

## Attachment B



### City of Phoenix

#### Staff Report: Z-165-06-7(8) (PHO-1-19)

**APPLICATION:** Z-165-06-7(8) (PHO-1-19)

**APPLICANT:** Jennifer Hall, Rose Law Group

**REPRESENTATIVE:** Tom Galvin, Rose Law Group

**OWNER:** Virtua 35th LLC

**LOCATION:** Northwest corner of 35th Avenue and Carver Road

**REQUEST:**

- 1) Modification of Stipulation 1 regarding general conformance to the site plan date stamped October 8, 2007 and elevations date stamped February 20, 2007.
- 2) Modification of Stipulation 7 regarding the landscape setback adjacent to 35th Avenue.
- 3) Deletion of Stipulation 19 regarding conditional development approval.
- 4) Modification of Stipulation 27 regarding height of terraced berms along the quarry cut slope base.
- 5) Modification of Stipulation 31 regarding raised, vertical curbs within the R1-18 portion of the site.
- 6) Modification of Stipulation 37 regarding detached sidewalks and landscape strips within the R1-8 portion of the site.
- 7) Deletion of Stipulation 39 regarding one-story homes along 35th Avenue.
- 8) Technical corrections to Stipulations 4, 5, 6, 8, 9, 15, 18, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 33, 34, 36, 38, 40.

#### **STAFF RECOMMENDATION**

It is recommended that this request be denied as filed and approved with modifications and additional stipulations as recommended by the Planning Hearing Officer.

### **PLANNING HEARING OFFICER RECOMMENDATION**

On January 15, 2020, the Planning Hearing Officer (PHO) took this case under advisement. On February 13, 2020 the Planning Hearing Officer took this case out from under advisement and recommended denial as filed and approval with modifications and additional stipulations.

### **BACKGROUND/ANALYSIS**

The subject property is located at the northwest corner of 35th Avenue and Carver Road and consists of approximately 59.48 gross acres. The eastern portion is approximately 20 acres and zoned R1-8. The western portion is approximately 40 acres and zoned R1-18. The applicant's request would only impact stipulations as applied to the eastern portion of the site zoned R1-8.

The conceptual site plan depicts a 92-lot single-family detached residential development at a density of 5.5 dwelling units per gross acre. The proposed layout utilizes a cluster development design, primarily in blocks of four units oriented towards private drives. The conceptual site plan depicts a total of 40.47 percent open space. However, the applicant clarified at the January 15, 2020 PHO hearing that the R1-8 portion would provide a minimum 26 percent open space, after clarifying the City's standards for calculating open space. Amenities will include a tot lot, pool, and open space to be centrally located within the development.

The applicant requested modification of Stipulation 1, regarding general conformance to the stipulated site plan and elevations, to accommodate a new site plan for the R1-8 portion of the site. The applicant proposed that the stipulation also be modified to ensure that the R1-18 portion of the site retain its requirement for conformance with the original stipulated site plan.

The applicant requested modification of Stipulation 7, regarding the landscape setback adjacent to 35th Avenue. The applicant requested to decrease the landscape setback from a 235-foot average and 200-foot minimum setback to a minimum 100-foot setback. The applicant stated that the proposed site plan shifted units further east to reduce the number of proposed lots in the hillside areas at the northwest corner of the site. They stated that the stipulated landscape setback needs to be reduced in order to further mitigate impacts on the hillside area.

The applicant requested deletion of Stipulation 19, regarding conditional development approval. The applicant stated that the deletion of this stipulation would not change the integrity of the project. Additionally, the original rezoning case was approved by ordinance adoption and the zoning of the site was vested with the adoption of that ordinance.

The applicant requested modification of Stipulation 27, regarding the height of terraced berms along the quarry cut slope base, and proposed that the stipulated minimum 8-foot



terrace height be modified to permit a maximum 8-foot terrace height. They noted that reduced terrace heights would be more consistent with the natural environment.

The applicant requested modification of Stipulation 31, regarding raised, vertical curbs within the R1-18 portion of the site, arguing that the community will be private and will implement the City's standard for private accessways, which depicts rolled curbs.

The applicant requested modification of Stipulation 37 regarding detached sidewalks and landscape strips within the R1-8 portion of the site. Their proposed modification would remove the requirement for detached sidewalks and enhanced planting standards. Instead, the proposal would permit five-foot wide attached sidewalks throughout the development. The applicant noted that mature trees would thrive in a natural environment versus a constrained five-foot landscape strip. They also noted that the proposal would include multi-use trails within the development.

The applicant requested deletion of Stipulation 39, regarding one-story homes along 35th Avenue arguing that the stipulation language is unclear, and it does not clearly define what distance or location along 35th Avenue the prohibition would apply to. The applicant also noted that elimination of the stipulation would allow all buildings in the development to adhere to the height restrictions for R1-8 zoning.

### **PREVIOUS HISTORY**

On December 15, 2006, the Phoenix City Council approved the rezoning request from S-1 (Ranch or Farm Residence) to R1-18 (Single-Family Residence) and R1-8 (Single-Family Residence) on an approximately 59-acre property located at the northwest corner of 35th Avenue and Carver Road, subject to stipulations.

The applicant's initial application consisted of both RE-35 and R-2 zoning. The conceptual site plan depicted a gated, mixed residential community including 22 one-acre hillside lots (RE-35) with custom homes, 55 townhome units (R-2), and 81 condominiums (R-2) totaling 158 dwelling units for the site and an overall project density of approximately 2.6 dwelling units per acre. The custom home lots were to be sold and developed on an individual basis. The custom home lots would be accessible via 39th Avenue or through the eastern portion of the site via 35th Avenue. Ingress and egress along 39th Avenue was intended to be gated since the primary entrance would be from 35th Avenue.

The application was modified and ultimately approved for R1-18 on the western 39.6-acre portion of the site and R1-8 on the eastern 19.4-acre portion of the site. The stipulated site plan depicted 121 dwelling units on 59 acres with an overall site density of 2.05 dwelling units per acre. There were no changes to the layout of homes on the R1-18 portion of the site, but the new plan now depicted 99 single-family, villa style units on the R1-8 portion. The villa concept consisted of four detached units surrounding a central courtyard with garage access around a shared driveway at the rear of each unit.

The eastern R1-8 portion of the site contains the remnants of an abandoned gravel mine site. The applicant argued that the area was being developed with a higher density residential product to rehabilitate the damaged site area. The detached villa product was also viewed by the developer as an opportunity to enhance the residential diversity in the Laveen area. Additionally, the higher density villa product was supported by staff given the costly development associated with the mine. The applicant stated that site is risky regarding development and would have to remove hazardous debris, import dirt to level the site, and provide infrastructure improvements.

Numerous residents opposed the proposed density on the eastern portion of the site and spoke in opposition at various meetings and hearings. Approximately 30 emails or letters were received that discussed context, compatibility, and traffic conditions. Residents stated that they wanted responsible development and adherence to the general plan of Residential 0 to 1 dwelling units per acre. Residents also noted that there was a lack of communication with the community. The applicant stated that it was difficult to reach a resolution because there was no common ground between the developer and the neighborhood and he was not willing to decrease the proposed density.

## **NEIGHBORHOOD CONCERNS**

### **Correspondence**

Ninety-eight letters of opposition were received regarding this request. Concerns expressed in the correspondence include the following:

- The City of Phoenix needs to enforce Ordinance G-5020, which requires zoning to be placed back to S-1 (one house per acre) as of 2011. To date no action has been taken which violated City Zoning Ordinance (83 emails);
- Amend the General Plan to reflect Residential 0 to 1 and Parks/Open Space (83 emails);
- Stipulation 19 protects the neighbors and community from high density development that does not fit the area (83 emails);
- Proposed density is too high for the area (5 emails);
- City officials and City Council members should advocate for Laveen residents and consider how residents will be negatively impacted (1 email);
- Approval of the case would indicate corruption between the builder and government officials (2 emails);
- Two-story development will halt the appeal and devalue the real-estate in the area (2 emails);
- No notice was received by mail (1 email);
- City signage at the site is hidden, illegible, and ineffective (2 emails);
- The proposal does not address dangerous road conditions on Carver Road (4 emails);
- Density greater than two houses per acre has ruined the rural character of Laveen (4 emails);
- The subject property is in the path of flood waters (4 emails);

- The proposed development will increase traffic, consume resources, and increase noise (3 emails);
- The applicant is not providing elevations (1 email);
- Any buildings within 200 feet of the eastern property line should be limited to one story with a maximum height of 20 feet (1 email); and
- The developer should provide an Environmental Impact Study (1 email).

### **GENERAL PLAN DESIGNATION**

Parks/Open Space – Future 1 dwelling unit per acre, Residential 3.5 to 5 dwelling units per acre, and Residential 0 to 1 dwelling units per acre

### **CHARACTER OF SURROUNDING LAND USE**

	<u>Zoning</u>	<u>Land Use</u>
On-site:	R1-18, R1-8	Former mine, vacant land
North:	S-1, R1-18 PRD	Vacant land
South: residential	R1-18, County	Vacant land, single-family
East:	County	Vacant agricultural land, single-family residential
West:	County	Vacant land, single-family residential

### **DEPARTMENT REVIEW COMMENTS**

#### **Archaeology**

The City of Phoenix Archaeology Office (CAO) recommends archaeological survey of the western portion of the project area to current professional standards. Archaeological survey is stipulated under the original zoning case (Z-165-06) approved by the City Phoenix Council on October 10, 2007. Additional archaeological work such as data testing excavations or monitoring may be necessary based upon the results of the survey. A qualified archaeologist must make this determination in consultation with the City of Phoenix Archaeologist.

This work is recommended in order to assist the project proponent in complying with the State Burial Law, ARS 41-865, and Chapter 8, Section 802[B2] of the City's Historic Preservation Ordinance.

#### **Aviation**

No response.

### **Fire Prevention**

Fire prevention does not anticipate any problems with this case. The site or/and building(s) shall comply with the Phoenix Fire Code.

Also, we do not know what the water supply (GPM and PSI) is at this site. Additional water supply may be required to meet the required fire flow per the Phoenix Fire Code.

### **Floodplain Management**

We have determined that the project is not located in a Special Flood Hazard Area (SFHA) but is located in a Shaded Zone X, on panel 2660 L of the Flood Insurance Rate Maps (FIRM) dated October 16, 2013. Based on the project information provided, there are no Floodplain Management requirements to fulfill.

### **Light Rail**

No response.

### **Parks and Recreation**

Parks and Recreation Department would require that the developer/owner dedicate a 30-foot-wide multi-use trail easement (MUTE) along the west side of 35th Avenue and the north side of Carver Road and construct a 10-foot-wide multi-use trail (MUT) within the easement as indicated in Section 429 of the City of Phoenix MAG Supplement.

### **Public Transit**

No comments.

### **Street Transportation**

1. The developer shall provide a primary roadway from 35th Avenue extended to the western property boundary, as approved by the Planning and Development Department.
2. The primary roadway connecting 35th Avenue to the western edge of the property line shall terminate as a stub street to the adjacent undeveloped land to the west to provide for a future vehicular connection.
3. The proposal shall eliminate the stipulation related to rolled and vertical curbs.
4. The developer shall dedicate right-of-way as determined by Maricopa County Department of Transportation (MCDOT) for 35th Avenue and as approved by Planning and Development Department.
5. The developer shall dedicate right-of-way as determined by Maricopa County Department of Transportation (MCDOT) for Carver Avenue and as approved by Planning and Development Department.

**Pedestrian Safety Coordinator - Street Transportation Department, Traffic Services Division**

The development should include detached sidewalks along Carver Road and along 35th Avenue. The south side of Carver Road has a canal and restrictive barriers, which would make it likely for pedestrians to use the north side of the road. The east side of 35th Avenue is county jurisdiction, making it unlikely for any future development to include detached sidewalks on the east side of 35th Avenue. The speed limit on both roads is 45 mph but we often receive complaints from residents in this area that these speed limits are not respected, and people go 15 and 20 miles over the speed limit. This condition is aggravated by the road slopes and overall darker conditions in this area. Therefore, in order to provide a safer environment for pedestrians the developer should include detached sidewalks with a generous landscaped buffer between the sidewalk and the road.

### **Water Services**

New public water mains required per the Carver Mountain Master Plan. This project falls within pressure Zone 2S. A new Zone 2S, 12-inch main shall be required from the existing 12-inch water main east of the proposed project (approximately 2,200 linear feet) within Elliot Road, west to 35th Avenue, north on 35th Avenue crossing the canal and then northeast within the Carver Road alignment (north side of canal) and tie into the existing 12-inch main within 27th Avenue. The existing 8-inch main within the Carver Road alignment west of 27th Ave will need to be replaced by the new 12-inch main. A 12-inch 2S main will also need to be extended north on 35th Avenue along the frontage of the proposed project. All onsite water will have to remain private, owned and maintained by the homeowners.

All onsite sewer will have to remain private, owned and maintained by the homeowners. The closest available sewer is approximately 2,800 linear feet north of the proposed project. Given topography of the area to reach this available sewer, a private lift station and private force main will be required. There is another available sewer main within 43rd Avenue just north of the Elliot Canal but would require crossing several private properties with the private force mains. Another option is to build a gravity sewer from the proposed project west along Carver Road to 51st Avenue and then north to Dobbins Road and 51st Avenue.

### **Standard Note Applies:**

Please be advised that capacity is a dynamic condition that can change over time due to a variety of factors. It is the City's intent to provide water and sewer service. However, the requirements and assurances for water and sewer service are determined during the site plan application review. For any given property, water and sewer requirements may vary over time to be less or more restrictive depending on the status of the City's water and sewer infrastructure.

### **EXISTING WATER**

Water mains: No Services

Services: City map shows none

## EXISTING SEWER

Sewer mains: No Services

## SERVICES

City map shows none

REPAYMENT: N/A

## **VILLAGE PLANNING COMMITTEE RECOMMENDATION**

The Laveen Village Planning Committee (VPC) heard this case on January 13, 2020 and recommended denial by a vote of 11-0. The Laveen VPC motion also included a request that the Planning Hearing Officer recommend to the Planning Commission to initiate a zoning reversion for the site.

## **PLANNING HEARING OFFICER FINDINGS**

The Planning Hearing Officer's recommendation was based on the following findings:

- 1) The subject property of this request includes the entire 59 acres that comprised the original rezoning case. However, the applicant only submitted plans addressing the approximately 19.4 acres of R1-8 zoned property on the eastern portion of the site, adjacent to 35th Avenue. Modifications are recommended to the applicant's request to ensure that the existing stipulations on the approximately 39.6 acres of R1-18 zoned property on the western portion of the site are not modified or deleted. Additionally, the applicant did not submit elevations with the request. The original stipulations included a general conformance requirement for building elevations. A modification is recommended to the applicant's request to require a future Planning Hearing Officer application for review of conceptual building elevations.
- 2) The stipulated site plan depicted 99 detached single-family units arranged in clusters of two and four, oriented towards common courtyards. There are also seven free-standing units depicted at the northwest corner of the site partially in the hillside-designated area. The proposed conceptual site plan depicts 92 units in a similar cluster-style arrangement. However, the units have been shifted east on the property, reducing the total massing of development in the designated hillside areas. Additionally, the homes are not oriented towards courtyards and instead include larger private driveways in the front yards. There is more open space preserved in the hillside area in the northwest portion of the site. There is also more open space adjacent to the private accessways (Tract "A") which separates the homes from the streets. Because the homes are closer to 35th Avenue, there is less open space provided along the east property line. See Finding #3 for a more detailed description of the recommendation for minimum open space and Finding #4 regarding the landscape setback on 35th Avenue.
- 3) An additional stipulation is recommended to require the developer provide a minimum of 26% open space, of which a minimum of 12% shall be usable open

space. The conceptual site plan depicts 40.47% open space. However, there is no open space exhibit and the applicant indicated that a recalculation was necessary to adequately represent provided open space in the hillside area, setbacks, and other locations. The provision of 26% open space is compatible with the rural character of the surrounding area, consistent with other recent zoning actions in the Village, and significantly exceeds existing Ordinance standards.

- 4) The proposed reduction of the landscape setback on 35th Avenue from 235 feet (average) to minimum 100 feet accommodates the relocation of some residential units out of the designated hillside areas, consistent with the City approved slope analysis. The preservation of the hillside area will contribute to the rural character of the site and maintain this unique natural feature of the property. See Finding #9 regarding the restoration of the disturbed area on the abandoned gravel mine that occupies a portion of the remainder of the site.
- 5) Approximately 2,300 feet to the east of the subject property are the Hangar Hacienda Units One, Two, and Three subdivisions. These properties are in Maricopa County jurisdiction. These communities are oriented around an air strip utilized by residents who own private aircraft. Based on comments from a resident in this community, the typical flight path runs directly over the subject property of this request. An additional stipulation is recommended regarding notification of the aviation uses on these properties for future residents.
- 6) The subject property is archaeologically sensitive. Three additional stipulations are recommended which outline the City's requirements regarding data testing, data recovery, and archaeological assessments and survey.
- 7) The public right-of-way along 35th Avenue and a small portion along Carver Road is in Maricopa County Department of Transportation (MCDOT) jurisdiction. There is also an active drainage project along the roadway. Therefore, additional stipulations are recommended to acknowledge that MCDOT shall determine the final width and dedications needed for the portion of right-of-way adjacent to the subject property. City of Phoenix Street Transportation staff noted that in discussions with MCDOT staff, MCDOT does not have immediate concerns regarding the location of proposed retention areas shown on the conceptual site plan in regard to the drainage project.
- 8) Original Stipulation 19 states that approval shall be conditioned upon the development commencing within 48 months of the City Council approval. For properties with similar stipulations, the Planning and Development Department has required that a Planning Hearing Officer (PHO) action be pursued to modify or delete these conditions at the time that development is proposed, if the proposed development has exceeded the timeframe identified in the stipulation. The applicant is pursuing this process through their request for deletion of the stipulation. The modification or deletion of this stipulation through a PHO action is

unrelated to the zoning reversion process which is a separate public hearing process that is described in Section 506 of the Zoning Ordinance.

The applicant's request for deletion of original Stipulation 19 is recommended for approval. The current proposal is consistent with the City Council's original intent to see the subject property redevelop with a single-family residential land use in the R1-8 zoning district. Additionally, the request is consistent with City Council approved General Plan Amendment GPA-LV-1-08-7, which established a Residential 3.5 to 5 dwelling units per gross acre land use designation on the approximately 19.35 acres that comprises the R1-8 zoned portion of the property. Both the proposed conceptual site plan, as modified by this recommendation, and the existing R1-8 zoning designation are consistent with this land use designation.

- 9) Original Stipulation #27, requiring terraced berms planted with deciduous trees, may result in an environment that contrasts with the natural landscape of the existing hillside in the surrounding area. The stipulated terraced berm configuration is not consistent with the irregular natural landscape of the existing hillside in the surrounding area and there are no deciduous trees on hillside locations in the immediate vicinity. Proposals for fill are commonly intended to continue and promote a natural slope line, rather than creating terracing and other unnatural finishes.

There are a variety of alternatives to the stipulated requirement for terraced berms that may be considered for the site that would result in a more natural aesthetic to the restored hillside. These include chemical treatments and coloration to remove or camouflage scarring, hydroseeding of the slope to provide a mixture of natural grasses and plants which may also stabilize the slope, and roughening the cut or restored slope to integrate pockets for additional native landscaping.

Modified stipulation language is recommended to allow the applicant to work with City staff on an alternative approach to restoring the quarry cut slope base to promote a more natural landscape along the hillside.

- 10) The provision of detached sidewalks is consistent with numerous City policy plans. The Tree and Shade Master Plan has a goal of treating the urban forest as infrastructure to ensure that trees are an integral part of the City's planning and development process. Additionally, the City Council adopted Guiding Principles for Complete Streets seeks to make Phoenix more walkable by promoting a safe and inviting pedestrian environment that encourages walkability and thermal comfort. These principles are also expressed and expanded upon throughout the 2015 General Plan.

Therefore, the applicant's request to delete this requirement and instead stipulate a 5-foot sidewalk width is recommended for denial. However, the street layout on the proposed conceptual site plan may require the utilization of both private drives (between units) and private accessways (Tract "A"). There are different technical



requirements and cross sections for these street types and it may be difficult to integrate detached sidewalks along both sides of private drives.

A modification of the applicant's request is recommended to require that detached sidewalks shall be provided, as originally stipulated, along all streets that are developed as public streets or private accessways.

11) The Street Transportation Department noted that both original Stipulation 31 and the applicant's proposed modified language may create conflicts if the development is to include both attached and detached sidewalks. The City of Phoenix standard detail for detached sidewalks along private accessways requires vertical curbs. Attached sidewalks may be permitted to provide rolled curbs. Deletion of the stipulation will allow the appropriate detail to be utilized based on the final configuration of sidewalks at appropriate locations throughout the development.

12) Original Stipulation 39 required that homes along 35th Avenue would be limited to one-story. The stipulation did not specify a maximum building height. Additionally, it is unclear whether the stipulation was intended to apply to the individual units located closest to 35th Avenue or the entire clusters. The original stipulation may permit a variety of building heights and locations for height-restricted lots.

However, the intent of the stipulation was to mitigate the impacts of building height for units closest to 35th Avenue and would have impacted homes at approximately 235 feet (the stipulated average setback in original Stipulation 7). This remains a valid concern and consistent with the design of other recent projects in the Village. Therefore, the applicant's request for deletion of this stipulation is recommended for denial. An alternative stipulation is proposed that limits maximum building height to 20 feet for the 12 lots that are located within approximately 235 feet of 35th Avenue. This recommendation is intended to clarify the limitation on building height and identify the specific lots impacted.

### **PLANNING HEARING OFFICER RECOMMENDED STIPULATIONS**

General	
4.	<del>That development shall be in general conformance with the site plan date stamped October 8, 2007, and elevations date stamped February 20, 2007, as modified by the following stipulations, and as approved by the Development Services Department.</del>
1.	THE R1-8 DEVELOPMENT SHALL BE IN GENERAL CONFORMANCE WITH THE SITE PLAN DATE STAMPED NOVEMBER 21, 2019, AS MODIFIED BY THE FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT, AND WITH SPECIFIC REGARD TO THE FOLLOWING:

	A.	THE DEVELOPER SHALL PROVIDE A PRIMARY ROADWAY FROM 35TH AVENUE EXTENDED TO THE WESTERN PROPERTY BOUNDARY, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
	B.	THE PRIMARY ROADWAY CONNECTING 35TH AVENUE TO THE WESTERN EDGE OF THE PROPERTY LINE SHALL TERMINATE AS A STUB STREET TO THE ADJACENT UNDEVELOPED LAND TO THE WEST TO PROVIDE FOR A FUTURE VEHICULAR CONNECTION.
2.		CONCEPTUAL ELEVATIONS FOR THE R1-8 DEVELOPMENT SHALL BE REVIEWED AND APPROVED BY THE PLANNING HEARING OFFICER THROUGH THE PUBLIC HEARING PROCESS FOR STIPULATION MODIFICATION PRIOR TO PRELIMINARY SITE PLAN APPROVAL. THIS IS A LEGISLATIVE REVIEW FOR CONCEPTUAL PURPOSES ONLY. SPECIFIC DEVELOPMENT STANDARDS AND REQUIREMENTS MAY BE DETERMINED BY THE PLANNING HEARING OFFICER AND THE PLANNING AND DEVELOPMENT DEPARTMENT.
3.		THE R1-18 DEVELOPMENT SHALL BE IN GENERAL CONFORMANCE WITH THE SITE PLAN DATE STAMPED OCTOBER 8, 2007, AND ELEVATIONS DATE STAMPED FEBRUARY 20, 2007, AS MODIFIED BY THE FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
4. <del>2.</del>		<del>That a</del> Development of the R1-18 portion of the site shall not exceed 22 lots.
5. <del>3.</del>		<del>That a</del> Development of the R1-8 portion of the site shall not exceed a density of 99 lots.
6.		THE R1-8 DEVELOPMENT SHALL PROVIDE A MINIMUM OF 26% OPEN SPACE, OF WHICH A MINIMUM OF 12% SHALL BE USABLE OPEN SPACE, AS APPROVED OR MODIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
Site Design		
7. <del>4.</del>		<del>That a</del> Unobstructed pedestrian access (for the purpose of private pedestrian connectivity internal to the site) between the R1-18 and R1-8 portions of the site shall be provided, as approved by the PLANNING AND Development Services Department.
8. <del>5.</del>		<del>That a</del> No solid wall in excess of three feet in height as measured from the finished grade, shall be located on the site (either in private lots or common tracts) except

	that solid walls greater than three feet in height shall be allowed for the following purposes, as approved by the PLANNING AND Development <del>Services</del> Department.
	a. Walls utilized to screen utilities, trash enclosures, or other facilities generally considered to be visually obtrusive.
	b. Retaining wall.
9. <del>6.</del>	<del>That a</del> No more than 60,000 square feet of natural turf area shall be located within the common areas of the R1-8 portion of the site (this requirement does not apply to synthetic turf); if provided, common area natural turf should be centrally located and grouped so as to create one contiguous natural turf recreation area, as approved by the PLANNING AND Development <del>Services</del> Department.
10. <del>7.</del>	<del>That a 235-foot (average), 200-foot (minimum)</del> THE DEVELOPMENT SHALL PROVIDE A MINIMUM 100 FOOT landscaped setback ALONG THE EAST PROPERTY LINE <del>adjacent to 35th Avenue shall be provided</del> , as approved by the PLANNING AND Development <del>Services</del> Department.
11. <del>8.</del>	<del>That a</del> A 50-foot (minimum) landscaped setback adjacent to Carver Road (final alignment) shall be provided, as approved by the PLANNING AND Development <del>Services</del> Department.
12. <del>9.</del>	<del>That t</del> Those portions of spider and jeep trails which are not part of the approved grading envelopes, access drives, or other necessary site disturbance related to the proposed development of the R1-8 portion of the site shall be re-vegetated in a manner consistent with adjacent undisturbed vegetation, as approved by the PLANNING AND Development <del>Services</del> Department.
Disclosures	
13. <del>40.</del>	<del>That p</del> Prior to final site plan approval, the property owner shall record documents that disclose to tenants of the site or purchasers of property within the site, the existence, proximity, and operational characteristics of active agricultural uses and non-domesticated animal keeping. 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.	THAT PRIOR TO FINAL SITE PLAN APPROVAL, THE PROPERTY OWNER SHALL RECORD DOCUMENTS THAT DISCLOSE TO TENANTS OF THE SITE OR PURCHASERS OF PROPERTY WITHIN THE SITE, THE EXISTENCE, PROXIMITY, AND OPERATIONAL CHARACTERISTICS OF ACTIVE AVIATION USES IN THE HANGAR HACIENDAS UNITS ONE, TWO, AND THREE SUBDIVISIONS LOCATED APPROXIMATELY 2,300 FEET TO THE EAST OF

	THE SUBJECT PROPERTY IN MARICOPA COUNTY. 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.
Parks and Recreation	
15. 44.	<del>That</del> The developer shall dedicate a multi-use trail easement and construct a multi-use trail, per adopted standards, along the north side of Carver Road, as approved by the Parks and Recreation Department.
Archaeology	
16. 42.	<del>That</del> The applicant shall complete an archaeological survey report of the development area for review and approval by the City Archaeologist prior to clearing and grubbing, landscape salvage, or grading.
17.	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.
18.	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.
19.	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.
Street Transportation	
20. 43.	<del>That</del> Right-of-way totaling 55 feet shall be dedicated for the west half of 35th Avenue, as approved by the Street Transportation Department. 35th Avenue shall be constructed using rural streets standards similar to Dobbins Road, as approved by the Street Transportation Department.
21.	<del>That</del> Right-of-way totaling 55 feet shall be dedicated for the west half of Carver

14.	Road, as approved by the Street Transportation Department. Carver Road shall be constructed using rural streets standards similar to Dobbins Road, as approved by the Street Transportation Department.
22.	THE DEVELOPER SHALL DEDICATE RIGHT-OF-WAY FOR 35TH AVENUE AS DETERMINED BY THE MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION (MCDOT) AND AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
23.	THE DEVELOPER SHALL DEDICATE RIGHT-OF-WAY FOR CARVER ROAD AS DETERMINED BY THE MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION (MCDOT) AND AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
24. 15.	<del>That a</del> A traffic impact study shall be submitted to, and approved by, the Street Transportation Department prior to PLANNING AND Development Services Department preliminary site plan approval. That all right-of-way dedications and associated infrastructure improvements as recommended by the traffic impact study shall be installed by the developer, as approved by the PLANNING AND Development Services Department.
25. 16.	<del>That t</del> 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 modified by these stipulations, and as approved by the Street Transportation Department. All improvements shall comply with all AmericanS with Disabilities Act accessibility standards.
26. 17.	<del>That t</del> The applicant shall complete and submit the Developer Project Information Form for the Maricopa Association of Governments Transportation Improvement Program. This form is a requirement of the Environmental Protection Agency to meet clean air quality requirements.
27. 18.	<del>That p</del> Prior to preliminary site plan approval, the landowner shall execute a Proposition 207 waiver of claims utilizing the provided template. The waiver shall be recorded with the Maricopa County Recorder's Office and a copy shall be provided to the PLANNING AND Development Services Department for the case files.
19.	<del>That approval shall be conditional upon the development commencing within 48 months of the City Council approval of this change of zoning in accordance with Section 506.B.1 of the Zoning Ordinance. For purposes of this stipulation, development shall commence with the issuance of building permits and erection of the building walls on site.</del>
Neighborhood	

28. <del>20.</del>	<del>That b</del> Building pad cuts shall be terraced if more than 6 feet in height and treated with a stain, gunnite, or equivalent finish, as approved by the PLANNING AND Development <del>Services</del> Department.
29. <del>21.</del>	<del>That a</del> All two story homes, within the R1-18 portion of the site, shall be designed in a manner such that the square footage of the second story floor area does not exceed 66 percent of the first story floor area, as approved by the PLANNING AND Development <del>Services</del> Department.
30. <del>22.</del>	<del>That c</del> Concrete channels shall be designed to look natural in the desert setting through color, texture, landscaping, or other means, as approved by the PLANNING AND Development <del>Services</del> Department.
31. <del>23.</del>	<del>That t</del> The use of riprap and engineered culverts shall be minimized and, where utilized, shall be integrated with the desert setting through color, texture, soil plating, landscaping, or other means, as approved by the PLANNING AND Development <del>Services</del> Department. To the extent possible, culverts shall be undersized to allow minor flows (10 cfs or smaller) to cross roadways in their natural condition.
32. <del>24.</del>	<del>That w</del> Washes with a one-hundred-year peak flow of 200 cfs or greater shall be preserved and enhanced with native vegetation as described in Appendix A, Approved Plant Species List for Sonoran Preserve Edge Treatment Guidelines, as approved by the PLANNING AND Development <del>Services</del> Department.
33. <del>25.</del>	<del>That l</del> lots with 2 or more sides abutting undisturbed open space shall be designed with obtuse angles, rather than right angles or acute angles, as approved by the PLANNING AND Development <del>Services</del> Department.
34. <del>26.</del>	<del>That e</del> On non-hillside lots within the R1-18 portion of the development, all improvements, including driveways, landscaping, and underground utilities shall be located within a building envelope occupying no more than 50 percent of the lot up to a maximum of 20,000 square feet, whichever is less, as approved by the PLANNING AND Development <del>Services</del> Department.
35. <del>27.</del>	<del>That a</del> A minimum of three terraced berms with 2:1 fill slopes shall be installed along the full length of the quarry cut slope base. The terraces shall BE LIMITED TO A MAXIMUM HEIGHT OF be 8 feet tall, minimum, and shall be PLANTED <del>planted</del> with a staggered combination of 2-inch and 4-inch caliper, drought resistant, deciduous trees at 25 feet ON center OR IN EQUIVALENT GROUPINGS <del>to center</del> , as approved OR MODIFIED by the PLANNING AND Development <del>Services</del> Department.

	THE DEVELOPER MAY ALSO IMPLEMENT ALTERNATIVE SOLUTIONS FOR THE NATURALIZING AND BLENDING OF THE QUARRY CUT SLOPE WITH THE ADJACENT UNDISTURBED HILLSIDE AREA, AS APPROVED OR MODIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
36. <del>28.</del>	<del>That s</del> Solid block walls, except for retaining walls or privacy fencing on individual lots, shall not be constructed outside of the building envelopes for the R1-18 portion of the site, as approved by the PLANNING AND Development <del>Services</del> Department. Fencing constructed outside of the building envelope shall be combination solid/view fencing. In addition, all fencing above the 15 percent slope line shall be 100 percent view fencing.
37. <del>29.</del>	<del>That t</del> The entire 60-acre site shall have no perimeter fencing, as approved by the PLANNING AND Development <del>Services</del> Department.
38. <del>30.</del>	<del>That p</del> Private roadways within the R1-18 portion of the site shall be provided with ribbon curbs and colored asphalt, as approved by the PLANNING AND Development <del>Services</del> Department.
39. <del>31.</del>	<del>That private roadways within the R1-8 portion of the site shall be provided with a raised, vertical curb, as approved by the Development Services Department.</del>
40. <del>32.</del>	<del>That a</del> All HVAC units shall be ground mounted.
41. <del>33.</del>	<del>That a</del> All street lighting and wall mounted security fixtures shall be full cut off lighting. Fixture height shall be a maximum of 12 feet. Street lighting fixtures shall be decorative and have a consistent architectural theme, as approved by the PLANNING AND Development <del>Services</del> Department.
42. <del>34.</del>	<del>That b</del> Bollards shall be used for accent lighting at the primary access, entry monument, driveways, and trail crossings, as approved by the PLANNING AND Development <del>Services</del> Department. Photovoltaic energy sources for bollard lighting shall be provided.
43. <del>35.</del>	<del>That a</del> Any request to delete or modify these stipulations SHALL be preceded by A presentation to the Laveen Village Planning Committee (VPC) for review and recommendation, and notification to the following persons two weeks prior to presentation at the VPC:
	a. Jon Kimoto, 3216 West Ansell Road, Laveen, 85339
	b. Cyd Manning, P.O. Box 41234, Mesa, 85274
	c. Judy Brown, P.O. Box 41234, Mesa, 85274

	d.	Christine Dicken, 10827 South 30th Avenue, Laveen, 85339
	e.	Richard Birnbaum, 11014 South 35th Avenue, Laveen, 85339
	f.	Phil Hertel, 2300 2845 West Broadway Road, Phoenix, 85041
	g.	Steven Klein, 6820 South 66th Avenue, Laveen, 85339
44. 36.	That the following individuals shall be notified of any and all PLANNING AND Development Services Department (DSD) meetings which are open to the public. The applicant shall be responsible for notification to the following via a first-class letter to be mailed at least two weeks prior to the DSD meeting(s):	
	a.	Jon Kimoto, 3216 West Ansell Road, Laveen, 85339
	b.	Cyd Manning, P.O. Box 41234, Mesa, 85274
	c.	Judy Brown, P.O. Box 41234, Mesa, 85274
	d.	Christine Dicken, 10827 South 30th Avenue, Laveen, 85339
	e.	Richard Birnbaum, 11014 South 35th Avenue, Laveen, 85339
	f.	Phil Hertel, 2300 2845 West Broadway Road, Phoenix, 85041
	g.	Steven Klein, 6820 South 66th Avenue, Laveen, 85339
45. 37.	That aAll sidewalks, within the R1-8 portion of the site, WHICH ARE DEVELOPED ALONG STREETS DEVELOPED AS PUBLIC STREETS OR PRIVATE ACCESSWAYS shall be detached with a minimum five-foot wide landscaped strip located between the sidewalk and back of curb and shall include minimum two-inch caliper shade trees planted a minimum rate of 20 feet on center or IN equivalent groupings along both sides of the sidewalk, as approved OR MODIFIED by the PLANNING AND Development Services Department. The landscape strip shall be installed by the developer and maintained by the homeowners' association.	
46. 38.	That aA mix of two and three-inch caliper trees shall be provided within all required common open space tracts. With the exception of the open space area adjacent to 35th Avenue, the species of trees provided shall shade 50 percent of the area of the open space at tree maturity, as approved by the PLANNING AND Development Services Department.	



47. <del>39.</del>	<del>That only one-story homes shall be located along 35th Avenue.</del>  LOTS 52-61 AND 82-83, LOCATED ALONG 35TH AVENUE AND AS DEPICTED ON THE SITE PLAN DATE STAMPED NOVEMBER 21, 2019, ARE LIMITED TO A MAXIMUM BUILDING HEIGHT OF 20 FEET, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
48. <del>40.</del>	<del>That a</del> A detailed site plan, landscaping plan, elevations, perimeter fence or wall plan, lighting plan, and entry monument signage shall be reviewed by the Laveen Village Planning Committee prior to preliminary site plan approval by the PLANNING AND Development Services Department.

### **PLANNING HEARING OFFICER RECOMMENDATION**

It is recommended that this request be denied as filed and approved with modifications and additional stipulations as recommended by the Planning Hearing Officer.

### **ATTACHMENTS**

- A – Appeal Documents (4 pages)
- B – Applicant's Narrative (4 pages)
- C – Aerial Map (1 page)
- D – Zoning Map (1 page)
- E – Ordinance G-5020 from Rezoning Case No. Z-165-06-7 (11 pages)
- F – Sketch Map from Rezoning Case No. Z-165-06-7 (1 page)
- G – Proposed Site Plan date stamped November 21, 2019 (3 pages)
- H – Stipulated Site Plan date stamped October 8, 2007 (1 page)
- I – Stipulated Elevations (2 pages)
- J – Laveen Village Planning Committee Minutes (13 pages)
- K – PHO Summary for Z-165-06-7(8) (PHO-1-19) (18 pages)
- L – Correspondence (191 pages)

# **ATTACHMENT A**

<b>PLANNING HEARING OFFICER APPEAL</b> I HEREBY REQUEST THAT THE PLANNING COMMISSION/CITY COUNCIL HOLD A PUBLIC HEARING ON:			
<b>APPLICATION NO:</b>	PHO-1-19--Z-165-06-7(8)		
<b>LOCATION:</b>	Northwest corner of 35th Avenue and Carver Road		
<b>PHO HEARING DATE:</b>	1/15/20 (UA 2/13/20)	<b>RECEIVED:</b>	2/14/20
<b>APPEALED BY:</b>	<input checked="" type="checkbox"/> Opposition	<input type="checkbox"/> Applicant	
<b>APPEALED TO:</b>	<b>PLANNING COMMISSION</b>	4/2/20	
	<b>CITY COUNCIL</b>	<b>TENTATIVE DATE</b>	
		<b>TENTATIVE DATE</b>	
<b>NAME/ADDRESS/CITY/STATE/ZIP</b>			<b>PHONE #</b>
Cyd Manning 3220 West Ceton Drive Laveen, Arizona 85339			480-747-0769
<b>RECEIPT NUMBER:</b>			
<b>REASON FOR REQUEST:</b>			
The City of Phoenix is in violation of its own Zoning Ordinance and is bound to enforce Ordinance G-5020--Z-165-06-7. The zoning on this property expired October 2011 and is technically S-1. Stipulation 19 was approved with the original case to protect the community from the R1-8 spot zoning that was clearly inconsistent with the area in 2007 and is clearly inconsistent today. Deleting Stipulation 19 is negligence in enforcement. The Planning Commission & City Council can and should immediately correct the violation and codify the zoning reversion to S-1 and realign the General Plan, prior to hearing any requested action on this case. The applicant states they will sue the City if they don't get what they want regarding deleting Stipulation 19. No one is above the law.			
<b>Taken By:</b>	Radesha Williams		

c: Ben Ernyei – Posting  
 Benjamin Kim, IS  
 PDD All

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FEB 14 2020

**City of Phoenix**  
PLANNING & DEVELOPMENT DEPARTMENT

**Planning & Development  
Department**

1/15/20 - Z-165-06-7(8)  
Taken out from under

The PLANNING HEARING OFFICER agenda for advisement on 2/13/20 is attached.

The City Council May Ratify the Recommendation of the Planning Hearing Officer on March 18, 2020 Without Further Hearing Unless:

- A REQUEST FOR A HEARING BY THE PLANNING COMMISSION is filed by 5:00 p.m. on Thursday, February 20, 2020. (There is a \$630.00 fee for hearings requested by the applicant.)

Any member of the public may, within seven (7) days after the Planning Hearing Officer's action, request a hearing by the Planning Commission on any application. If you wish to request a hearing, fill out and sign the form below and return it to the Planning and Development Department by 5:00 p.m. on Thursday, February 20, 2020.

### APPEAL FORM

I HEREBY REQUEST THAT THE PLANNING COMMISSION HOLD A PUBLIC HEARING ON:

**Z-165-06-7(8) (PHO-1-19)**

**Northwest corner of 35th Avenue and Carver Road**

APPLICATION NO

LOCATION OF APPLICATION PROPERTY

Cyd Manning  
NAME (PLEASE PRINT)

☒ OPPOSITION

☐ APPLICANT

3220 W. Ceton Drive  
STREET ADDRESS

Laveen, AZ 85339  
CITY, STATE AND ZIP CODE

480-747-0769  
TELEPHONE NO

BY MY SIGNATURE BELOW, I ACKNOWLEDGE THE SCHEDULED HEARING DATE AS FOLLOWS:

1/15/20 - Z-165-06-7(8) Taken out from under	
APPEALED FROM <u>advisement on 2/13/20</u>	PHO HEARING TO <u>4/2/2020</u> PC HEARING
DATE	DATE

SIGNATURE: Cyd Manning

DATE: Feb. 14, 2020

The City of Phoenix is in violation of its own zoning ordinance and is bound to enforce G-5020 Z-165-06-7. The zoning on this property expired in Oct. 2011 and is technically S-1. Stipulation 19 was approved with the original case to protect the community from the Rt-8 spot zoning that was clearly inconsistent with the area in 2007 and is clearly inconsistent today. Deleting Stipulation 19 is negligence in enforcement. The Planning Commission & City Council can and should immediately correct the violation and codify the zoning reversion to S-1 and realign the General Plan prior to hearing any requested action on this case. The applicant states they will sue the City if they don't get what they want regarding deleting Stipulation 19. No one is above the law.

Copies to:

Case File

PHO Planner - Julianna Pierre

PHO Secretary - Stephanie Vasquez

PLANNER TAKING APPEAL: Rafaela Williams

<b>PLANNING HEARING OFFICER APPEAL</b> I HEREBY REQUEST THAT THE PLANNING COMMISSION/CITY COUNCIL HOLD A PUBLIC HEARING ON:			
<b>APPLICATION NO:</b>	PHO-1-19--Z-165-06-7(8)		
<b>LOCATION:</b>	Northwest corner of 35th Avenue and Carver Road		
<b>PHO HEARING DATE:</b>	1/15/20 (UA 2/13/20)	<b>RECEIVED:</b>	2/14/20
<b>APPEALED BY:</b>	<input checked="" type="checkbox"/> Opposition	<input type="checkbox"/> Applicant	
<b>APPEALED TO:</b>	<b>PLANNING COMMISSION</b>	4/2/20	
	<b>CITY COUNCIL</b>	<b>TENTATIVE DATE</b>	
		<b>TENTATIVE DATE</b>	
<b>NAME/ADDRESS/CITY/STATE/ZIP</b>			<b>PHONE #</b>
Lisa Vializ 8921 South 53rd Drive Laveen, Arizona 85339			602-741-5722
<b>RECEIPT NUMBER:</b>			
<b>REASON FOR REQUEST:</b>			
<p>The City of Phoenix is in violation of its own Zoning Ordinance and is bound to enforce Ordinance G-5020--Z-165-06-7. The zoning on this property expired October 2011 and is therefore S-1. Stipulation 19 was approved as part of the original zoning case to protect the community from R-8 spot zoning. That was clearly inconsistent with the area in 2007 and is clearly inconsistent today. Deleting Stipulation 19 is negligence in enforcement. The Planning Commission and City Council can and should immediately correct the violation and codify the zoning reversion to S-1 and align the General Plan with S-1 prior to hearing and requested action on this case. The applicant states they will sue the City if they do not set what they want regarding deleting Stipulation 19. No one is above the law.</p>			
<b>Taken By:</b>	Radesha Williams		

c: Ben Ernyei – Posting  
Benjamin Kim, IS  
PDD All

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CITY OF PHOENIX

FEB 14 2020

Planning & Development  
DepartmentCity of Phoenix  
PLANNING & DEVELOPMENT DEPARTMENT1/15/20 - Z-165-06-7(8)  
Taken out from underThe PLANNING HEARING OFFICER agenda for advisement on 2/13/20 is attached.The City Council May Ratify the Recommendation of the Planning Hearing Officer on  
March 18, 2020 Without Further Hearing Unless:

- A REQUEST FOR A HEARING BY THE PLANNING COMMISSION is filed by 5:00 p.m. on Thursday, February 20, 2020. (There is a \$630.00 fee for hearings requested by the applicant.)

Any member of the public may, within seven (7) days after the Planning Hearing Officer's action, request a hearing by the Planning Commission on any application. If you wish to request a hearing, fill out and sign the form below and return it to the Planning and Development Department by 5:00 p.m. on Thursday, February 20, 2020.

APPEAL FORM

I HEREBY REQUEST THAT THE PLANNING COMMISSION HOLD A PUBLIC HEARING ON:

Z-165-06-7(8) (PHO-1-19)

Northwest corner of 35th Avenue and Carver Road

APPLICATION NO.

LOCATION OF APPLICATION PROPERTY

LISA VIALIZ



OPPOSITION



APPLICANT

NAME (PLEASE PRINT)

8921 S. 53RD DR.

STREET ADDRESS

LAVEN, AZ 85339

CITY, STATE AND ZIP CODE

602-741-5722

TELEPHONE NO

BY MY SIGNATURE BELOW, I ACKNOWLEDGE THE SCHEDULED HEARING DATE AS FOLLOWS:

1/15/20 - Z-165-06-7(8)

Taken out from under

APPEALED FROM

advisement on 2/13/20

DATE

PHO HEARING TO

4/2/2020

DATE

PC HEARING

SIGNATURE:

DATE:

*Lisa Vializ* 2/14/20

THE CITY OF PHX IS IN VIOLATION OF ITS OWN ZONING ORD. AND IS BOUND TO ENFORCE ORD. GS0202-165-06-7.

REASON FOR APPEAL: THE ZONING ON THIS PROPERTY EXPIRED OCTOBER 2011 AND IS THEREFORE S-1. STIPULATION 19 WAS APPROVED AS PART OF THE ORIGINAL ZONING CASE TO PROTECT THE COMMUNITY FROM R-8 SPOT ZONING THAT WAS CLEARLY INCONSISTENT WITH THE AREA IN 2007 AND IS CLEARLY INCONSISTENT TODAY. DELETING STIPULATION 19 IS NEGLIGENCE IN ENFORCEMENT. THE PLANNING COMMISSION AND CITY COUNCIL CAN AND SHOULD IMMEDIATELY CORRECT THE VIOLATION AND CODIFY THE ZONING REVERSION TO S-1 AND ALIGN THE GENERAL PLAN W/ S-1 PRIOR TO HEARING ANY REQUESTED ACTION ON THIS CASE. THE APPLICANT STATES THEY WILL SUE THE CITY IF THEY DON'T GET WHAT THEY WANT REGARDING DELETING STIPULATION 19.

APPEALS MUST BE FILED IN PERSON AT THE 2ND FLOOR ZONING COUNTER, 200 W. WASHINGTON STREET, 602-262-7131, Option 6

PLANNER TAKING APPEAL: *Karleda Walker*

Copies to:

Case File

PHO Planner - Julianna Pierre

PHO Secretary - Stephanie Vasquez

NO ONE IS ABOVE THE LAW.

# **ATTACHMENT B**

December 9, 2019

Planning Hearing Officer  
City of Phoenix  
Planning & Development Department  
200 West Washington Street, 2<sup>nd</sup> Floor  
Phoenix, Arizona 85003

**RE: Request to modify stipulations for Rezoning Case Z-165-06**

Dear Planning Hearing Officer:

Rose Law Group pc on behalf of Virtua 35<sup>th</sup> LLC (the "Owner") is pleased to request a Stipulation Modification to Ordinance G-5020 (Case Z-165-06-7) for 58.998 acres of real property located on the northwest corner of Carver Rd. and 35<sup>th</sup> Ave. (the "Property"), APN# 300-11-008V. This request is being made in order to facilitate and rationalize development on a property that has served as a blighted site for decades.

Although the site has been vacant for over a decade, previous land uses included mining activity. Unnatural topography and significant disturbance are testament to the site's history and can still be seen today. Redevelopment of the Property proposes to revitalize the scarred areas while protecting those environmental features that still exist.

The Property is located within Council District 7 and the Village of Laveen. Existing and developing residential communities are located in the surrounding area, including the property adjacent to the site's southern boundary, an approximately 96 acre future residential community. Ancillary roadway and offsite improvements are also anticipated with the development of this site.

The subject zoning case (Z-165-06) was heard and approved by City of Phoenix Council on October 10, 2007 after appearing before Planning Commission and the Laveen Village Planning Committee. The zoning case was approved to rezone approximately sixty acres of S-1 (Ranch or Farm Residence) to forty acres R1-18 (Single-Family Residence) and twenty acres R1-8 (Single-Family Residences). In the original stipulations density per zoning district is stipulated at a maximum of twenty two lots on the R1-18, 40 acre area, and a maximum of 99 lots on the R1-8, 20 acre portion, for a total of 121 lots on approximately 60 acres.

The Owner proposes to maintain the intent of the original zoning case by not modifying those stipulations related to the R1-18 portion, and proposing a similar site plan and density that was approved, with a more practical, sensitive, and luxury approach on the R1-8 portion. Connections to the future community to the south, less units overall, sensitivity and specification on the site's hillside topography, and trail opportunities are



some of the ways the Property owner has holistically designed the site to respond to the community and the environment. The proposed lot dimensions have been updated since the original site plan, but maintains consistency with the conceptual elevations. This responds to market demand while implementing the luxuries of fee simple lots and private amenities.

Many years have passed since the rezoning and most of the surrounding area has changed hands and been partially developed. Subsequently some of the stipulations imposed as conditions of the zone change are no longer relevant or practical. Accordingly, the applicant believes that is appropriate to modify Z-165-06 stipulations and request modifications and deletions as shown below in legislative form. Please note this request only impacts the R1-8 (eastern +/-20 acres) portion and no stipulation or site plan modifications are requested to the western +/-40 acres of R1-18.

Proposed Modifications to Ordinance G-5020 (Case Z-165-06-7) Stipulations

1. That **R1-8** development shall be in general conformance with the site plan date stamped ~~October 8, 2007~~ **August 29, 2018**, and elevations date stamped ~~February 20, 2007~~, as modified by the following stipulations, and as approved by the Development Services Department.

*Modification Rationale: A new site plan is proposed with this application to facilitate an alternative residential development on the eastern 20 acres. The proposed development will alter lot design and location but will not amend the approved density. The site plan considers the future development to the south and offers connectivity through a shared emergency exit road, as well as pedestrian linkage. Product elevations are still conceptual and will be finalized upon engagement from a builder. Until this time, the property owner would like to maintain elevation flexibility, but is willing to stipulate to lot design.*

2. That **R1-18** development shall be in general conformance with the site plan date stamped **October 8, 2007**, as modified by the following stipulations, and as approved by the Development Services Department.

*Addition Rationale: No change to the R1-18 portion of the site (western 40 acres) is proposed with this application. Therefore, the applicant is willing to maintain general conformance to the site plan provided in the original zoning case.*

7. That a ~~235-foot (average), 200-foot (minimum)~~ **MINIMUM ONE HUNDRED (100) FOOT** landscaped setback adjacent to 35th Avenue shall be provided, as approved by the Development Services Department.

*Modification Rationale: Several reasons play into the justification of a decrease in landscape setbacks along 35<sup>th</sup> Ave. First, the site plan setting this requirement in the zoning case was purely conceptual and did not elevate the site plan design to a technical level, including but not limited to parking*

*requirements, retention requirements, grading, street standards, etc. The proposed site plan conforms to the technical standards of the City, and subsequently requires additional space. The site plan has also slightly shifted east decreasing the landscape setback along 35<sup>th</sup> Ave. in order to mitigate disturbance to the environmentally sensitive areas located in the northwest corner. Other upgrades to the community have been made that have detracted from the setback along 35<sup>th</sup> Ave. including garage parking and additional common amenity spaces. It is worth noting that the stipulated landscape setback along Carver Road is maintained with this request.*

19. ~~That approval shall be conditional upon development commencing within 48 months of the City Council approval of this change of zoning in accordance with Section 506.B.1 of the Zoning Ordinance. For purposes of this stipulation, development shall commence with the issuance of building permits and erection of building walls on site.~~

*Deletion Rationale: As mentioned before the property owner is not a homebuilder and therefore does not have control of when building permits will be pulled. It is also likely that the developer of the R1-8 portion will be different than the builder of the R1-18 area, which is unreasonable to tie both areas to the same timeline. Additionally, the R1-18 lots lend to custom homesite, where an individual person could design and build independently. Removing this stipulation does not change the integrity of the project but allows for flexibility of timing so a quality developer/person can thoughtfully execute every aspect of the proposed site plan.*

27. That a minimum of three terraced berms with 2:1 fill slopes shall be installed along the full length of the quarry cut slope base. The terraces shall be 8 feet tall, ~~minimum~~ **MAXIMUM**, and shall be plated with a staggered combination of 2-inch and 4-inch caliper, drought-resistant, deciduous trees at 25 feet center to center, as approved by the Development Services Department.

*Modification Rationale: It is likely that the intent of this stipulation was to limit the disturbance to the area and treat in a way that would blend with the natural environment. Therefore, limiting the terrace height accomplishes this goal further.*

31. That private roadways within the R1-8 portion of the site shall be provided with a ~~raised, vertical curb~~ **ROLL CURB**, as approved by the Development Services Department.

*Modification Rational: The proposed community will likely be private, and therefore implement the City of Phoenix standard of "Private Accessway." This detail depicts a roll curb.*

37. That all sidewalks, within the R1-8 portion of the site, shall be **A MINIMUM WIDTH OF FIVE (5) FEET.** ~~detached with a minimum five-foot-wide~~

~~landscaped strip located between the sidewalk and back of curb and shall include minimum two-inch caliper shade trees planted at a minimum rate of 20 feet on center or equivalent groupings along both sides of the sidewalk, as approved by the Development Services Department. The landscape strip shall be installed by the developer and maintained by the homeowners association.~~

*Modification Rationale: As previously mentioned the site plan approved with the current zoning case was conceptual and did not take into detail the technical aspect of implementing detached sidewalks of this magnitude. The proposed site plan has better utilized the site's space and has offered attached five foot wide sidewalks on all major circulation routes, in addition to multi-use trails. Landscaping has been appropriately planned to maximize areas of shade, while recognizing the importance of drought tolerant plant species. It should also be noted that mature trees often thrive in a more natural environment versus a constrained five foot landscape strip.*

~~39. That only one-story homes shall be located along 35th Avenue.~~

*Deletion Rationale: This stipulation, as written, is unclear and fails to define homes "along" 35<sup>th</sup> Ave. and specification of a building height associated with the stated stories. Additionally, given the proposed lot size and garage option, any single-story home would have severe square footage constraints. Deletion of this stipulation will eliminate various interpretations and mandate that all building heights conform to the zoning requirement (two stories and thirty feet).*

The stipulations imposed in 2007 under zoning case Z-165-06 were based on a conceptual site plan that didn't consider the environmental and technical constraints of this unique site. This coupled with the change in market demand, evolving community, and adjacent residential development, justifies the needs to update and simplify the subject stipulations. This will result in a thriving and unique community on a vacant and otherwise blighted site. The proposed modifications reflect an effort to produce an appealing and sensitive development that aligns with the desires of the City and the community.

# **ATTACHMENT C**



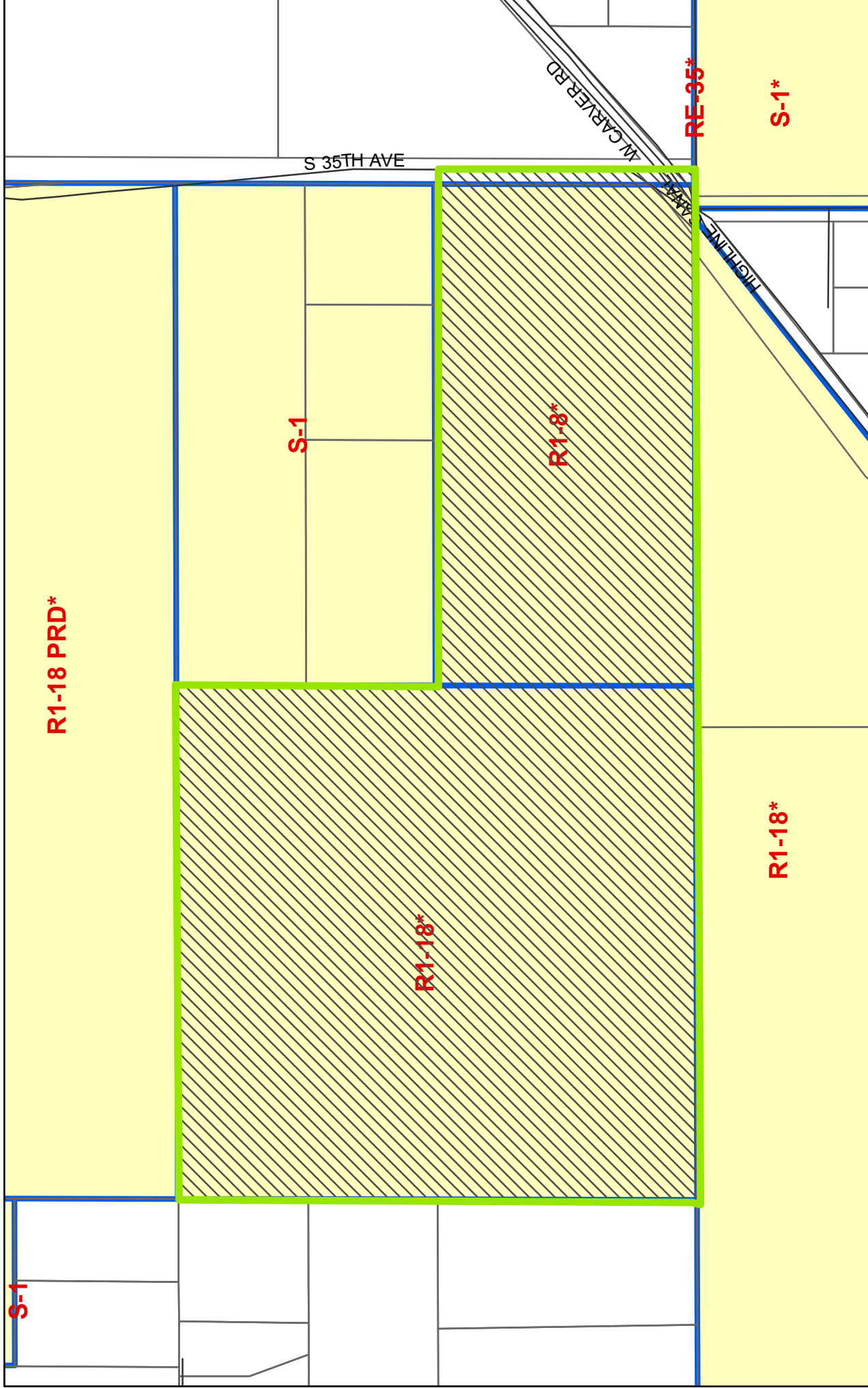


PHO-1-19-Z-33-165-06-7

**Property Location: Northwest corner of 35th Avenue and Carver Road**



# **ATTACHMENT D**



PHO-1-19-Z-33-165-06-7

Property Location: Northwest corner of 35th Avenue and Carver Road

# **ATTACHMENT E**



ORDINANCE G-5020

AN ORDINANCE AMENDING THE CODE OF THE CITY OF PHOENIX, ARIZONA, PART II, CHAPTER 41, THE ZONING ORDINANCE OF THE CITY OF PHOENIX, BY AMENDING SECTION 601, THE ZONING MAP OF THE CITY OF PHOENIX, CHANGING THE ZONING DISTRICT CLASSIFICATION FOR THE PARCEL DESCRIBED HEREIN (CASE Z-165-06-7) FROM S-1 (RANCH OR FARM RESIDENCE) TO R1-18 (SINGLE FAMILY RESIDENCE) AND R1-8 (SINGLE FAMILY RESIDENCE)

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WHEREAS, on December 15, 2006, the City of Phoenix Planning Department received, in compliance with the requirements of the City of Phoenix Zoning Ordinance, Section 506, a written request for rezoning from LVA Urban Design Studio, having authorization to represent the owner, Steven Follmer of an approximately 59 acre property located at the northwest corner of 35th Avenue and Carver Road in a portion of Section 10, Township 1 South, Range 2 East, as described more specifically in Attachment "A", attached hereto and incorporated herein by this reference; and,

WHEREAS, pursuant to A.R.S. § 9-462.04, the Planning Commission, held a public hearing on June 13, 2007, and at this hearing recommended that the City Council approve this rezoning request with the recommended staff conditions, as modified; and

WHEREAS, the City Council, at their regularly scheduled meeting held on October 10, 2007, has determined that, in accordance with A.R.S. § 9-462.01.F, this rezoning request, with the appropriate site specific requirements provided in Section 2, is consistent with and conforms to the General Plan, will conserve and promote the public health, safety and general welfare, and should be approved, subject to the conditions herein.

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

SECTION 1: The zoning of an approximately 59 acre property located at the northwest corner of 35th Avenue and Carver Road in a portion of Section 10, Township 1 South, Range 2 East, as described more specifically in Attachment "A", is hereby changed from "S-1" (Ranch or Farm Residence) to "R1-18" (Single Family Residence) and "R1-8" (Single Family Residence) and that the Planning Director is instructed to modify The Zoning Map of the City of Phoenix to reflect this use district classification change as shown in Attachment "B".

SECTION 2: The specific nature of the subject property and of the rezoning request is more particularly described in case file Z-165-06-7, on file with the Planning Department. 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:

#### General

1. That development shall be in general conformance with the site plan date stamped October 8, 2007, and elevations date stamped February 20, 2007, as modified by the following stipulations, and as approved by the Development Services Department.
2. That development of the R1-18 portion of the site shall not exceed 22 lots.
3. That development of the R1-8 portion of the site shall not exceed a density of 99 lots.

#### Site Design

4. That unobstructed pedestrian access (for the purpose of private pedestrian connectivity internal to the site) between the R1-18 and R1-8 portions of the site shall be provided, as approved by the Development Services Department.
5. That no solid wall in excess of three feet in height, as measured from the finished grade, shall be located on the site (either in private lots or common tracts) except that solid walls greater than three feet in height shall be allowed for the following purposes, as approved by the Development Services Department:
  - a. Walls utilized to screen utilities, trash enclosures, or other facilities generally considered to be visually obtrusive.
  - b. Retaining wall.
6. That no more than 60,000 square feet of natural turf area shall be located within the common areas of the R1-8 portion of the site (this requirement does not apply to synthetic turf); if provided, common area natural turf should be centrally located and grouped so as to create one contiguous natural turf recreation area, as approved by the Development Services Department.
7. That a 235-foot (average), 200-foot (minimum) landscaped setback adjacent to 35th Avenue shall be provided, as approved by the Development Services Department.
8. That a 50-foot (minimum) landscaped setback adjacent to Carver Road (final alignment) shall be provided, as approved by the Development Services Department.

9. That those portions of spider and jeep trails which are not part of the approved grading envelopes, access drives, or other necessary site disturbance related to the proposed development of the R1-8 portion of the site shall be re-vegetated in a manner consistent with adjacent undisturbed vegetation, as approved by the Development Services Department.

#### Disclosures

10. That prior to final site plan approval, the property owner shall record documents that disclose to tenants of the site or purchasers of property within the site, the existence, proximity, and operational characteristics of active agricultural uses and non-domesticated animal keeping. 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.

#### Parks and Recreation

11. That the developer shall dedicate a multi-use trail easement and construct a multi-use trail, per adopted standards, along the north side of Carver Road, as approved by the Parks and Recreation Department.

#### Archaeology

12. That the applicant shall complete an archaeological survey report of the development area for review and approval by the City Archaeologist prior to clearing and grubbing, landscape salvage, or grading.

#### Street Transportation

13. That right-of-way totaling 55 feet shall be dedicated for the west half of 35th Avenue, as approved by the Street Transportation Department. 35th Avenue shall be constructed using rural streets standards similar to Dobbins Road, as approved by the Street Transportation Department.
14. That right-of-way totaling 55 feet shall be dedicated for the west half of Carver Road, as approved by the Street Transportation Department. Carver Road shall be constructed using rural streets standards similar to Dobbins Road, as approved by the Street Transportation Department.

15. That a traffic impact study shall be submitted to, and approved by, the Street Transportation Department prior to Development Services Department preliminary site plan approval. That all right-of-way dedications and associated infrastructure improvements as recommended by the traffic impact study shall be installed by the developer, as approved by the Development Services Department.
16. That 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 modified by these stipulations, and as approved by the Street Transportation Department. All improvements shall comply with all Americans with Disabilities Act accessibility standards.
17. That the applicant shall complete and submit the Developer Project Information Form for the Maricopa Association of Governments Transportation Improvement Program. This form is a requirement of the Environmental Protection Agency to meet clean air quality requirements.
18. That prior to preliminary site plan approval, the landowner shall execute a Proposition 207 waiver of claims utilizing the provided template. The waiver shall be recorded with the Maricopa County Recorder's Office and a copy shall be provided to the Development Services Department and Planning Department for the case files.
19. That approval shall be conditional upon development commencing within 48 months of the City Council approval of this change of zoning in accordance with Section 506.B.1 of the Zoning Ordinance. For purposes of this stipulation, development shall commence with the issuance of building permits and erection of building walls on site.

#### Neighborhood

20. That building pad cuts shall be terraced if more than 6 feet in height and treated with a stain, gunnite, or equivalent finish, as approved by the Development Services Department.
21. That all two story homes, within the R1-18 portion of the site, shall be designed in a manner such that the square footage of the second story floor area does not exceed 66 percent of the first story floor area, as approved by the Development Services Department.

22. That concrete channels shall be designed to look natural in the desert setting through color, texture, landscaping, or other means, as approved by the Development Services Department.
23. That the use of riprap and engineered culverts shall be minimized and, where utilized, shall be integrated with the desert setting through color, texture, soil plating, landscaping, or other means, as approved by the Development Services Department. To the extent possible, culverts shall be undersized to allow minor flows (10 cfs or smaller) to cross roadways in their natural condition.
24. That washes with a one hundred year peak flow of 200 cfs or greater shall be preserved and enhanced with native vegetation as described in Appendix A, Approved Plant Species List for Sonoran Preserve Edge Treatment Guidelines, as approved by the Development Services Department.
25. That lots with 2 or more sides abutting undisturbed open space shall be designed with obtuse angles, rather than right angles or acute angles, as approved by the Development Services Department.
26. That on non-hillside lots within the R1-18 portion of the development, all improvements, including driveways, landscaping, and underground utilities shall be located within a building envelope occupying no more than 50 percent of the lot up to a maximum of 20,000 square feet, whichever is less, as approved by the Development Services Department.
27. That a minimum of three terraced berms with 2:1 fill slopes shall be installed along the full length of the quarry cut slope base. The terraces shall be 8 feet tall, minimum, and shall be planted with a staggered combination of 2-inch and 4-inch caliper, drought-resistant, deciduous trees at 25 feet center to center, as approved by the Development Services Department.
28. That solid block walls, except for retaining walls or privacy fencing on individual lots, shall not be constructed outside of the building envelopes for the R1-18 portion of the site, as approved by the Development Services Department. Fencing constructed outside of the building envelope shall be combination solid/view fencing. In addition, all fencing above the 15 percent slope line shall be 100 percent view fencing.
29. That the entire 60 acre site shall have no perimeter fencing, as approved by the Development Services Department.

30. That private roadways within the R1-18 portion of the site shall be provided with ribbon curbs and colored asphalt, as approved by the Development Services Department.
31. That private roadways within the R1-8 portion of the site shall be provided with a raised, vertical curb, as approved by the Development Services Department.
32. That all HVAC units shall be ground mounted.
33. That all street lighting and wall mounted security fixtures shall be full cut off lighting. Fixture height shall be a maximum of 12 feet. Street lighting fixtures shall be decorative and have a consistent architectural theme, as approved by the Development Services Department.
34. That bollards shall be used for accent lighting at the primary access, entry monument, driveways, and trail crossings, as approved by the Development Services Department. Photovoltaic energy sources for bollard lighting shall be provided.
35. That any request to delete or modify these stipulations be preceded by presentation to the Laveen Village Planning Committee (VPC) for review and recommendation, and notification to the following persons two weeks prior to presentation at the VPC:
  - a. Jon Kimoto, 3216 West Ansell Road, Laveen, 85339
  - b. Cyd Manning, P.O. Box 41234, Mesa, 85274
  - c. Judy Brown, P.O. Box 41234, Mesa, 85274
  - d. Christine Dicken, 10827 South 30th Avenue, Laveen, 85339
  - e. Richard Birnbaum, 11014 South 35th Avenue, Laveen, 85339
  - f. Phil Hertel, 2300 West Broadway Road, Phoenix, 85041
  - g. Steven Klein, 6820 South 66th Avenue, Laveen, 85339
36. That the following individuals shall be notified of any and all Development Services Department (DSD) meetings which are open to the public. The applicant shall be responsible for notification to

the following via a first class letter to be mailed at least two weeks prior to the DSD meeting(s):

- a. Jon Kimoto, 3216 West Ansell Road, Laveen, 85339
  - b. Cyd Manning, P.O. Box 41234, Mesa, 85274
  - c. Judy Brown, P.O. Box 41234, Mesa, 85274
  - d. Christine Dicken, 10827 South 30th Avenue, Laveen, 85339
  - e. Richard Birnbaum, 11014 South 35th Avenue, Laveen, 85339
  - f. Phil Hertel, 2300 West Broadway Road, Phoenix, 85041
  - g. Steven Klein, 6820 South 66th Avenue, Laveen, 85339
37. That all sidewalks, within the R1-8 portion of the site, shall be detached with a minimum five-foot-wide landscaped strip located between the sidewalk and back of curb and shall include minimum two-inch caliper shade trees planted a minimum rate of 20 feet on center or equivalent groupings along both sides of the sidewalk, as approved by the Development Services Department. The landscape strip shall be installed by the developer and maintained by the homeowners association.
38. That a mix of two- and three-inch caliper trees shall be provided within all required common open space tracts. With the exception of the open space area adjacent to 35th Avenue, the species of trees provided shall shade 50 percent of the area of the open space at tree maturity, as approved by the Development Services Department.
39. That only one-story homes shall be located along 35th Avenue.
40. That a detailed site plan, landscaping plan, elevations, perimeter fence or wall plan, lighting plan, and entry monument signage shall be reviewed by the Laveen Village Planning Committee prior to preliminary site plan approval by the Development Services Department.

SECTION 3: 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 31st day of October, 2007.



MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

Acting City Attorney

REVIEWED BY:

City Manager

MLW:cz:714477v1  
10/31/07:CM#59

CITY CLERK DEPT. 8  
2007 OCT 29 AM 10:27

Attachments:

- A - Legal Description (1 Page)
- B - Sketch Map (1 Page)

ATTACHMENT A  
LEGAL DESCRIPTION FOR Z-165-06-7

A.1

300-11-008R

THE SOUTH HALF OF THE SOUTHEAST QUARTER SECTION OF SECTION 10

OR

LOT 1, OF SECTION 10, TOWNSHIP 1 SOUTH, RANGE 2 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA

EXCEPT THAT PART THEREOF, IF ANY, LYING WITHIN THE WEST 40 ACRES OF LOTS 1 AND 2;

EXCEPT THE NORTH HALF OF SAID LOT 1

A.2

300-11-008E

THE SOUTHWEST QUARTER SECTION OF SECTION 10

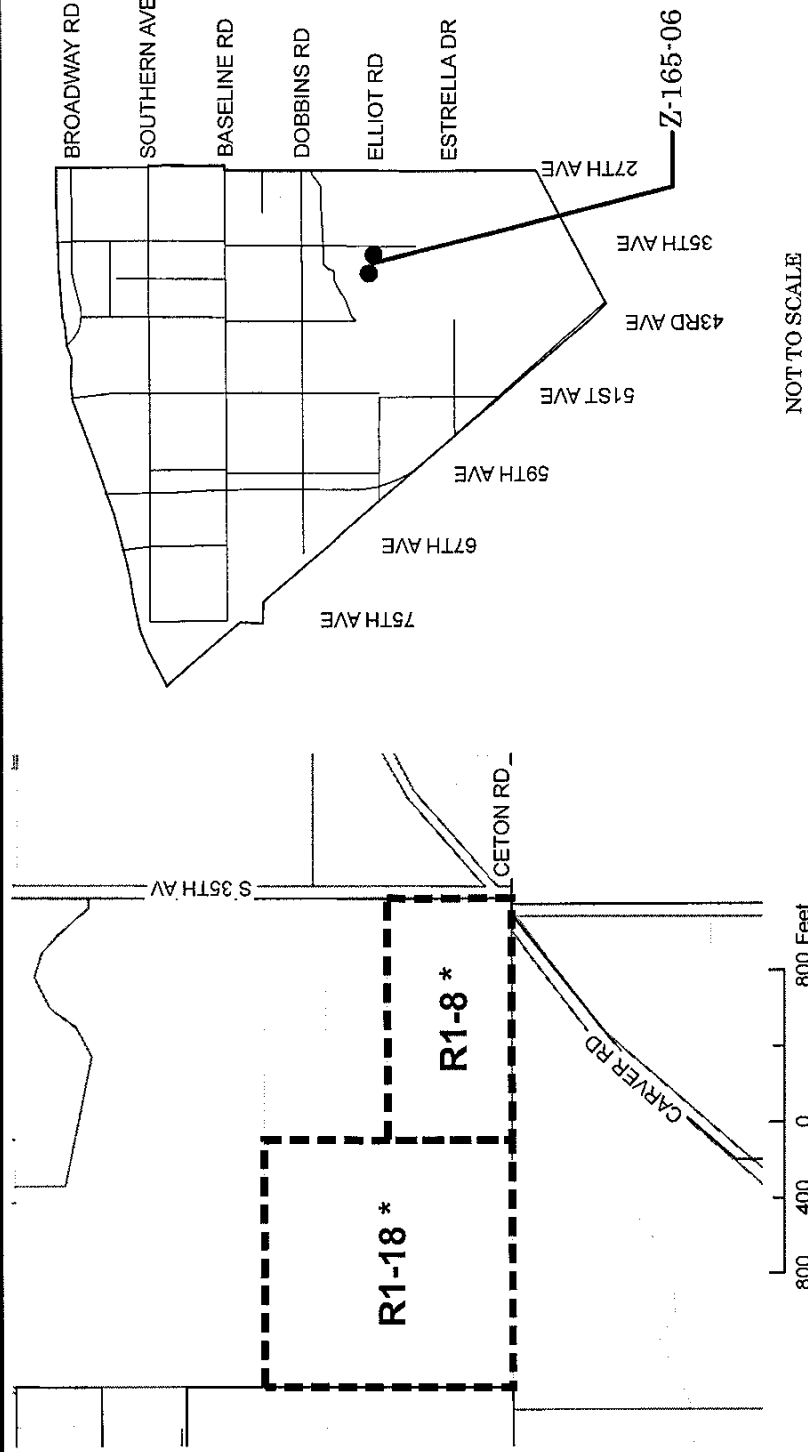
OR

THE WEST 40 ACRES OF GOVERNMENT LOTS 1 AND 2, (SOMETIMES KNOWN AS THE SOUTH HALF OF THE SOUTHEAST QUARTER) OF SECTION 10, TOWNSHIP 1 SOUTH, RANGE 2 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN

# ORDINANCE LOCATION MAP

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

Zoning Case Number: Z-165-06  
Planning Village: Laveen

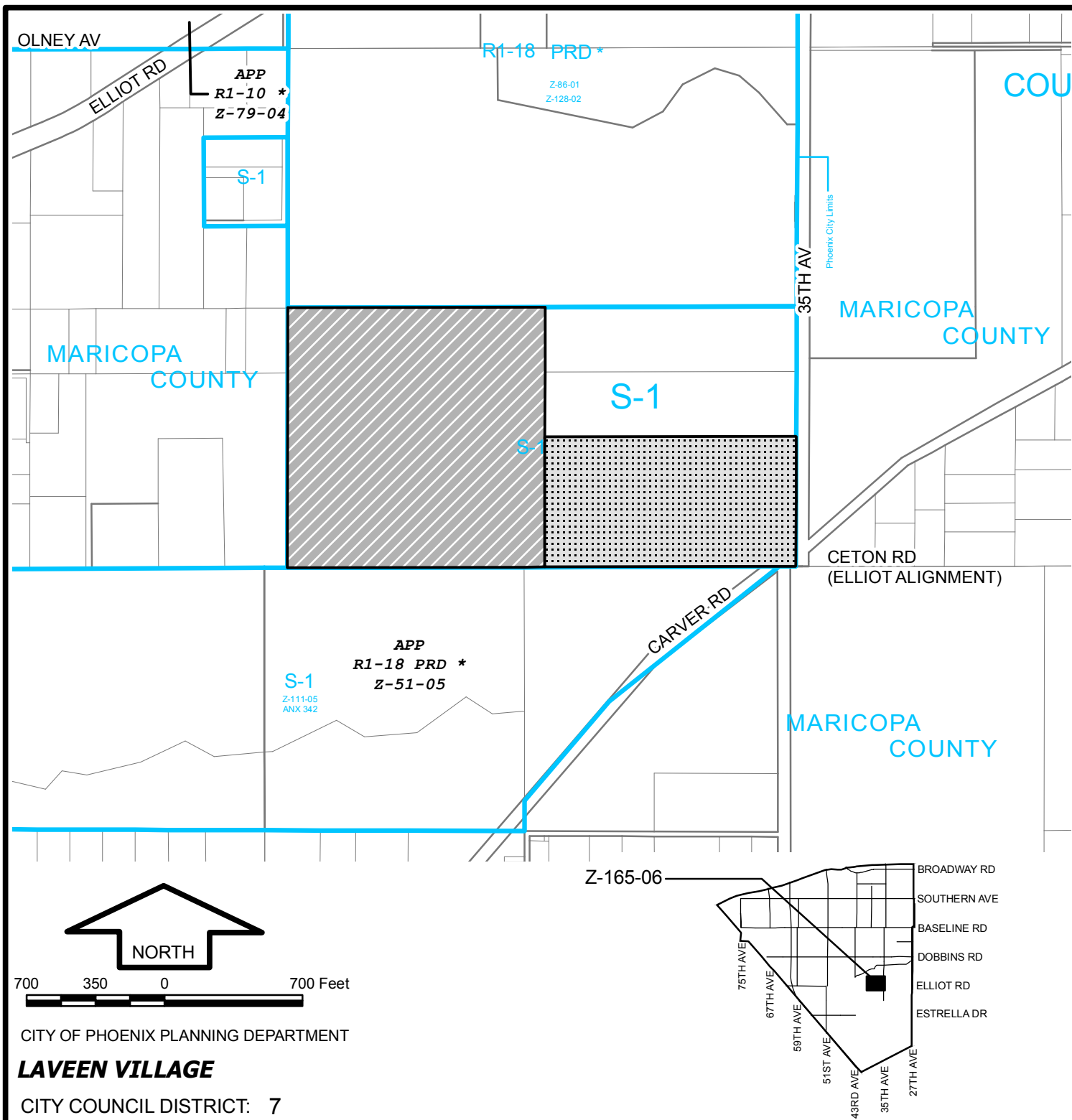


**City of Phoenix**  
PLANNING DEPARTMENT

Drawn Date: 10-19-2007

(N:\IS\_Team\Core\_Functions\Zoning\SuppMaps\October\Z16506.mxd) 10/22/2007

# **ATTACHMENT F**



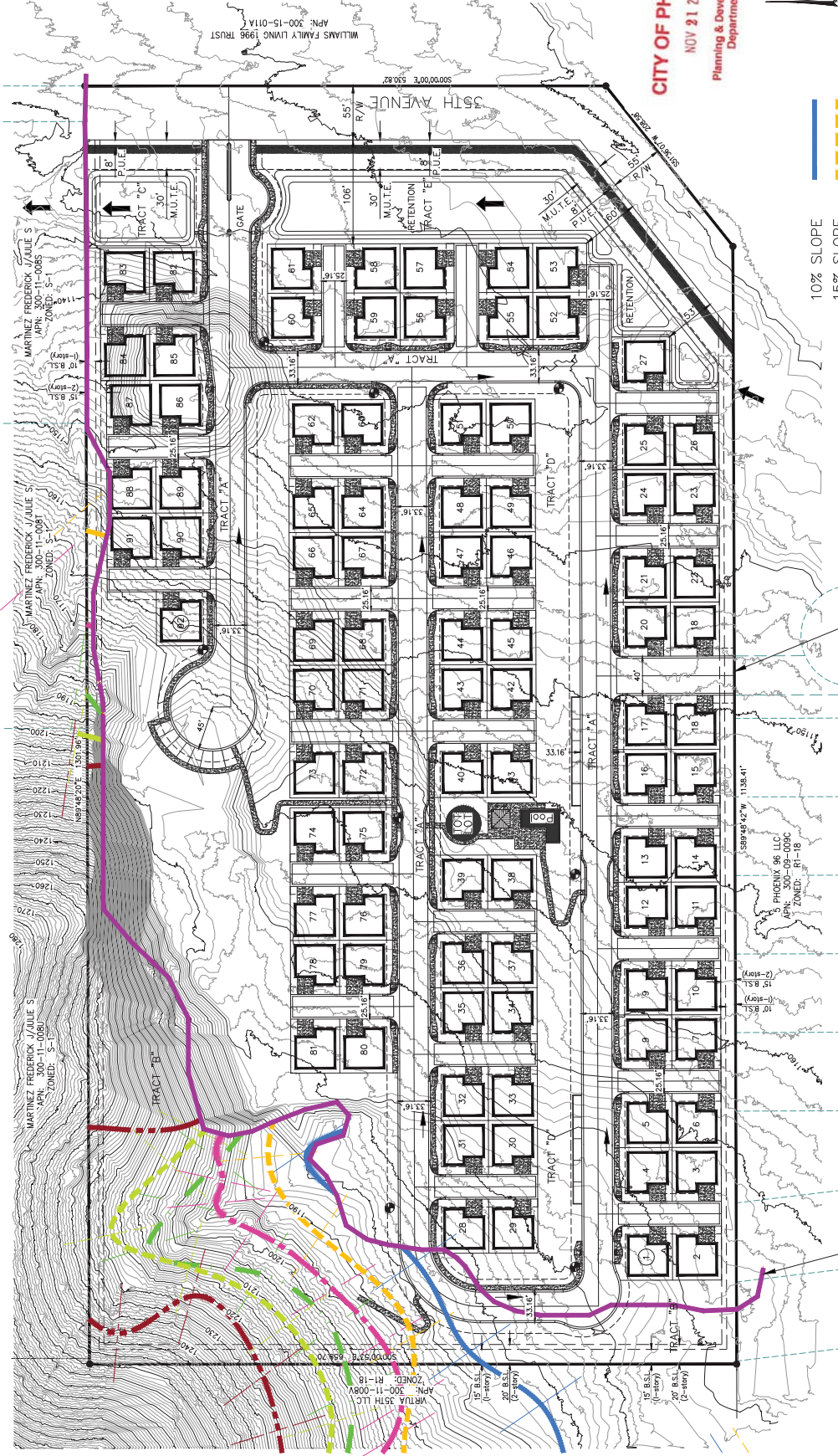
<b>APPLICANT'S NAME:</b> LVA URBAN DESIGN STUDIO - ALAN BEAUDOIN		<b>REQUESTED CHANGE:</b>	
<b>APPLICATION NO.</b> Z-165-06		FROM: S-1 (59.0 ac)	
DATE: 04-10-2007 REVISION DATES: 12-21-2006 10-09-2007		TO: R1-8 (19.4 ac) R1-18 (39.6 ac)	
GROSS AREA INCLUDING 1/2 STREET AND ALLEY DEDICATION IS APPROX. <b>59 Acres</b>		AERIAL PHOTO & QUARTER SEC. NO. Q04-20	
		ZONING MAP C6	
<b>MULTIPLES PERMITTED</b>		<b>CONVENTIONAL OPTION</b>	
S-1		59	
R1-8 / R1-18		77 / 77	
		<b>* UNITS P.R.D. OPTION</b>	
		N/A	
		100 / 92	

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

# **ATTACHMENT G**



# PRELIMINARY SITE PLAN CARVER MOUNTAIN NORTH



- 10% SLOPE
- 15% SLOPE
- 20% SLOPE
- 25% SLOPE
- 30% SLOPE
- 35% SLOPE



SCALE 1" = 50'

EMERGENCY ACCESS DRIVE

LIMIT OF LEGAL,  
NON-CONFORMING DISTURBANCE

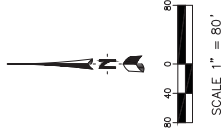
**CITY OF PHOENIX**  
NOV 21 2019  
Planning & Development  
Department

Revised:  
01-11-19  
01-29-19  
01-29-19  
09-04-19

Date:  
08-29-18  
As-Built  
180706



# PRELIMINARY SITE PLAN CARVER MOUNTAIN NORTH



**CITY OF PHOENIX**  
NOV 21 2019  
Planning & Development  
Department



## PRELIMINARY SITE PLAN CARVER MOUNTAIN NORTH

**Clouds Engineering, Inc.**  
**ENGINEERS & SURVEYORS**  
5010 E. Shea Blvd Suite 110 Scottsdale, AZ 85254  
Tel: 602-355-9300 Fax: 602-355-9310

PHOENIX

03-PRELIM-SITE-ENG

Date

08-29-18

Revised

As-Built

Job No.

180708

11-12-19

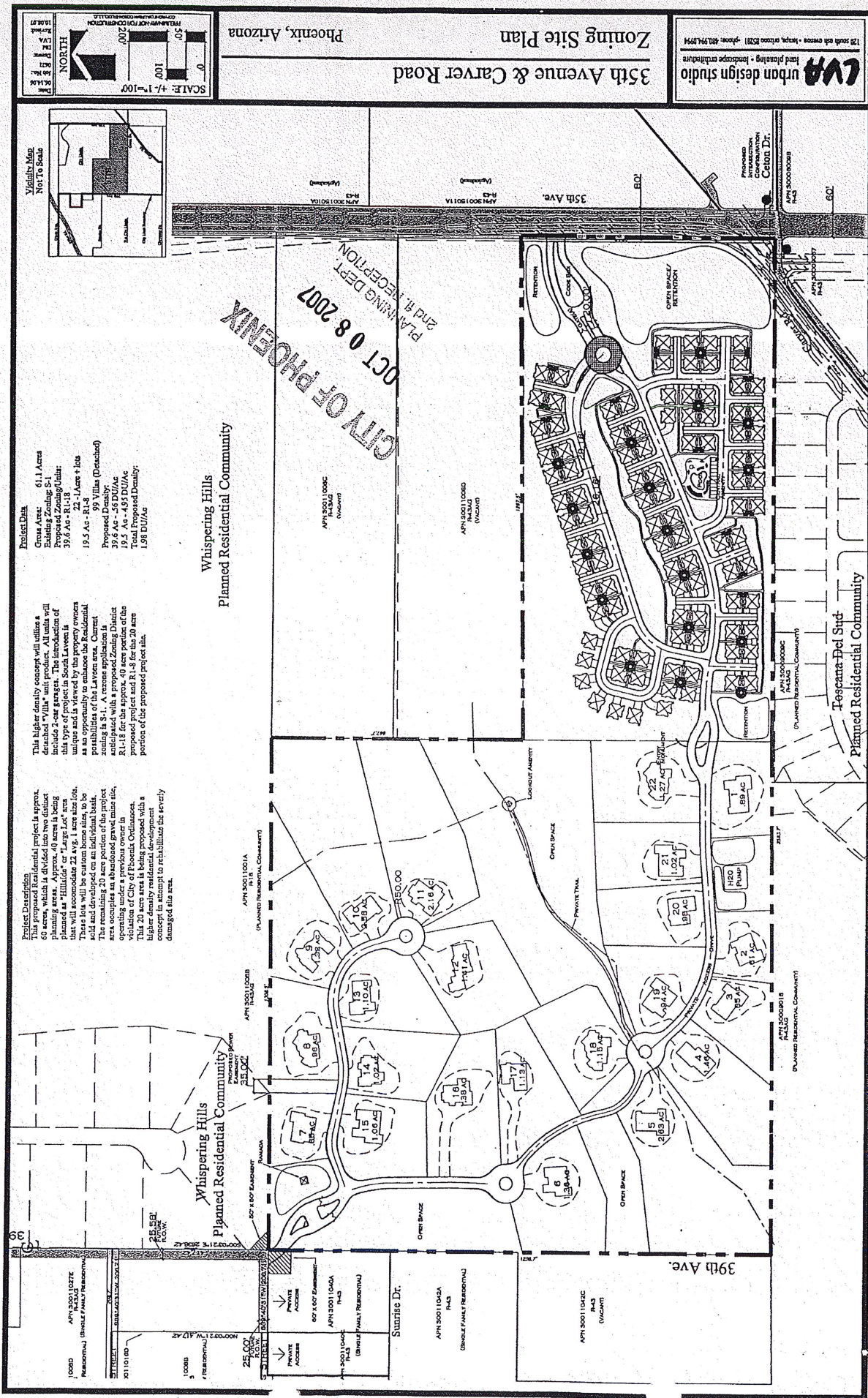
3 OF 3

ARIZONA

# **ATTACHMENT H**



# STIPULATED SITE PLAN



# **ATTACHMENT I**



# 35th Avenue & Elliot Road

## Conceptual 3-Unit Condominium Building Elevations

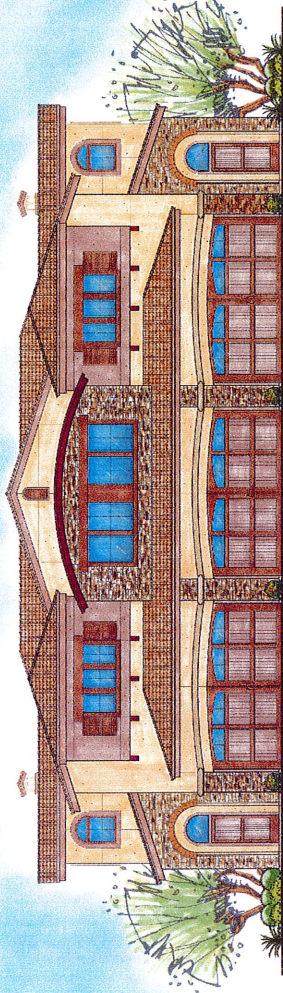
CITY OF PHOENIX

FEB 20 2007

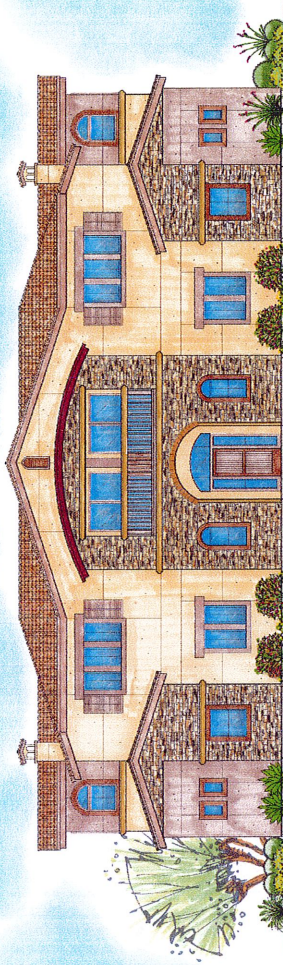
PLANNING DEPT.  
2nd fl. RECEPTION



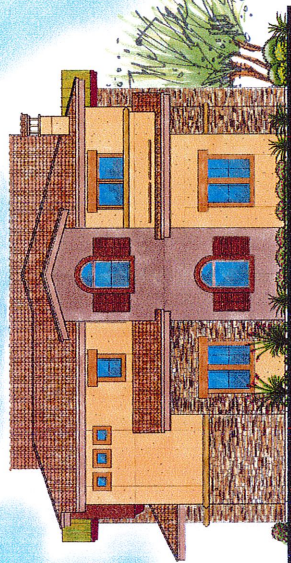
SCALE: Not to Scale



**3-Unit Condo - Front Elevation**



**3-Unit Condo - Rear Elevation**



**3-Unit Condo - Side Elevation**



# 35th Avenue & Elliot Road

Conceptual  
Detached Villa  
Building Elevations

CITY OF PHOENIX

FEB 20 2007

PLANNING DEPT.  
2nd fl. RECEPTION



SCALE: Not to Scale



**Detached Villa - Side Elevation**



**Detached Villa - Garage Side Elevation**

# **ATTACHMENT J**

## **LAVEEN VILLAGE PLANNING COMMITTEE**

### **Meeting Minutes**

**Monday, January 13, 2020**

Laveen Elementary School District Office #59  
Laveen Education Center, Building B, Room #101  
5001 West Dobbins Road, Laveen, Arizona.

#### **Members Present**

Robert Branscomb, Chair  
Tonya Glass, Vice Chair  
Linda Abegg  
Wendy Ensminger  
Cinthia Estela  
Gary Flunoy  
Rochelle Harlin  
Stephanie Hurd  
John Mockus  
Carlos Ortega  
Jennifer Rouse

#### **Members Excused**

#### **Staff Present**

Samantha Keating  
Sarah Stockham  
Christine Mackay

#### **1. Call to order, introductions and announcements by Chair.**

**Chairman Robert Branscomb** called the meeting to order at 6:35 p.m. There was a quorum with 11 members present.

#### **2. Review and approval of the December 9, 2019, meeting minutes.**

##### **MOTION**

**Ms. Stephanie Hurd** moved to approve the minutes as presented. **Mr. John Mockus** seconded the motion.

##### **Vote**

**11-0**, Motion to approve, with Committee Members Abegg, Branscomb, Ensminger, Estela, Flunoy, Glass, Harlin, Hurd, Mockus, Ortega and Rouse in favor.

#### **3. Public comment concerning items not on the agenda.**

**Mr. Jon Kimoto** commented that the Pledge of Allegiance was dropped from the agenda. He stated that the Pledge represents three basic American values: in God we trust, liberty, and "E Pluribus Unum" (out of many, one). He requested that the committee reaffirm our tradition and implement the recital of the Pledge of Allegiance.

**Mr. Phil Hertel** led the committee and audience in reciting the Pledge of Allegiance.

#### **4. INFORMATION ONLY:** Presentation and discussion regarding economic development opportunities for the Loop 202 corridor.



**Ms. Christine Mackay**, Community and Economic Development Director, presented on economic development along the Loop 202 Corridor. She expects high-tech and advanced services jobs along the Corridor. She explained that the marketing name is the “South Mountain Technology Corridor” which intends to bring high-wage jobs to the area. She explained that her office is doing marketing and outreach to get the right companies and jobs in Laveen.

**Ms. Hurd** expressed concern that a large technology company had lost interest in relocating to the area.

**Ms. Mackay** replied that her office is continuing to reach out to other large technology companies.

**Mr. Flunoy** wanted to see more signage stating the name of the freeway as the Ed Pastor Freeway.

**Vice Chair Glass** requested to be included in a subcommittee of community members who meet with the technology companies. She would also like to help draft marketing language for Laveen.

**Ms. Mackay** explained that community members can meet with City staff but meetings with technology companies must remain confidential due to non-disclosure agreements.

**Mr. James Hughes** inquired if the City was partnering with the County as there is County-owned land along the Corridor and if the City has education efforts for the Corridor as well.

**Ms. Mackay** replied that education is key and that training the workforce is pivotal to making the area desirable.

**Ms. Jane Craig** commented that there is a lack of trees along Baseline Road.

**Ms. Mackay** replied that the City has a capital improvement program to address those concerns.

**Mr. Dan Penton** explained that it is critical that the vision for the Laveen Village be acknowledged and listed existing area assets.

**Ms. Mackay** responded that she hoped to return the Village Planning Committee within the first half of 2020 with an update.

6. **Z-165-06 (PHO-1-19):** Presentation, discussion, and possible recommendation on a request to modify stipulations of entitlement for a property located on the northwest corner of 35th Avenue and Carver Road. Request to modify stipulation 1 regarding general conformance to the site plan date stamped October 8, 2007 and elevations date stamped February 20, 2007; modification of Stipulation 7 regarding the landscape setback adjacent to 35th Avenue; deletion of Stipulation 19 regarding conditional development approval; modification of Stipulation 27 regarding height of terraced berms

along the quarry cut slope base; modification of Stipulation 31 regarding raised, vertical curbs within the R1-18 portion of the site; modification of Stipulation 37 regarding detached sidewalks and landscape strips within the R1-8 portion of the site; deletion of Stipulation 39 regarding one-story homes along 35th Avenue; and technical corrections to Stipulations 4, 5, 6, 8, 9, 15, 18, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 33, 34, 36, 38, 40.

*Chair Branscomb elected to hear this item out of order.*

*1 speaker card was submitted in favor, wishing to speak.*

*1 speaker card was submitted in favor, not wishing to speak.*

*28 speaker cards were submitted in opposition, wishing to speak. Ten of those speakers chose to donate their time to Cyd Manning. Two of those speakers chose to donate their time to Jon Kimoto. One speaker chose to donate their time to John Knight. One speaker chose to donate their time to Scott Johnson.*

*99 speaker cards were submitted in opposition, not wishing to speak.*

**Ms. Sarah Stockham**, staff, provided an overview of the request. She displayed an aerial map, previously approved site plan, proposed site plan, and briefly reviewed the request for stipulation modifications and deletions.

**Mr. Tom Galvin**, with Rose Law Group, explained the history of the case. He stated that the reason for the request is in response to on-site conditions and to comply with the Hillside Ordinance. He explained that they are not requesting a change in zoning, their proposal is less dense than what was originally proposed and that they are providing twenty-three percent open space. He then reviewed each stipulation modification and deletion. He explained that the reason to update the dates in Stipulation 1 is to match the current plan dates. The reason for modification of the required setbacks along 35th Avenue in Stipulation 7 is that the slope analysis required that the homes be shifted east to protect the natural hillside feature. He continued that Proposition 207 renders Stipulation 19 moot. He explained that modifying Stipulation 27 is for safety concerns regarding a terrace height of eight feet or more. He continued that landscaping and beautification of the quarry is still proposed, but under safer conditions. He stated that Stipulation 31 with the roll curb requirement violates the City's current standard and that the private drives will conform to the City of Phoenix's standards. He added that modifying Stipulation 37 to remove the detached sidewalk requirement is to conform to City standards. He explained that additional trails are offered through common area open spaces and surrounded by landscaping. Lastly, he explained that deletion of Stipulation 39 regarding one-story homes along 35th Avenue is necessary to provide diversity of housing size, style, and consumer choices.

**Mr. Mockus** inquired if the developer will be bringing in water service to the area and who will bear the cost of the water service extension.

**Mr. Jeff Giles**, with Clouse Engineering, explained that they will be working with

another developer to bring in water and sewer services. He added that there might be some cost sharing between their group and another developer.

**Ms. Rouse** shared a concern with lighting in the area. She added that the posted speed limit is too fast and that is a blind turn when rounding the corner from 35th Avenue to Carver Road. She argued that reducing the landscape setback would be increasing safety issues.

**Mr. Giles** stated that the project will be reviewed by the Streets Transportation Department with the City of Phoenix and Maricopa County.

**Ms. Hurd** asked if they had conducted an environmental survey report.

**Ms. Alisse Caton** with Rose Law Group, answered that there will be a soils report generated later.

**Vice Chair Glass** stated that drainage is an issue and development on the site could potentially cause flooding to the north. She stated that the expectation is that the developer goes above and beyond.

**Ms. Estela** stated that she wants quality over quantity and to preserve the character of Laveen.

**Ms. Abegg** stated that the Committee does not have the power to revert the zoning on the property. She identified that the site is a special part of Laveen. She stated that she wanted the elevations to come back to the Village Planning Committee for approval and that one-story homes along the perimeter is vital. She sought clarification regarding the open space amounts and how Proposition 207 affects Stipulation 19.

**Ms. Samantha Keating**, staff, stated that the property is zoned R1-8 with stipulations. The zoning and stipulations run with the land, and that the property owner has rights to that zoning designation. She stated that the purpose of this request is to not decide what the zoning should be.

**Mr. Ortega** stated that the site should be held to what it was originally zoned.

**Mr. Galvin** restated that the slope analysis necessitated that they request to change stipulations. He continued that the request is only for the right side of the property, and that the proposed zoning is less than what was originally proposed.

**Ms. Abegg** stated that the Committee could deny the request completely or approve with modifications and add stipulations the Committee wants.

### **Public Comment**

**Mr. John Knight** stated that the request is changing the landscape of everything that was approved. He stated that the project is cancelled, and that the area is a hazard. He continued that this project puts lives in jeopardy due to the flooding hazard.

**Mr. Dan Penton** shared that the zoning should have been reverted, and it affects our land value. He urged the Committee to deny the request.

**Ms. Suzee Gelner** asked about the tri-plex, the acreage and the size of the lots.

**Mr. James Hughes** shared concern that the request does not reference the Carver Hills Storm Drain Plan. He shared that the area floods. He also shared that the 200-foot setback will help with safety along the dangerous intersection. He urged the Committee to not change a thing.

**Mr. Sandy Hamilton**, representing the Laveen Citizens for Responsible Development, stated that the reversion stipulation is key. He continued that the original owner agreed to a contract.

**Mr. James Parisella** stated that he likes one house per acre, and that Laveen is the last agricultural area that people can build on. He stated that it is quiet, open and does not have bright lights. He added that his home has been flooded out twice.

**John Bizdel** asked what they needed to do to initiate a reversion?

**Chair Branscomb** stated that the process starts here, with whether they recommend to deny or approve the stipulation modifications.

**Ms. Abegg** added that Planning Commission is where the reversion process starts. Rezoning does not happen with the Planning Hearing Officer.

**Ms. Keating** repeated that the requests is to modify the stipulations. She added that there is no automatic reversion process, it is a separate process from the request before the Committee now. She repeated that the zoning is R1-8 and that the applicant can request to modify the stipulations.

**Mr. Phil Hertel** stated that the one-minute allotted time for public comment was absurd. He believed that the applicant misrepresented the amount of open space, which went from fifty percent to twenty three percent. He requested that the Committee deny the request until the reversion issue is resolved.

**Chair Branscomb** asked Mr. Hertel why the Committee approved the project back in 2007.

**Mr. Hertel** replied that back then the project was tolerable, and now it is intolerable.

**Mr. Kimoto** stated that the proposed site plan falls short of the current community quality standards. He recommended the Committee deny the request. He added that the current site plan shows a repetitive housing layout and believes that the original plan is achievable. He continued that the only change he agrees with is the roll curbs. He continued that detached sidewalks were originally requested for pedestrian safety and shade. Further, he stated that the intent of Stipulation 39 is to avoid a wall along

35th Avenue with two-story homes within the view corridor. Lastly, he added that the reversion stipulation is a City self-induced problem which they try to cover up with a band aid. He feels that it sends mixed-messages to the community. He requested four additional stipulations be added to the request:

1. A minimum of three site cross sections, traversing north to south across the 20-acre site at one-third points from the east property line at 35th Avenue shall be submitted prior to City Council approval.

*The intent is to provide a line of site illustration to show the visual impact of a forty-five-foot-high change in elevation.*

2. A minimum of two oblique aerial perspectives indicating proposed building and site improvements from south to north (from Carver Road) and from east to west (from 35th Avenue) shall be submitted prior to City Council approval.

3. A concept drawing showing the vertical mining cut from the terraced base to summit shall be provided to illustrate how it will be revitalized and to mitigate vertical height prior to City Council approval.

4. A detailed site plan, landscape plan, perimeter screen wall/fencing plan and elevations, entry monument plan and elevations, sign plan, and lighting plan shall be brought to the Village Planning Committee and the community for review and comment.

**Mr. Scott Johnson**, president of the Hangar Haciendas Home Owners Association, stated that his community is a private residential airpark subdivision located to the east of the subject property. He expressed concern that the project will be impacted by the flight path. He asked the City to initiate the reversion.

**Vice Chair Glass** shared that the community concerns are not falling on deaf ears, and that the Committee hears their concerns.

**Cyd Manning** stated she is directly by the parcel and that there was a lot of passion surrounding the project now and in 2007. She explained that the current entitlement was not brokered by the Village, but rather by Mayor Phil Gordon. She shared that she felt that the applicant is fast-tracking the case and will not meet with the neighbors, and that history is repeating itself. She clarified that there was an environmental study done for the site and no environmental issues were found. She continued that the housing market does not want small homes. She agreed with Ms. Keating that the request is not about changing the zoning. She continued that the property has been flipped four times and that Stipulation 19 was to protect the neighbors and is key to the compromise. She said that she reviewed the current plan and that the open space is reduced, the amenities are non-luxurious, and that the applicant is attempting to delete any stipulation that was put in place to protect the neighbors. She continued that the City has a policy to act on reversions, the City has no excuse to be in violation and the current request is like trying to travel on an expired passport. She gave an example of a General Plan Amendment that was initiated in 2008 that took three months to process. She stated that when the reversion is completed, she would like to work on a different

project for the site. She continued that the community has worked with other large developers in the past, and that she would like to go to City Council and support a future project at this site. She told the Committee that she is aware that they do not have the final say on the request and that other large land owners are considering the property. She believes that this case is precedent-setting. She urged the Committee to deny the request and recommend that the Planning Hearing Officer initiate a zoning reversion.

**Mr. Tom Galvin** responded that the City has said that the request is not about a zoning reversion. They are trying to find a win-win solution. He continued that they met with Mr. Kimoto and that they have reached out to the community. He explained that they had a meeting scheduled with Sandy Hamilton. He said that they hear their frustrations with the City, and if the community believes that the zoning should be reverted they should take that request to the City. He finished by saying that their request is to modify stipulations because of the slope analysis and they are not here to fight over a S-1 zoning reversion.

**Ms. Caton** clarified that there is a slope analysis for the R1-18 portion of the site and that an additional slope analysis was done for the R1-8 portion. She stated that "hillside" is any slope over ten percent. She explained that while they are requested a removal of the detached sidewalks, they are proposing pedestrian trails that lead to amenities such as tot lots. She stated that she understands the community's passion and that she would be happy to discuss any design or aesthetic issues.

**Mr. Giles** stated that the site will have less runoff when developed and that they are proposing single-lot single-family detached homes.

**Ms. Abegg** asked for clarification on the number of garage spaces per unit. She stated that if the Committee denies the request, there is no comment to the Planning Hearing Officer. She stated that the Committee likes to amend the stipulations. She suggested a motion to recommend approval with modifications and a competing motion to recommend denial. She continued that if the Committee recommends denying the request the applicant will not return to the Committee with any updated or detailed plans. She explained that the reason for the stipulation for general conformance to the elevations dated February 20, 2007 is that the applicant has not provided new elevations and that the stipulation should not be modified until they do. The site is unique with custom homes on large lots and the elevations need to be planned with care to maintain the character. She stated that the modification to Stipulation 39 is to provide clarity. She continued that the reason for retaining Stipulation 19 is that the Laveen Village Planning Committee supports the community's efforts to revert the zoning. She stated that the reason for the additional stipulation for enhancing the elevations is that the applicant states that it will be a luxury development but has not provided elevation details, and the Committee would like to ensure that the elevations are upgraded. The reason for adding stipulations for open space and the total number of lots is to that is what is currently being proposed.

**Ms. Keating** stated that for procedural purposes the Committee should hear one motion and act on it and should not have two competing motions.

## **MOTION**

**Linda Abegg** made a motion to recommend approval with three modifications and seven additional stipulations as follows:

### **Modifications**

- 1) Modification to Stipulation 1 to maintain that the elevations be in general conformance with the elevations date stamped February 20, 2007.
- 2) Retain the existing text of Stipulation 19.
- 3) Modification of Stipulation 39 to read "Any buildings within two hundred feet of the eastern property line shall be limited to one-story with a maximum height of twenty feet.

### **Additional Stipulations**

- 1) All sides of each building shall be enhanced with a minimum of 50% non-stucco material such as wood, stone, brick, etc.
- 2) The developer shall provide a minimum of twelve percent useable open space centrally located within the community and a minimum of twenty-six percent total open space
- 3) The R1-8 portion shall be limited to ninety-two lots
- 4) The developer shall provide a minimum of two garage spaces per unit
- 5) The driveways shall be at least twenty-two feet long
- 6) Prior to site plan approval, a final site plan, building elevations, detailed landscape plan, detailed entry monument plan, and perimeter fence plans shall be approved through the Planning Hearing Officer process with alternate site plans listed below to be provided:
  - o A minimum of three site cross sections, traversing north to south across the 20-acre site at one-third points from the east property line at 35th Avenue
  - o A minimum of two oblique aerial perspectives indicating proposed building and site improvements from south to north (from Carver Road) and from east to west (from 35th Avenue)
  - o A concept drawing showing the vertical mining cut from the terraced base to summit shall be provided to illustrate how it will be revitalized and to mitigate vertical height prior to City Council approval
  - o A detailed site plan, landscape plan, perimeter screen wall/fencing plan and elevations, entry monument plan and elevations, sign plan, and lighting plan
- 7) Any request to change, delete or modify stipulations be presented through the Planning Hearing Officer process.

**Carlos Ortega** seconded the motion.

## **VOTE**

**4-7** Motion fails; with members Abegg, Ortega, Glass and Branscomb in favor; members Ensminger, Estela, Flunoy, Harlin, Hurd, Mockus, and Rouse opposed.

**Ms. Keating** clarified that the applicant will need to delete or modify Stipulation 19 in order to move forward and develop the property.

## **MOTION**

**Stephanie Hurd** made a motion to recommend denial of the request. She also requested that the Planning Hearing Officer recommend to the Planning Commission to initiate a zoning reversion for the site.

**Jennifer Rouse** seconded the motion.

## **VOTE**

**11-0** Motion passed; with members Abegg, Ensminger, Estela, Flunoy, Harlin, Hurd, Mockus, Ortega, Rouse, Glass and Branscomb in favor.

5. **Z-96-06 (PHO-2-19):** Presentation, discussion, and possible recommendation on a request to review and approve conceptual elevations by the Planning Hearing Officer per Stipulation No. 2 of Rezoning Case No. Z-96-06-7 for a property located on the southwest corner of 59th Avenue and Southern Avenue.

*Four speaker cards were submitted in favor, wishing to speak.*

*Two speaker cards were submitted in opposition, wishing to speak.*

**Ms. Stockham**, staff, provided an overview of the request and reviewed Stipulation 2 and the proposed elevations.

**Ben Tate**, with Withey Morris, PLC, reviewed the history of the case and that Stipulation 2 requires the applicant to return with conceptual elevations to be reviewed by the criteria set forth in the stipulation. He shared that the site plan was approved in October and that the elevations show variation in color and material. He continued that the elevations were shown to the Laveen Citizens for Responsible Development and they are identical to the elevations approved at another project located at 59th Avenue and Elliot Road.

**Vice Chair Glass** shared that she did not believe the elevations looked the same.

**Mr. Tate** replied that this is the single-story version of the elevation, for the property to the east of the freeway.

**Ms. Harlin** shared that she thought the west side of the property would be developed first, and then the east side would be developed.

**Mr. Mockus** said that when the project was first approved there were roads going through the entire property. He asked if it will still be one community with connecting roads.

**Mr. Tate** replied that there is a common entrance off Southern and that the communities will have two different names.

**Vice Chair Glass** commented that the elevations for the project at 59th Avenue and Elliot Road had been created more thoughtfully.

**Mr. Tate** responded that he had worked on the project at 59th Avenue and Elliot Road and assured Ms. Glass that the elevations were the same.

**Ms. Abegg** reminded the Committee that the request is to evaluate the elevations



based on the criteria included in the stipulation.

### **Public Comment**

**Mr. Dan Penton** commended that they applicant met with the Laveen Citizens for Responsible Development and that the elevations are identical to the previously approved project. He shared that the design looked rural and asked what the density will be for the project.

**Mr. Tate** responded that the density will be 11.5 dwelling units per acre.

**Mr. Penton** asked if there will be a monument entry sign.

**Mr. Tate** responded that they will have a low agrarian monument that is more like a boutique hotel.

**Mr. Vance Pierce** stated that he was surprised by the elevations and that they need more projects like this in Laveen. He stated that it is good for developers to listen to the needs of the community.

**Ms. Jadestorm Shamsid-Deen** stated that she is the founder of a company called Mir`Ra I.M.A.G.E, Inc, which inspires young adults to find a better future. She stated that her complaint was that her company's name was slandered on the Nextdoor application. She continued that it is the homeowners that help fund education and that this project does not help the youth. She added that they are ugly one-story apartments.

**Mr. Alex Moctezuma** shared that he is the vice president of a small home owners association near 67th Avenue and Dobbins Road. He questioned what the project will look like in ten years and that the quality of the build is vital.

**Vice Chair Glass** asked what the price point will be for these units.

**Mr. Tate** responded that they will be rented in the range of \$1,000 - \$1,500 a month, the same as the units at 59th Avenue and Elliot Road. He added that the developer invests in quality materials and that they project will look good in ten years due to the design not being trendy.

### **MOTION**

**Linda Abegg** made a motion to recommend approval.

**Jennifer Rouse** seconded the motion.

### **VOTE**

**11-0** Motion passed; with members Abegg, Ensminger, Estela, Flunoy, Harlin, Hurd, Mockus, Ortega, Rouse, Glass and Branscomb in favor.

7. **Z-115-A-99-7:** Presentation, discussion, and possible recommendation regarding a request to rezone an approximately 4.26-acre site located approximately 325 feet south of the southwest corner of 67th Avenue and Baseline Road **from** R1-6 PCD (Approved C-1 PCD) (Single-Family Residence District, Planned Community District, Approved Neighborhood Retail, Planned Community District) **to** C-2 SP PCD (Intermediate Commercial, Special Permit, Planned Community District) to allow for a self-service

storage facility and all underlying C-2 uses.

*Mr. Gary Flunoy left at 9:35 PM bringing the quorum down to 10 members.*

*Two speaker cards were submitted in support, not wishing to speak.*

*Four speaker cards were submitted in support, wishing to speak.*

**Ms. Stockham**, staff, provided an overview of the request, noting the location, the history of the site, previous stipulations and current request. She displayed an aerial map, previously approved site plan, proposed site plan, and briefly reviewed staff's recommendation and stipulations.

**Mr. Greg Loper** introduced himself and stated that the project is named The Collective. He stated that members of his team met with the Laveen Citizens for Responsible Development because they want to be conscientious about community concerns and design that is compatible with the community. He continued that there will be access to the site from Meadows Loop East and Baseline Road. He added that the site will be a place for the community and local businesses to store items.

**Mr. Ortega** asked about adding a stipulation that addresses what would happen if the project does not get built.

**Mr. Mockus** asked if the applicant owned the strip of land going north to Baseline Road.

**Mr. Loper** replied that they do.

**Mr. Mockus** asked what would keep the applicant from developing the property

**Mr. Loper** responded that the developer has done many projects like this.

**Ms. Harlin** asked for clarification about Stipulation 16.

### **Public Comment**

**Mr. Dan Penton** thanked the applicant for working with the Laveen Citizens for Responsible Development (LCRD) and believes it is a great product for the area. He asked that the Committee recommend approval.

**Mr. Jon Kimoto** stated that it is a positive project, it creates a passive buffer between the commercial parcel to the north and the residences. He stated that the issue is with the existing wall.

**Ms. Keating** stated that typically a developer adds a wall and then has a landscaped setback. She added that there is already an existing wall.

**Mr. Phil Hertel** stated that the community does not want an extra wall and that the

existing wall will buffer the neighboring residential uses. He requested that his address be changed as written in the stipulation.

**Mr. Vance Pierce** shared that he generally likes a storage facility between homes and the commercial uses to the north and that the homes along the west side have shallower yards. He would have preferred to see a more “L”-shaped layout to buffer the residences to the west more.

**Mr. Loper** responded that the lighting will be wall-mounted, and motion activated except for the parking lights. He added that they development will keep light shielded from the residences.

### **MOTION**

**Linda Abegg** made a motion to recommend approval with one modification and one additional stipulation as follows:

#### **Modifications**

- 1) Modification to Stipulation 17 to update Phil Hertel's address to 2845 W Broadway Road.

#### **Additional Stipulations**

- 1) The development shall be in general conformance with the site plan and elevations date stamped December 23, 2019 as modified by the following stipulations and approved by the Planning and Development Department.

**John Mockus** seconded the motion.

### **VOTE**

**10-0** Motion passed; with members Abegg, Ensminger, Estela, Harlin, Hurd, Mockus, Ortega, Rouse, Glass and Branscomb in favor.

8. **INFORMATION ONLY:** Presentation and discussion regarding the 2019 Laveen Village Annual Report.

Not heard.

9. Staff update on cases recently reviewed by the Committee.

No updates given.

10. Committee member announcements, requests for information, follow up, or future agenda items.

**Ms. Rouse** urged Committee members to get involved with the budget process.

**Ms. Abegg** announced that Councilmember Garcia will attend the next meeting.

**Mr. Dan Penton** announced the 20th Anniversary Laveen Parade will be held on February 1st and the Laveen Barbeque will be on February 8th.

**Vice Chair Glass** announced that Reid Butler owns the Sachs-Webster House and is planning to revitalize the workshop.

11. **Adjournment**

The meeting was adjourned at 10:10 PM.

# **ATTACHMENT K**

## REPORT OF PLANNING HEARING OFFICER ACTION

Adam Stranieri, Planner III, Hearing Officer

Julianna Pierre, Planner I, Assisting

January 15, 2020

### ITEM 5

### DISTRICT 7

#### SUBJECT:

Application #: Z-165-06-7(8) (PHO-1-19)  
Zoning: R1-8, R1-18  
Location: Northwest corner of 35th Avenue and Carver Road  
Acreage: 59.48  
Request: 

- 1) Modification of Stipulation 1 regarding general conformance to the site plan date stamped October 8, 2007 and elevations date stamped February 20, 2007.
- 2) Modification of Stipulation 7 regarding the landscape setback adjacent to 35th Avenue.
- 3) Deletion of Stipulation 19 regarding conditional development approval.
- 4) Modification of Stipulation 27 regarding height of terraced berms along the quarry cut slope base.
- 5) Modification of Stipulation 31 regarding raised, vertical curbs within the R1-18 portion of the site.
- 6) Modification of Stipulation 37 regarding detached sidewalks and landscape strips within the R1-8 portion of the site.
- 7) Deletion of Stipulation 39 regarding one-story homes along 35th Avenue.
- 8) Technical corrections to Stipulations 4, 5, 6, 8, 9, 15, 18, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 33, 34, 36, 38, 40.

Applicant: Alisse Caton, Rose Law Group  
Owner: Virtua 35th LLC  
Representative: Alisse Caton, Rose Law Group

### **ACTIONS**

Planning Hearing Officer Recommendation: The Planning Hearing Officer took this case under advisement. On February 13, 2020 the Planning Hearing Officer took this case out from under advisement and recommended denial as filed and approval with modifications and additional stipulations.

Village Planning Committee (VPC) Recommendation: The Laveen Village Planning Committee heard this case on January 13, 2020 and recommended denial by an 11-0 vote.

## **DISCUSSION**

*35 cards submitted in opposition to the request, 7 wishing to speak.*

*5 cards submitted expressing no position, 3 wishing to speak.*

Thomas Galvin, applicant and representative with Rose Law Group, stated that the request is a response to site topography, City requests, and to make the area buildable. He stated that he met with staff in late 2018 and was instructed to conduct a slope analysis. He stated that the proposed site plan is based upon the results of the slope analysis and comments received from City staff. He stated that the new site plan reduces density and depicts seven less lots than the stipulated plan. He added that there will be an increase in the amount of open space required. He clarified that, after conducting research, they determined that of the open space required, 50% was to be tree coverage. Adam Stranieri asked where the requirement for the tree coverage originated. Alisse Caton, with Rose Law Group, clarified that this was discussed in a previous hearing and is not a stipulation. Mr. Galvin stated that in 2007 the rezoning was approved for 22 lots on the western 40 acres and 99 lots on the eastern 20 acres. He clarified that no changes were being proposed for the western portion and that the request only impacts the eastern portion.

Mr. Galvin stated that the modification of Stipulation 1, regarding general conformance to the site plan and elevations, is intended to update plans for the R1-18 portion. The modification of Stipulation 7, regarding the landscape setback adjacent to 35th Avenue, is a direct response to the slope analysis and an effort to protect the natural hillside features by moving the lots further east. He stated that Stipulation 19, regarding conditional development approval, should be deleted because the zoning change was approved in 2007 and any reversion would violate Proposition 207. Stipulation 27, regarding height of terraced berms along the quarry cut slope base, should be modified to allow landscaping and beautification under safer conditions. He stated that the modifications of Stipulation 31, regarding raised, vertical curbs within the R1-18 portion of the site, and Stipulation 37, regarding detached sidewalks and landscape strips within the R1-8 portion of the site, are to bring the site into conformance with current City standards. He stated that Stipulation 39, regarding one-story homes along 35th Avenue, should be deleted to allow consumer choices and a variety of housing types. Mr. Galvin concluded that all their changes will provide view corridors with appropriate connectivity and meet City standards.

Mr. Stranieri asked for clarification regarding the proposal to delete the requirement for detached sidewalks. Ms. Caton stated that there would be attached sidewalks on one side of the street and pedestrian trail connectivity between the units that provides connection to amenity spaces and parking. She added that the proposal is intended to conform with the City standards, but also wants to entertain doing attached 5-foot sidewalks in addition to the trails. She clarified that detached sidewalks would not be able to be provided on the private drives and that would be offset by the provided trails.

Mr. Stranieri asked for clarification regarding the percentage of open space being provided. Mr. Caton stated that the overall open space of the R1-8 and R-18 portions

would be 23%, but the open space in the R1-8 portion would be 26%. She stated that the open space calculations include both active and passive open space. Mr. Stranieri stated that the calculation exceeded 5 times what is required in the Zoning Ordinance and asked if the applicant understood that the calculation would not include any perimeter landscape setbacks. Jeff Giles, with Clouse Engineering, stated that the 26% of open space in the R1-8 portion of the site took into account the hillside areas and a portion of the landscape setback. However, Mr. Giles noted that there were some areas that were not included in the calculation due to the slope of the site, but could still be considered open space per the City's definition.

Linda Abegg, a member of the Laveen Village Planning Committee, stated that she shared the same concerns as the community regarding Stipulation 19. She also stated that she had concerns regarding the removal of general conformance to elevations without the applicant proposing new elevations. She stated that the Laveen Village always wants to see elevations come through the Planning Hearing Officer process. She stated that the general conformance could remain with prior elevations or an additional stipulation could be added that elevations have to come back through the Planning Hearing Officer process. She stated that the Laveen Village also recommends a standard for maximum one-story buildings along arterials. She stated that there are concerns regarding having taller buildings along 35th Avenue, especially with the blind corner. She also stated that the usable open space was 12% and the total open space was 26%. She stated that the enhanced open space should be stipulated to ensure that the open space is centrally located in the community and not only the mountainside.

Mr. Stranieri stated that the subject property of the current PHO is the same as the entire property of the original rezoning case and includes both the R1-8 and R1-18 portions. He noted that the legislative edit submitted by the applicant takes out the requirement for conformance to elevations without providing new plans. He stated that concerns about materials and other design elements could be addressed in a future PHO hearing at the time that the applicant proposed conceptual building elevations.

Phil Hertel, a member of the Laveen Citizens for Responsible Development (LCRD), noted that his name and address are outdated in Stipulations 35 and 36, regarding notifications. He stated that his address has changed and should be updated in the stipulation. He stated that the applicant did not meet with the LCRD and the applicant did not receive community input during the official meeting. He stated that he also had concerns about Stipulation 19 and that the site should be reverted back to S-1. He stated the community is supportive of development in the area, but that the item should be continued or denied until the reversion is addressed.

Dan Penton, a representative from the Laveen Community Council, stated that the area is unique and the proposed development would have a negative impact on the agrarian character and heritage of the area. He stated that the Laveen Southwest Growth Study and Laveen Residential Design Guidelines represent the values of the community and guidelines for future growth in the area. He stated that the intent of these documents should not be overlooked and that the proposed development is incompatible with the area. He stated that the reversion matter should be handled first, before the item moves forward.



Dave Blake, a member of the community, stated that he is a native of Phoenix and also supported the reversion. He stated that the City should revert the zoning because the area was never developed. He stated that the area is unique and does not need high density development.

Tami Blake, a member of the community, stated that most of the properties in the area are developed with approximately one home per acre. She stated that she often rides horses and expressed concern regarding the impacts of the proposal on her ability to continue riding in the area. She noted that this is one of the last areas in the City that hasn't had higher density residential development crammed in and that the area should instead be preserved as is.

John Bzdel, a member of the community, stated that there is an ethical dilemma. He stated that City employees have a duty to prevent improper government action. He stated that the process failed in 2011 because the zoning never reverted to S-1. He stated the second process failure was the acceptance of the PHO case without noting that the zoning was never reverted. He stated that the case should be taken under advisement to speak with the City's Law Department because the ethics policy violations need to be addressed.

Jon Kimoto, a member of the public, stated that the proposed site plan falls short of the design quality expected in Laveen. He stated that the proposed plan is a grid that attempts to impose a flat land subdivision upon a unique hillside situation. He stated that the proposed plan does not take into account the contours, views, and drainage issues of the site. He stated that the stipulated plan addressed the distinctive aspects of the area and had a more attractive entry feature. He added that there was a significant landscape buffer on the previous plan and there are now concerns about the height of homes along the perimeter of the subdivision. He stated that there were also concerns about the terraced berms along the quarry cut slope base. He stated that the applicant's proposal could decrease the height of the terraced berms and negatively impact the safety of residents in the area. He also stated that the City should revert the zoning and the case should be heard before the correct judicial body. He also stated that the addresses of those named in Stipulation 35 and 36 should be updated.

Scott Johnson, a member of the public and president of the Hanger Haciendas Homeowners Association, stated that Hanger Haciendas is a private residential airport community located 2300 feet east of the subject property. He stated that the subject property has changed hands several times since 2007 and he wants to ensure that the developer is aware of the project's proximity to a private airport. He stated that the community is 38 lots on 65 acres with 30 aircraft based there. He stated that flights typically land to the east and take off to the west, placing aircraft at low altitudes in close proximity to the subject property. He added that the application should never have been accepted because the zoning was never reverted. He stated that just because the reversion was missed before does not mean that it should be overlooked now. He stated that the application should be denied and the reversion initiated.

Stephanie Hurd, a member of the Laveen Village Planning Committee, stated the VPC is a vital link between the community and City decision makers. She stated that Laveen has one of the biggest areas of undeveloped land in the City of Phoenix and the community wants development, but also wants the area to retain its character. She stated that the area should be kept at low density and the developer should take the community's wishes into account. She stated that she agreed with the community and felt the case should be put on hold until the reversion issue is addressed.

Cyd Manning, a member of the community who was involved with the original rezoning, stated that she is affected by the site every day because she can see it from both her back and front yards. She stated that contrary to the applicant's materials, the area is not blighted and there are no known environmental issues. She stated that the market does not want small homes in the Laveen area. She stated that the property has been flipped numerous times since the original rezoning case. She stated that the proposed plans are uninspired with no view corridors. She stated the City is in violation of Ordinance G-5020 which approved the rezoning and should have initiated the reversion in 2011. She stated that when she requested the City to take action on the reversion she was told that there was no time or resources to process the cases with reversion stipulations. She stated that once the reversion is taken care of, she and other members of the community are willing to sit down with the developer to discuss possible development.

Mr. Galvin stated that the stipulated site plan does not reflect S-1 zoning and that the property is not zoned S-1. He stated that their case is not requesting a zoning change and instead requesting modifications and deletions to stipulations. He clarified that he did not reject a meeting with the LCRD, but could not meet due to scheduling issues. He stated that the LCRD also cancelled a planned meeting. He stated that the applicant is willing to work with the community, but it is impossible to revert back to S-1. He stated that the area is also a patchwork of land under the City of Phoenix and Maricopa County jurisdictions. He stated that the City of Phoenix land has more dense zoning, while land under the County has remained less dense. He stated that the City is also changing, specifically this area which may become a technology and employment corridor in the future. He stated that he respects residents who want to maintain their agrarian lifestyle, but the City should also provide affordable housing for those wishing to live in Phoenix. He added that the City would not be able to revert the property due to legal issues.

Ms. Caton clarified that when they stated the site plan responded to environmental issues they meant the plan was a direct reflection of the slope analysis. She stated that they have worked with an engineer to address the technical feasibility of the plan. She also stated that the applicant is working with the developers to the south and their site plan works in tandem with the proposed site plan.

Mr. Giles stated that Stipulation 27 required berms be a minimum of eight feet in height, but he noted that there may be a safety issue for hikers or kids in the neighborhood if the berms are higher than eight feet. He stated that the modification of Stipulation 31 is intended to allow for drainage considerations. He stated that some areas will require

vertical curb while others require rolled curb, but those decisions would all be engineer driven.

Mr. Stranieri asked for clarification regarding how the proposed unit types compare to the stipulated detached villas. Mr. Giles said that the product footprint has not really changed. The product has four homes clustered together, but without a courtyard. Mr. Stranieri clarified that the stipulated elevations did not specify if they were specifically for the R1-8 or R1-18 portion of the site. He stated that since the development was the entire site, the elevations are required for conformance for the entire site. Ms. Caton stated that the community would most likely not want a villa product on the 40 acres of R1-18. Mr. Stranieri agreed and stated that it would most likely be custom home lots.

Mr. Stranieri stated that the proposed minimum 100-foot landscape setback on 35th Avenue is over 5 times what is required by the Ordinance. He stated that the reduction will allow the units to be placed farther away from the hillside areas. He stated Stipulation 27 regarding terraced berms was intended to restore the disturbed hillside. However, there was no background information in the case file to determine the origin of the requirement for terraced berms with deciduous trees. He stated that a geotechnical report would identify what the appropriate slope is to stabilize the hillside. He stated that he could not confirm that 2:1 is the appropriate slope as stipulated and no existing report was found. He stated that a native landscaping palette along with some treatment to allow restoration of the natural aesthetic of the hillside would be most appropriate. He stated that additional flexibility should be introduced through consultation with Planning and Development Department staff, submission of a geotechnical report, and review of any proposed alternatives.

Regarding Stipulation 19, Mr. Stranieri stated that the current request is not a reversion hearing and he does not have the authority to initiate a reversion during or as a recommendation of the current PHO request. He stated that the current request solely involves the applicant's request for stipulation modifications and deletions. He clarified that the original rezoning was approved by ordinance adoption and the zoning was vested with the adoption of that ordinance. He clarified that the rezoning case was accompanied by a General Plan Amendment (GPA), approved by the City Council, which updated the General Plan Land Use Map designation for the subject property to correlate with the requested zoning. He stated that GPAs are appended to the City's General Plan Map upon adoption and that he did not know of any process or procedure to revert these requests. He added that if a Proposition 207 lawsuit was raised it would not be heard under a municipal zoning hearing like the PHO, but rather in a court of law.

Ms. Manning stated that there was a letter written by a Village Planner in 2008 that initiated an action to amend the General Plan, which was heard by the Planning Commission and ratified by City Council on October 15, 2008. Mr. Stranieri said that he would look into the history of this additional GPA and how it related to the base zoning case.

Mr. Stranieri stated that Stipulation 31, regarding vertical curbs, correlated with the requirement for detached sidewalks throughout the subdivision. He stated that the Street Transportation Department recommended deletion of the stipulation because

there are existing technical details and engineering requirements for the different types of streets in the development. Curb types will be engineered depending on the type of street. Further, based on the conceptual site plan, some of the proposed streets may be developed as private drives which would allow rolled curbs.

Mr. Stranieri stated that the City has been consistent with its recent policy plans and long range planning activities to focus on shade, heat island mitigation, and pedestrian safety in new developments. He added that the City's Tree and Shade Master Plan, City Council adopted Guiding Principles for Complete Streets, and the 2015 General Plan all expand upon the principles regarding urban forestry and walkability. He noted that detached sidewalks may not be able to be implemented on the portions of the right-of-way between the clusters of homes which may be developed as private drives. He stated that the originally stipulated detached sidewalks should be provided along all streets developed as private accessways and public streets, consistent with the original approval and City policies.

Mr. Stranieri stated Stipulation 39 lacked detail regarding the maximum building height and which homes the restriction may apply to. He added that "adjacent to 35th Avenue" does not give much context to the placement of homes given the stipulated 235-foot landscape setback and primary entry feature. He stated that a more appropriate height restriction could be implemented to identify a maximum building height and apply the restriction to houses within a specified distance from the east property line.

Mr. Stranieri stated that the site is archaeologically sensitive and additional stipulations were warranted regarding City requirements for archaeological data testing.

Mr. Stranieri stated that the Street Transportation Department also indicated that 35th Avenue is in Maricopa County Department of Transportation (MCDOT) jurisdiction. He added that additional stipulations should be added to identify MCDOT's jurisdiction and ability to approve the final improvements. He stated that these stipulations would not conflict with existing right-of-way dedication stipulations because of the jurisdictional issue.

Mr. Stranieri stated that the Street Transportation Department had concerns regarding how the site plan proposes access from 35th Avenue and travel through the site to the west perimeter. He stated that a vehicle would need to make three to four turns to access the proposed future connection to the west. Ms. Caton stated that she had spoken with the Street Transportation Department and that they had come to a resolution regarding the connectivity. Mr. Stranieri stated that revisions may be made to the site plan due to the stipulations recommended by the Street Transportation Department. He stated that the recommended stipulations would be appropriately placed in conjunction with a general conformance stipulation to allow for flexibility to accommodate an appropriate street layout.

Mr. Stranieri stated that he was aware of the Laveen VPC meeting on Monday night and that there were 99 speaker cards submitted. He stated that there was over two hours of discussion and that a summary of the meeting was not yet available. He noted that he had also received more than 90 pieces of correspondence on the case. He stated that

he would like more time to review all of this material. Because of these reasons, the PHO stated that he would take the case under advisement.

## **FINDINGS**

- 1) The subject property of this request includes the entire 59 acres that comprised the original rezoning case. However, the applicant only submitted plans addressing the approximately 19.4 acres of R1-8 zoned property on the eastern portion of the site, adjacent to 35<sup>th</sup> Avenue. Modifications are recommended to the applicant's request to ensure that the existing stipulations on the approximately 39.6 acres of R1-18 zoned property on the western portion of the site are not modified or deleted. Additionally, the applicant did not submit elevations with the request. The original stipulations included a general conformance requirement for building elevations. A modification is recommended to the applicant's request to require a future Planning Hearing Officer application for review of conceptual building elevations.
- 2) The stipulated site plan depicted 99 detached single-family units arranged in clusters of two and four, oriented towards common courtyards. There are also seven free-standing units depicted at the northwest corner of the site partially in the hillside-designated area. The proposed conceptual site plan depicts 92 units in a similar cluster-style arrangement. However, the units have been shifted east on the property, reducing the total massing of development in the designated hillside areas. Additionally, the homes are not oriented towards courtyards and instead include larger private driveways in the front yards. There is more open space preserved in the hillside area in the northwest portion of the site. There is also more open space adjacent to the private accessways (Tract "A") which separates the homes from the streets. Because the homes are closer to 35<sup>th</sup> Avenue, there is less open space provided along the east property line. See Finding #3 for a more detailed description of the recommendation for minimum open space and Finding #4 regarding the landscape setback on 35th Avenue.
- 3) An additional stipulation is recommended to require the developer provide a minimum of 26% open space, of which a minimum of 12% shall be usable open space. The conceptual site plan depicts 40.47% open space. However, there is no open space exhibit and the applicant indicated that a recalculation was necessary to adequately represent provided open space in the hillside area, setbacks, and other locations. The provision of 26% open space is compatible with the rural character of the surrounding area, consistent with other recent zoning actions in the Village, and significantly exceeds existing Ordinance standards.
- 4) The proposed reduction of the landscape setback on 35th Avenue from 235 feet (average) to minimum 100 feet accommodates the relocation of some residential units out of the designated hillside areas, consistent with the City approved slope analysis. The preservation of the hillside area will contribute to the rural character of the site and maintain this unique natural feature of the property. See

Finding #9 regarding the restoration of the disturbed area on the abandoned gravel mine that occupies a portion of the remainder of the site.

- 5) Approximately 2,300 feet to the east of the subject property are the Hangar Hacienda Units One, Two, and Three subdivisions. These properties are in Maricopa County jurisdiction. These communities are oriented around an air strip utilized by residents who own private aircraft. Based on comments from a resident in this community, the typical flight path runs directly over the subject property of this request. An additional stipulation is recommended regarding notification of the aviation uses on these properties for future residents.
- 6) The subject property is archaeologically sensitive. Three additional stipulations are recommended which outline the City's requirements regarding data testing, data recovery, and archaeological assessments and survey.
- 7) The public right-of-way along 35th Avenue and a small portion along Carver Road is in Maricopa County Department of Transportation (MCDOT) jurisdiction. There is also an active drainage project along the roadway. Therefore, additional stipulations are recommended to acknowledge that MCDOT shall determine the final width and dedications needed for the portion of right-of-way adjacent to the subject property. City of Phoenix Street Transportation staff noted that in discussions with MCDOT staff, MCDOT does not have immediate concerns regarding the location of proposed retention areas shown on the conceptual site plan in regard to the drainage project.
- 8) Original Stipulation 19 states that approval shall be conditioned upon the development commencing within 48 months of the City Council approval. For properties with similar stipulations, the Planning and Development Department has required that a Planning Hearing Officer (PHO) action be pursued to modify or delete these conditions at the time that development is proposed, if the proposed development has exceeded the timeframe identified in the stipulation. The applicant is pursuing this process through their request for deletion of the stipulation. The modification or deletion of this stipulation through a PHO action is unrelated to the zoning reversion process which is a separate public hearing process that is described in Section 506 of the Zoning Ordinance.

The applicant's request for deletion of original Stipulation 19 is recommended for approval. The current proposal is consistent with the City Council's original intent to see the subject property redevelop with a single-family residential land use in the R1-8 zoning district. Additionally, the request is consistent with City Council approved General Plan Amendment GPA-LV-1-08-7, which established a Residential 3.5-5 dwelling units per gross acre land use designation on the approximately 19.35 acres that comprises the R1-8 zoned portion of the property. Both the proposed conceptual site plan, as modified by this recommendation, and the existing R1-8 zoning designation are consistent with this land use designation.

- 9) Original Stipulation 27, requiring terraced berms planted with deciduous trees, may result in an environment that contrasts with the natural landscape of the existing hillside in the surrounding area. The stipulated terraced berm configuration is not consistent with the irregular natural landscape of the existing hillside in the surrounding area and there are no deciduous trees on hillside locations in the immediate vicinity. Proposals for fill are commonly intended to continue and promote a natural slope line, rather than creating terracing and other unnatural finishes.

There are a variety of alternatives to the stipulated requirement for terraced berms that may be considered for the site that would result in a more natural aesthetic to the restored hillside. These include chemical treatments and coloration to remove or camouflage scarring, hydroseeding of the slope to provide a mixture of natural grasses and plants which may also stabilize the slope, and roughening the cut or restored slope to integrate pockets for additional native landscaping.

Modified stipulation language is recommended to allow the applicant to work with City staff on an alternative approach to restoring the quarry cut slope base to promote a more natural landscape along the hillside.

- 10) The provision of detached sidewalks is consistent with numerous City policy plans. The Tree and Shade Master Plan has a goal of treating the urban forest as infrastructure to ensure that trees are an integral part of the City's planning and development process. Additionally, the City Council adopted Guiding Principles for Complete Streets seeks to make Phoenix more walkable by promoting a safe and inviting pedestrian environment that encourages walkability and thermal comfort. These principles are also expressed and expanded upon throughout the 2015 General Plan.

Therefore, the applicant's request to delete this requirement and instead stipulate a 5-foot sidewalk width is recommended for denial. However, the street layout on the proposed conceptual site plan may require the utilization of both private drives (between units) and private accessways (Tract "A"). There are different technical requirements and cross sections for these street types and it may be difficult to integrate detached sidewalks along both sides of private drives.

A modification of the applicant's request is recommended to require that detached sidewalks shall be provided, as originally stipulated, along all streets that are developed as public streets or private accessways.

- 11) The Street Transportation Department noted that both original Stipulation 31 and the applicant's proposed modified language may create conflicts if the development is to include both attached and detached sidewalks. The City of Phoenix standard detail for detached sidewalks along private accessways requires vertical curbs. Attached sidewalks may be permitted to provide rolled curbs. Deletion of the stipulation will allow the appropriate detail to be utilized based on the final configuration of sidewalks at appropriate locations throughout the development.

- 12) Original Stipulation 39 required that homes along 35th Avenue would be limited to one-story. The stipulation did not specify a maximum building height. Additionally, it is unclear whether the stipulation was intended to apply to the individual units located closest to 35th Avenue or the entire clusters. The original stipulation may permit a variety of building heights and locations for height-restricted lots.

However, the intent of the stipulation was to mitigate the impacts of building height for units closest to 35th Avenue and would have impacted homes at approximately 235 feet (the stipulated average setback in original Stipulation 7). This remains a valid concern and consistent with the design of other recent projects in the Village. Therefore, the applicant's request for deletion of this stipulation is recommended for denial. An alternative stipulation is proposed that limits maximum building height to 20 feet for the 12 lots that are located within approximately 235 feet of 35th Avenue. This recommendation is intended to clarify the limitation on building height and identify the specific lots impacted.

**DECISION:** The Planning Hearing Officer took this case under advisement. On February 13, 2020 the Planning Hearing Officer took this case out from under advisement and recommended denial as filed and approval with modifications and additional stipulations.

## **STIPULATIONS**

General		
4.	<del>That development shall be in general conformance with the site plan date stamped October 8, 2007, and elevations date stamped February 20, 2007, as modified by the following stipulations, and as approved by the Development Services Department.</del>	
1.	THE R1-8 DEVELOPMENT SHALL BE IN GENERAL CONFORMANCE WITH THE SITE PLAN DATE STAMPED NOVEMBER 21, 2019, AS MODIFIED BY THE FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT, AND WITH SPECIFIC REGARD TO THE FOLLOWING:	
	A.	THE DEVELOPER SHALL PROVIDE A PRIMARY ROADWAY FROM 35TH AVENUE EXTENDED TO THE WESTERN PROPERTY BOUNDARY, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
	B.	THE PRIMARY ROADWAY CONNECTING 35TH AVENUE TO THE WESTERN EDGE OF THE PROPERTY LINE SHALL TERMINATE AS A STUB STREET TO THE ADJACENT UNDEVELOPED LAND TO THE WEST TO PROVIDE FOR A FUTURE VEHICULAR CONNECTION.



2.	CONCEPTUAL ELEVATIONS FOR THE R1-8 DEVELOPMENT SHALL BE REVIEWED AND APPROVED BY THE PLANNING HEARING OFFICER THROUGH THE PUBLIC HEARING PROCESS FOR STIPULATION MODIFICATION PRIOR TO PRELIMINARY SITE PLAN APPROVAL. THIS IS A LEGISLATIVE REVIEW FOR CONCEPTUAL PURPOSES ONLY. SPECIFIC DEVELOPMENT STANDARDS AND REQUIREMENTS MAY BE DETERMINED BY THE PLANNING HEARING OFFICER AND THE PLANNING AND DEVELOPMENT DEPARTMENT.	
3.	THE R1-18 DEVELOPMENT SHALL BE IN GENERAL CONFORMANCE WITH THE SITE PLAN DATE STAMPED OCTOBER 8, 2007, AND ELEVATIONS DATE STAMPED FEBRUARY 20, 2007, AS MODIFIED BY THE FOLLOWING STIPULATIONS AND APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.	
4. 2.	That dDevelopment of the R1-18 portion of the site shall not exceed 22 lots.	
5. 3.	That dDevelopment of the R1-8 portion of the site shall not exceed a density of 99 lots.	
6.	THE R1-8 DEVELOPMENT SHALL PROVIDE A MINIMUM OF 26% OPEN SPACE, OF WHICH A MINIMUM OF 12% SHALL BE USABLE OPEN SPACE, AS APPROVED OR MODIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.	
Site Design		
7. 4.	That uUnobstructed pedestrian access (for the purpose of private pedestrian connectivity internal to the site) between the R1-18 and R1-8 portions of the site shall be provided, as approved by the PLANNING AND Development Services Department.	
8. 5.	That nNo solid wall in excess of three feet in height as measured from the finished grade, shall be located on the site (either in private lots or common tracts) except that solid walls greater than three feet in height shall be allowed for the following purposes, as approved by the PLANNING AND Development Services Department.	
	a.	Walls utilized to screen utilities, trash enclosures, or other facilities generally considered to be visually obtrusive.
	b.	Retaining wall.
9. 6.	That nNo more than 60,000 square feet of natural turf area shall be located within the common areas of the R1-8 portion of the site (this requirement does not apply	

	to synthetic turf); if provided, common area natural turf should be centrally located and grouped so as to create one contiguous natural turf recreation area, as approved by the PLANNING AND Development <del>Services</del> Department.
10. <del>7.</del>	<del>That a 235-foot (average), 200-foot (minimum)</del> THE DEVELOPMENT SHALL PROVIDE A MINIMUM 100 FOOT landscaped setback ALONG THE EAST PROPERTY LINE <del>adjacent to 35th Avenue shall be provided</del> , as approved by the PLANNING AND Development <del>Services</del> Department.
11. <del>8.</del>	<del>That a</del> A 50-foot (minimum) landscaped setback adjacent to Carver Road (final alignment) shall be provided, as approved by the PLANNING AND Development <del>Services</del> Department.
12. <del>9.</del>	<del>That t</del> Those portions of spider and jeep trails which are not part of the approved grading envelopes, access drives, or other necessary site disturbance related to the proposed development of the R1-8 portion of the site shall be re-vegetated in a manner consistent with adjacent undisturbed vegetation, as approved by the PLANNING AND Development <del>Services</del> Department.
Disclosures	
13. <del>10.</del>	<del>That p</del> Prior to final site plan approval, the property owner shall record documents that disclose to tenants of the site or purchasers of property within the site, the existence, proximity, and operational characteristics of active agricultural uses and non-domesticated animal keeping. 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.	THAT PRIOR TO FINAL SITE PLAN APPROVAL, THE PROPERTY OWNER SHALL RECORD DOCUMENTS THAT DISCLOSE TO TENANTS OF THE SITE OR PURCHASERS OF PROPERTY WITHIN THE SITE, THE EXISTENCE, PROXIMITY, AND OPERATIONAL CHARACTERISTICS OF ACTIVE AVIATION USES IN THE HANGAR HACIENDAS UNITS ONE, TWO, AND THREE SUBDIVISIONS LOCATED APPROXIMATELY 2,300 FEET TO THE EAST OF THE SUBJECT PROPERTY IN MARICOPA COUNTY. 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.
Parks and Recreation	
15. <del>11.</del>	<del>That t</del> The developer shall dedicate a multi-use trail easement and construct a multi-use trail, per adopted standards, along the north side of Carver Road, as approved by the Parks and Recreation Department.
Archaeology	

16. <del>12.</del>	<del>That</del> The applicant shall complete an archaeological survey report of the development area for review and approval by the City Archaeologist prior to clearing and grubbing, landscape salvage, or grading.
17.	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.
18.	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.
19.	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.
Street Transportation	
20. <del>13.</del>	<del>That</del> Right-of-way totaling 55 feet shall be dedicated for the west half of 35th Avenue, as approved by the Street Transportation Department. 35th Avenue shall be constructed using rural streets standards similar to Dobbins Road, as approved by the Street Transportation Department.
21. <del>14.</del>	<del>That</del> Right-of-way totaling 55 feet shall be dedicated for the west half of Carver Road, as approved by the Street Transportation Department. Carver Road shall be constructed using rural streets standards similar to Dobbins Road, as approved by the Street Transportation Department.
22.	THE DEVELOPER SHALL DEDICATE RIGHT-OF-WAY FOR 35TH AVENUE AS DETERMINED BY THE MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION (MCDOT) AND AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
23.	THE DEVELOPER SHALL DEDICATE RIGHT-OF-WAY FOR CARVER AVENUE AS DETERMINED BY THE MARICOPA COUNTY DEPARTMENT OF TRANSPORTATION (MCDOT) AND AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.

24. 15-	<del>That a</del> A traffic impact study shall be submitted to, and approved by, the Street Transportation Department prior to PLANNING AND Development <del>Services</del> Department prior to <del>Development Services Department</del> preliminary site plan approval. That all right-of-way dedications and associated infrastructure improvements as recommended by the traffic impact study shall be installed by the developer, as approved by the PLANNING AND Development <del>Services</del> Department.
25. 16-	<del>That t</del> 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 modified by these stipulations, and as approved by the Street Transportation Department. All improvements shall comply with all American with Disabilities Act accessibility standards.
26. 17-	<del>That t</del> The applicant shall complete and submit the Developer Project Information Form for the Maricopa Association of Governments Transportation Improvement Program. This form is a requirement of the Environmental Protection Agency to meet clean air quality requirements.
27. 18-	<del>That p</del> Prior to preliminary site plan approval, the landowner shall execute a Proposition 207 waiver of claims utilizing the provided template. The waiver shall be recorded with the Maricopa County Recorder's Office and a copy shall be provided to the PLANNING AND Development <del>Services</del> Department for the case files.
19-	<del>That approval shall be conditional upon the development commencing within 48 months of the City Council approval of this change of zoning in accordance with Section 506.B.1 of the Zoning Ordinance. For purposes of this stipulation, development shall commence with the issuance of building permits and erection of the building walls on site.</del>
Neighborhood	
28. 20-	<del>That b</del> Building pad cuts shall be terraced if more than 6 feet in height and treated with a stain, gunnite, or equivalent finish, as approved by the PLANNING AND Development <del>Services</del> Department.
29. 21-	<del>That a</del> All two story homes, within the R1-18 portion of the site, shall be designed in a manner such that the square footage of the second story floor area does not exceed 66 percent of the first story floor area does not exceed 66 percent of the first story floor area, as approved by the PLANNING AND Development <del>Services</del> Department.
30. 22-	<del>That c</del> Concrete channels shall be designed to look natural in the desert setting through color, texture, landscaping, or other means, as approved by the PLANNING AND Development <del>Services</del> Department.

31. <del>23.</del>	<del>That t</del> The use of riprap and engineered culverts shall be minimized and, where utilized, shall be integrated with the desert setting through color, texture, soil plating, landscaping, or other means, as approved by the PLANNING AND Development <del>Services</del> Department. To the extent possible, culverts shall be undersized to allow minor flows (10 cfs or smaller) to cross roadways in their natural condition.
32. <del>24.</del>	<del>That w</del> Washes with a one-hundred-year peak flow of 200 cfs or greater shall be preserved and enhanced with native vegetation as described in Appendix A, Approved Plant Species List for Sonoran Preserve Edge Treatment Guidelines, as approved by the PLANNING AND Development <del>Services</del> Department.
33. <del>25.</del>	<del>That l</del> Lots with 2 or more sides abutting undisturbed open space shall be designed with obtuse angles, rather than right angles or acute angles, as approved by the PLANNING AND Development <del>Services</del> Department.
34. <del>26.</del>	<del>That o</del> On non-hillside lots within the R1-18 portion of the development, all improvements, including driveways, landscaping, and underground utilities shall be located within a building envelope occupying no more than 50 percent of the lot up to a maximum of 20,000 square feet, whichever is less, as approved by the PLANNING AND Development <del>Services</del> Department.
35. <del>27.</del>	<del>That a</del> A minimum of three terraced berms with 2:1 fill slopes shall be installed along the full length of the quarry cut slope base. The terraces shall BE LIMITED TO A MAXIMUM HEIGHT OF be 8 feet tall, <del>minimum</del> , and shall be PLANTED <del>planted</del> with a staggered combination of 2-inch and 4-inch caliper, drought resistant, deciduous trees at 25 feet ON center OR IN EQUIVALENT GROUPINGS <del>to center</del> , as approved OR MODIFIED by the PLANNING AND Development <del>Services</del> Department.  THE DEVELOPER MAY ALSO IMPLEMENT ALTERNATIVE SOLUTIONS FOR THE NATURALIZING AND BLENDING OF THE QUARRY CUT SLOPE WITH THE ADJACENT UNDISTURBED HILLSIDE AREA, AS APPROVED OR MODIFIED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
36. <del>28.</del>	<del>That s</del> Solid block walls, except for retaining walls or privacy fencing on individual lots, shall not be constructed outside of the building envelopes for the R1-18 portion of the site, as approved by the PLANNING AND Development <del>Services</del> Department. Fencing constructed outside of the building envelope shall be combination solid/view fencing. In addition, all fencing above the 15 percent slope line shall be 100 percent view fencing.
37. <del>29.</del>	<del>That t</del> The entire 60-acre site shall have no perimeter fencing, as approved by the PLANNING AND Development <del>Services</del> Department.
38. <del>30.</del>	<del>That p</del> Private roadways within the R1-18 portion of the site shall be provided with ribbon curbs and colored asphalt, as approved by the PLANNING AND

	Development <del>Services</del> Department.
39. 31.	<del>That private roadways within the R1-8 portion of the site shall be provided with a raised, vertical curb, as approved by the Development Services Department.</del>
40. 32.	<del>That a</del> All HVAC units shall be ground mounted.
41. 33.	<del>That a</del> All street lighting and wall mounted security fixtures shall be full cut off lighting. Fixture height shall be a maximum of 12 feet. Street lighting fixtures shall be decorative and have a consistent architectural theme, as approved by the PLANNING AND Development <del>Services</del> Department.
42. 34.	<del>That b</del> Bollards shall be used for accent lighting at the primary access, entry monument, driveways, and trail crossings, as approved by the PLANNING AND Development <del>Services</del> Department. Photovoltaic energy sources for bollard lighting shall be provided.
43. 35.	<del>That a</del> Any request to delete or modify these stipulations SHALL be preceded by A presentation to the Laveen Village Planning Committee (VPC) for review and recommendation, and notification to the following persons two weeks prior to presentation at the VPC:
	a. Jon Kimoto, 3216 West Ansell Road, Laveen, 85339
	b. Cyd Manning, P.O. Box 41234, Mesa, 85274
	c. Judy Brown, P.O. Box 41234, Mesa, 85274
	d. Christine Dicken, 10827 South 30th Avenue, Laveen, 85339
	e. Richard Birnbaum, 11014 South 35th Avenue, Laveen, 85339
	f. Phil Hertel, <del>2300</del> 2845 West Broadway Road, Phoenix, 85041
	g. Steven Klein, 6820 South 66th Avenue, Laveen, 85339
44. 36.	<del>That t</del> The following individuals shall be notified of any and all PLANNING AND Development <del>Services</del> Department ( <del>DSD</del> ) meetings which are open to the public. The applicant shall be responsible for notification to the following via a first-class letter to be mailed at least two weeks prior to the <del>DSD</del> meeting(s):
	a. Jon Kimoto, 3216 West Ansell Road, Laveen, 85339
	b. Cyd Manning, P.O. Box 41234, Mesa, 85274

	c.	Judy Brown, P.O. Box 41234, Mesa, 85274
	d.	Christine Dicken, 10827 South 30th Avenue, Laveen, 85339
	e.	Richard Birnbaum, 11014 South 35th Avenue, Laveen, 85339
	f.	Phil Hertel, <del>2300</del> 2845 West Broadway Road, Phoenix, 85041
	g.	Steven Klein, 6820 South 66th Avenue, Laveen, 85339
45. <del>37.</del>	<del>That a</del> All sidewalks, within the R1-8 portion of the site, WHICH ARE DEVELOPED ALONG STREETS DEVELOPED AS PUBLIC STREETS OR PRIVATE ACCESSWAYS shall be detached with a minimum five-foot wide landscaped strip located between the sidewalk and back of curb and shall include minimum two-inch caliper shade trees planted <del>a minimum rate of</del> 20 feet on center or IN equivalent groupings along both sides of the sidewalk, as approved OR MODIFIED by the PLANNING AND Development <del>Services</del> Department. The landscape strip shall be installed by the developer and maintained by the homeowners' association.	
46. <del>38.</del>	<del>That a</del> A mix of two and three-inch caliper trees shall be provided within all required common open space tracts. With the exception of the open space area adjacent to 35th Avenue, the species of trees provided shall shade 50 percent of the area of the open space at tree maturity, as approved by the PLANNING AND Development <del>Services</del> Department.	
47. <del>39.</del>	<del>That only one-story homes shall be located along 35th Avenue.</del>  LOTS 52-61 AND 82-83, LOCATED ALONG 35TH AVENUE AND AS DEPICTED ON THE SITE PLAN DATE STAMPED NOVEMBER 21, 2019, ARE LIMITED TO A MAXIMUM BUILDING HEIGHT OF 20 FEET, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.	
48. <del>40.</del>	<del>That a</del> A detailed site plan, landscaping plan, elevations, perimeter fence or wall plan, lighting plan, and entry monument signage shall be reviewed by the Laveen Village Planning Committee prior to preliminary site plan approval by the PLANNING AND Development <del>Services</del> Department.	

Upon request, this publication will be made available within a reasonable length of time through appropriate auxiliary aids or services to accommodate an individual with a disability. This publication may be made available through the following auxiliary aids or services: large print, Braille, audiotope or computer diskette. Please contact the Planning and Development Department, Tamra Ingersoll at voice number 602-534-6648 or TTY use 7-1-1.

# ATTACHMENT L

The contents of this attachment will be a  
separate attachment in the City Council packet