located approximately 4,000 feet north of the northeast corner of Black Canyon Highway and Jomax Road from S-1 (Ranch or Farm Residence District) to R-3A (Multifamily Residence District) to allow residential development.

The Deer Valley Village Planning Committee did not provide a recommendation because they lost a quorum of members.

Staff recommends approval, per the Staff Report, 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 there were no requests to speak in opposition or support. The representative was available to speak if necessary.

Commissioner McCabe MOTIONED to approve Z-51-20-2, per the staff recommendation, with the additional stipulation as read into the record.

Commissioner Mangum SECONDED.

There being no further discussion, Acting Chairman Howard called for a vote and the MOTION Passed 7-0-1 (Conflict: Shank) (Johnson absent).

Stipulations:

1. The maximum building height shall be 30 feet.

2. The development shall be limited to a maximum of 285 units.
3. All elevations of the buildings shall contain architectural embellishments and detailing such as textural changes, pilasters, offsets, recesses, variation in window size and location, and/or overhang canopies, as approved by the Planning and Development Department.
4. A sidewalk and landscaping strip shall be provided along the Black Canyon Freeway Frontage Road and shall be detached with a minimum five-foot-wide landscape area located between the sidewalk and back of curb and planted to the following standards, as approved by the Planning and Development Department.
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