



December 4, 2020

VIA ELECTRONIC MAIL & U.S. MAIL

Ms. Tricia Gomes, Zoning Administrator
City of Phoenix
Planning & Development Department
200 W Washington St., 2nd Floor
Phoenix, AZ 85004

RE: Formal Interpretation Request – Section

Dear Ms. Gomes:

We represent Protect 7120 Optima, LLC, which is a group of approximately 90 homeowners' in the existing 7120 Kierland Boulevard Optima tower (the "Owners") directly west of the proposed 288 unit/10-story project in Case # Z-33-20-2 ("7190 Optima PUD"). The Owners building was approved as part of a separate PUD with case # Z-22-14-2 ("7120 Optima PUD"). We respectfully request a formal interpretation on whether a building can cross over a property line, onto a separate property with a zero (0) foot setback requirement. Secondly, we request an interpretation on whether a new PUD can use an existing PUD's unused amended development standards without a major amendment to the existing PUD. The applicant is falsely claiming it has 'unused density' by citing it was approved for 204 Units at 7120 Optima PUD and ended up with 172 platted units. All 204 units were sold, they did not reduce the number of units or square feet sold, buyers simply purchased multiple units by combining units to create a bigger suite. This also occurred on the 2nd condo building, 7180 Optima, and the applicant for the #Z-33-20-2 case is misleading staff and the City. These units could be re-divided in the future and resold based off approved density for the 7120 Optima PUD.

Property Background

The 7120 Optima PUD is approved for a multi-family development of four (4) residential towers in the Kierland area. This project is mostly completed. The 7190 Optima PUD is a proposed PUD for a singular residential tower on an adjacent parcel to the east of 7120 Optima PUD. The 7190 Optima PUD is a separate parcel requesting a rezoning to apply a separate PUD to the separate property. The proposal appears to be too large to fit on the property and is therefore requesting the building to encroach on a separate property (the 7120 Optima PUD) governed by a separate PUD.



Proposal

We respectfully request an interpretation from the City regarding the setback definition and two (2) provisions of the PUD major amendment process within the Phoenix Zoning Ordinance ("PZO").

Setback Ordinance Provision Interpretation

Section 202, Definitions, of the PZO, it states the following regarding setbacks:

Setback: The required minimum distance between the building line and the related front, side, or rear lot line and over which no part of any building may extend, except as otherwise provided. When the property abuts a dedicated right-of-way, the distance shall be measured from the dedicated right-of-way line or future right-of-way line as shown on the street classification map. When the property abuts a private street, the distance shall be measured from the back of the tract or easement used for the private access way.

According to the PZO, if the setback is set at 0 feet, then the building can be placed up to the property line. It does not state that the building can go over a property line and encroach into another property with separate entitlements, but it specifically states that no part of the building may extend over the property line, which would include the building itself. As such, we request that the PZO setback requirement of 0 feet means that a building, and its encroachments, can only go to the edge of the property line with the 0-foot setback requirement. Additionally, this would mean that the PZO does not allow the building to cross over the property line onto adjacent property with different development standards. The property line serves as the end of any proposed building with a 0-foot setback requirement. This should be a reasonable interpretation on its face as no building of another property owner should be able to cross over a property line into another property owner's parcel. This has many practical and legal ramifications that create a burden upon a neighboring parcel.

As for the encroachment of the 7190 Optima building into the 7120 Optima PUD, the applicant for case # Z-33-20-2 states that this was 'always planned.' This is a false statement as a previous PUD was proposed for the 7190 Optima property that was opposed by the 7190 Optima PUD applicant and denied by the City Council with greater setback requirements.

PUD Major Amendment Provisions Interpretations

Under the current 7120 Optima PUD, certain development standards would not allow the proposed building of the 7190 Optima PUD to encroach into the 7120 Optima PUD. In order to allow for the 7190 Optima PUD building into the 7120 Optima PUD, it would



require a major amendment to the 7120 Optima PUD. The following is from the PZO regarding major amendments to PUD's:

Section 671 E. PUD Amendments, states:

1. Major amendments. Amendments to the approved PUD narrative that are determined to be major amendments shall follow the application and approval process stated in the zoning map amendment (rezoning) section of the Zoning Ordinance. Amendments shall be considered major if they include any of the following:

- a. **A change in the PUD boundary.***
- b. **Any change in the height, density, setback, or lot coverage development standards.***
- c. **Any change in the location of a land use depicted on the land use plan in the development narrative.***
- d. Any addition to the list of uses in the development narrative.*
- e. Any change to the design guidelines that is inconsistent with the intent of the PUD as described in the development narrative.*

The PZO demonstrates that all or any one of the bolded highlighted sections above clearly apply to the proposed 7190 Optima PUD if were to encroach into the existing 7120 Optima PUD area with its applicable development standards, including the setback standards.

In addition, when a major amendment is required, the following is required by the PZO per Section 506 A. 6.

*Section 506 A. 6. The application for amendment shall be signed by a real property owner in the area included in the application. In the event that an application filed by a real property owner in the area involved included property other than that owned by the applicant, then before the application will be accepted for processing, the applicant shall file, on a form provided by the Planning and Development Department, a petition in favor of the request signed by the real property owners representing **at least seventy-five percent of the land area to be included in the application. Said petition shall bear the property owners' signatures and addresses, the legal description and land area of each property represented on the petition, the total land area represented by the petition, and the total land area of individual properties included in the application.***



**TIFFANY
& BOSCO**
P.A.

As outlined above, the major amendment of the 7120 Optima PUD case would require at least 75% of the owner to sign off and approve the major amendment to the 7120 Optima PUD.

Conclusion

Overall, the Owners will be severely impacted by the approval of the 7190 Optima PUD case. The City is allowing the 7190 Optima PUD case to proceed without these three (3) major zonings ordinance deficiencies being properly addressed. We respectfully request that the City understand the unreasonableness of a building being able to encroach onto another adjacent property owner's property. Additionally, allowing this to happen without the 7120 Optima PUD owners going through the proper major amendment process of the PZO is egregious and is skirting the proper process that any City property owner is required to go through. These are significant impacts on the Owners and the case should not move forward based on the above interpretation request.

Should you have any questions or require additional information, please contact me at 602-452-2716 or wel@tblaw.com. Thank you and I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W.E. Lally', with a long horizontal flourish extending to the right.

William E. Lally

cc: Alan Stephenson, City of Phoenix Planning & Development Director

David O Simmons

From: Anthony A Admire, MD FACS <dradmire@admireplasticsurgery.com>
Sent: Sunday, December 6, 2020 12:16 PM
To: David O Simmons
Cc: Anthony A Admire, MD FACS
Subject: 7190 Optima Kierland project Opposition

Dear Mr Simmons,

My wife and I strongly oppose all aspects of the 7190 Optima project. We were owners in 7120 Optima building and saw our condo get devalued with 2 additional buildings going up, obstructing our views that were promised not to be blocked when we moved in. We felt forced to sell to keep from further losing the value of our condo, and bought a unit in the 7180 Optima building facing the NE corner. Now another 2 buildings are planned, with the 7190 building once again blocking our views on the North side. And yet again, likely devaluing our purchase and investment. We need more restaurants, shops, and a convenient walking distance to a grocery store that would make better use of that land, or a nice park.

Sincerely,

Anthony A Admire, MD, FACS

Diplomate, American Board of Plastic Surgery

17300 N. Perimeter Drive, Suite 175

Scottsdale, AZ 85255

480-946-3155 {p}

480-946-2122 {f}

dradmire@admireplasticsurgery.com

www.admireplasticsurgery.com [admireplasticsurgery.com]

ADMIRI



The
American



FAC
FELLOW OF THE



David O Simmons

From: Ben Galpen <bgalpen@gmail.com>
Sent: Thursday, December 3, 2020 8:57 AM
To: David O Simmons
Subject: Protect 7120 Optima

Dear Mr. Simmons; I am writing to you express me opposition to case Z-33-2-2 for the project known as Optima 7190.

Since February of this year, the developer for Optima has refused to make one primary concession and that is to move the 7190 building further away from 7120 so it does not block the view corridor and leave the entire east side of 7120 in darkness. The owners of 7120 paid in excess of \$200 million for the 173 units in our building and the only reasons not to agree to our request is greed, arrogance, and betrayal.

I am part of Protect 7120 Optima, a group of nearly 100 Owners who oppose this application as designed, but will support it if the developer will move the building to where we have asked; we have even even agreed to allow them to add greater height up to 12 story in exchange for moving the building further from 7120.. The Optima developers sold views to every buyer at 7120 despite what contractual disclosures and legalese say in the contracts and they are hiding behind their lawyers instead of doing the right thing. It is your responsibility to hold developers accountable and NOT allow them to play in gray areas that destroy property values and damage prior phases of their own project.

If you wish to approve this project, then condition it on moving it further from 7120 (an additional 100 feet) and you'll be supporting before people who live in 7120.

Thank you for looking at this objectively and for doing what is in the best interest of all involved.

Sincerely,
Ben and Traci Galpen Optima 7120,
unit # 518

David O Simmons

From: Britt Dimmick <brittdimmick@gmail.com>
Sent: Saturday, December 5, 2020 5:09 PM
To: David O Simmons; PDD Paradise Valley VPC; Council District 2 PCC
Subject: Opposition to 7190 Optima Kierland

December 6, 2020
Re: Case # Z-33-20-2

Dear Mr. David Simmons,

I am writing to express my strong opposition to the proposed plan for 7190 and to formally request that the Village Planning Committee continue this application until the City uniformly applies the standards in its ordinance, which will require the Major Amendment to approve this project as designed.

Concerns; The proposed 7190 application has a Zero Setback, but it actually extends beyond the property line in two locations in violation of Development Standards. There is no loading area for 7190, and an already congested loading area off of Greenway Road will need to service 3 towers. Combining access and parking will add to the current traffic flow, which is already becoming problematic - and two towers are still not full. There are not enough entrances and exits to support so many vehicles safely.

If the Village Planning chooses to approve this project, they should at least stipulate that it be moved 100 feet further away from 7120.

It is the responsibility of the Committee to objectively review each application and hold this developer accountable to the people they sold to and the design criteria the city has established to prevent people from mishandling the process.

Thank you for your consideration.

Sean & Britt Dimmick
Unit 1010
7120 Optima Kierland

David O Simmons

From: Bourk, Dan <Dan.Bourk@colliers.com>
Sent: Friday, December 4, 2020 1:46 PM
To: David O Simmons
Subject: Optima 7190

Dear Mr. Simmons:

I am writing you to express my opposition to case Z-33-2-2 for the project known as Optima 7190.

Since early this year, the developer for Optima has refused to make one primary concession and that is to move the proposed 7190 building further away from 7120 so it does not block the view corridor and leave the entire east side of 7120 compromised. The owners of 7120 paid in excess of \$200 million for our building and the only reason the developer will not agree to our request appears to be greed and arrogance.

I am part of Protect 7120 Optima, a group of nearly 100 Owners who oppose this application as designed, but will support it if the developer will move the building to where we have requested. The Optima developers sold views to every buyer at 7120 despite what contractual disclosures and legalese say in the contracts and they are hiding behind their lawyers. It is your responsibility to hold developers accountable and not allow them to destroy property values and damage prior phases of their own project.

If you wish to approve this project, then condition it on moving it further from 7120 (an additional 100 feet) and you'll be supporting people who live in 7120.

Thanks for your consideration in this matter.

Sincerely,

Dan & Kasey Bourk
Owners in 7120

David O Simmons

From: David Kaminsky <kaminsky610@gmail.com>
Sent: Sunday, December 6, 2020 5:24 PM
To: David O Simmons
Subject: Case #Z-33-20-2

December 5, 2020
Re: Case # Z-33-20-2

Attn: David Simmons

I am writing to express my strong opposition to proposed plan for 7190 and to formally request that the Village Planning Committee continue this application until the City uniformly applies the standards in its Ordinance which will require the a Major Amendment to approve this project as designed.

I am a member of Protect 7120 Optima, a group of nearly 100 7120 Owners and we have filed a formal petition with the city today for an Ordinance Interpretation. We asked the developer to move the proposed building further away from 7120 so that the privacy and view corridor for half of the building owners is protected in exchange for adding two floors of height, which will be the same height as 7120.

The proposed 7190 application has a Zero Setback but it actually extends beyond the property line in two locations in violation of Development Standards.

If the Village Planning chooses to approve this project, they should at least stipulate that it be moved 100 feet further away from 7120 and permit the applicant to add two floors.

It is the responsibility of the Committee to objectively review each application, not be swayed by cool architecture which we all appreciate, and hold this developer accountable to the people they sold to and the design criteria the City has established to prevent people from abusing the process.

Thank you for your listening as we need your help.

Sincerely,
Dave Kaminsky
7120 Unit 615

Heidi Brake Smith
7120 E Kierland Blvd, Unit 708
Scottsdale, AZ 85254
203-253-4944

Delivered – Via Email

December 3, 2020

David Simmons, David.simmons@phoenix.gov
Paradise Valley Staff Planner & Committee
Paradise Valley VPC, ParadiseValleyVPC@phoenix.gov
City of Phoenix Planning and Zoning Department
Councilman Waring, jimwaring@waring.com, council.district.2@phoenix.gov

Re: Application –Z-33-20, 7190

Dear Councilman Waring, David Simmons, and the Paradise Valley VPC,

As you are well aware, I have written extensively regarding the issues and topics that are assumed and/or impactful regarding various projects. On Monday, December 7th, the Applicant for Z-33-20 (3rd submittal) will be presenting. Despite numerous conversations via digital options, the applicant has delivered no material changes to the shape, size and design of the 7190 building. The PUD application changes are legal and descriptive.

The applicant continues to argue in two directions at select times and topics: 1) that the building is a standalone application and should be viewed as such but 2) that the project can legally take from the adjacent Optima Kierland 2014 PUD where it deems fit. *The presentation materials themselves illustrate this conundrum as the site plans include the existing Optima building plus the 7190 application, whereas the elevations only show one standalone building in the elevation.* Where are the other 4 buildings? The developer also asserts that the merger of the two properties will be ‘no big thing’ and that the developer can accomplish this as the owners have no legal rights. Very soon I expect to see a Fairy Godmother’ with a wand to erase those property lines.

Topics that need to be discussed and understood include density, zero setbacks, parking, and exchanges of amenities underground that are needed to make the project work for the developer to name a few. Although we have had Neighborhood meetings, we are usual left unsatisfied, especially when ‘the answers are not at their fingertips’ or ‘we will get back to you’. The Covid-19 pandemic has limited the ability for stakeholders to be part of the process. The webinar structure lets the applicant speak at length regarding 10 visuals with participants limited to typing their questions in the chat box. There is no real discussion.

Heidi Brake Smith
7120 E Kierland Blvd, Unit 708
Scottsdale, AZ 85254
203-253-4944

Regarding the narrative changes to the PUD application, I ask you to focus on Page 8 of the application. This is where the narrative changes are most apparent: 1) erase the property line via annexation, 2) the permission of annexation in the 2014 document, and 3) the density limits of the Original PUD. This last point is interesting as they are utilizing the fact that there are less than 796 units today (the permitted number in the 2014 PUD), a product of individual owner purchase decisions. The developer would like to add 58 (796 permitted less 738 actual) more units to the current application. Did they lop off the top floor? No. Did they change the 2014 documents? No. Again, is this a standalone application or should this be a Major Amendment.

With these thoughts in mind, I would like to point out the following numbers:

- **Density** – Please review and understand the density calculated in the applications between 2014 and today. As you can see, the density increased over the past six years.

Table 1
71st Street – Scottsdale Road Area
Acreage, Residential Units, and Density

Year		Application	AKA	Acreage	Res. Units	Density (Calc)
2014	B	Z-22-14	Optima Kierland	9.42 ***	796	87.6
2016	B	Z-10-16-2	Overture	2.45	171	69.8
2018	A	Z-12-18-2	LMC	4.17	299	71.7
2018	A	Z-91-18	LCG	2.1	220	99.5
2019	A	Z-61-19-2	Embrey	2.41	285	118.3
2020	P	Z-6-20-2	Optima 15615	1.51	170	112.6
2020	P	Z-33-20-2n	Optima Phase II	2.28	228	126.3

*** - Original 2014 PUD states 9.09, Phase II states 9.42.

B = Built, A = Approved, P = Pending. Acreage and Residential Unit Data from PUD Applications.

This table is the same table I presented to you in October 2020 regarding the 15615 building.

- **Setbacks** - Setbacks are important in creating a pedestrian street culture and a community. Multi-family buildings tower over the street and/or neighboring properties; decreasing setbacks magnify the size and therefore, the impact. As the building rises in height, greater setbacks should be required. Zero (0) setbacks provide no functional benefit for the resident and create future challenges for adjacent parcels.

Heidi Brake Smith
7120 E Kierland Blvd, Unit 708
Scottsdale, AZ 85254
203-253-4944

Table 2
71st Street – Scottsdale Road Area
Building Setbacks (in Feet)

Year		Application	AKA	Frontage	North	West	South	East
2014	B	Z-22-14	Optima Kierland	South and West	0	25	25	60
2016	B	Z-10-16-2	Overture	South and West	8	8	8	10
2018	A	Z-12-18-2	LMC	West	20	10	15	20
2018	A	Z-91-18	LCG	North and West	10	11	10.5	4
2019	A	Z-61-19-2	Embrey	East	20	20	10	15
2020	P	Z-6-20-2	Optima 15615	West and South	10.5	10	40**	0
2020	P	Z-33-20-2n	Optima Phase II	East	20	25	0	55

B = Built, A = Approved, P = Pending

** Alley and Easement on site. Setback Data from PUD Applications.

Lastly, this application should not be viewed in a vacuum but rather as part of the many buildings the PVVPC has already approved. Sadly, a master plan has not been completed and there appears little incentive for the developers to create a massing. A simple Google Sketchup 3D rendering would have been meaningful.

The PUD process gives the developer the opportunity to develop a parcel without the boundaries of traditional zoning. This opportunity should demand better design, better building standards, and a focus on creating community through design. The success of Optima Kierland's original application encouraged greater development between 71st street and Scottsdale Road. To maintain the original design standards and concepts promoted in the vision, the PVVPC needs to be mindful of the development patterns shown above.

The applicant's 3rd submittal illustrates that there is no willingness to redesign this project. The plans and elevations included in the submittal are the same. The only change is clever calculations and combinations.

Sincerely,

Heidi Brake Smith

Heidi Brake Smith
Owner – 7120 Kierland, Unit 708

David O Simmons

From: Jeff <jeffreynunn@yahoo.com>
Sent: Saturday, December 5, 2020 9:26 PM
To: PDD Paradise Valley VPC; jim@jimwaring.com; Council District 2 PCC
Subject: Fw: Case #Z-33-20-2 - opposition to proposed plan for 7190

Attn: David Simmons

I am writing to express my strong opposition to proposed plan for 7190 and to formally request that the Village Planning Committee continue this application until the City uniformly applies the standards in its Ordinance which will require the a Major Amendment to approve this project as designed.

In short, the applicant is falsely claiming it has “unused density” by citing it was approved for 204 Units at 7120 and ended up with 172 Platted units. All 204 units were sold, they didn’t reduce the number of units or square feet sold; Buyers simply purchased multiple units by combining units to create bigger suites. I am one of those homeowners who bought 2 units to combine sq footage for my current unit. They did the same on the 2nd condo building, 7180, and the applicant is misleading staff and the City. They have used all of the density they were entitled to and are playing numbers games.

I am a member of Protect 7120 Optima, a group of nearly 100 7120 Owners and we have filed a formal petition with the city today for an Ordinance Interpretation. We are not a radical no growth group and have made one rational request to the Developer who has built two rental and two condo buildings in Kierland. We asked the developer to move the proposed building further away from 7120 so that the privacy and view corridor for half of the building owners is protected in exchange for adding two floors of height, which will be the same height as 7120.

The Developer has refused our request, and won’t even meet with us. They are betraying all of the Owners of 7120 who they rallied two years ago to prevent DMB from approving a similar project so they could buy the property. This is classic bait and switch motivated by sheer greed as the new building is massive, has 277 units and will substantially block 3 buildings. They owe us the respect to prevent a decrease in property values especially when a viable solution has been presented.

It is a disgrace that the 7120 Optima HOA is not fighting this aggressively.

On a zoom call last week the Applicants legal counsel admitted the following:

- 1) No other Developer besides DCH (Hovey) can combine the Le Maison parcel to the prior Optima parcels and build the same project Optima is proposing.
- 2) The Le Maison parcel can NOT be approved as a “stand alone” project without using/combining access, parking, open space, circulation and density.
- 3) There is NO loading area for 7190 and an already congested loading area off of Greenway Road will need to service 3 towers.
- 4) The proposed 7190 application has a Zero Setback but it actually extends beyond the property line in two locations in violation of Development Standards.

Equally important, approving this project and allowing the Developer to use falsely claimed 2014 unused density credits, will set a dangerous precedent that this developer can continue to purchase connected parcels along Scottsdale Road and repeat this claim to the detriment of all previous Owners.

If the Village Planning chooses to approve this project, they should stipulate that it be moved 100 feet further away from 7120 and permit the applicant to add two floors.

It is the responsibility of the Committee to objectively review each application, not be swayed by cool architecture which we all appreciate, and hold this developer accountable to the people they sold to and the design criteria the City has established to prevent people from abusing the process.

Thank you for your listening to us as we need your help.

Protect 7120 Optima

David O Simmons

From: Jim Riggs <hoyatrojan@aol.com>
Sent: Friday, December 4, 2020 8:39 AM
To: David O Simmons
Subject: Re: 7190

David:

Please delete the attached file I just sent you as it was in draft format and accept the following version:

December 4, 2020

Re: Case # Z-33-20-2

Attn: David Simmons

I am writing to express my strong opposition to the proposed plan for 7190 and to formally request that the Village Planning Committee continue this application until the City uniformly applies the standards in its Ordinance which will requires a Major Amendment to approve this project as designed.

In short, the applicant is falsely claiming it has “unused density” by citing it was approved for 204 Units at 7120 and ended up with 172 Platted units. All 204 units were sold, they didn’t reduce the number of units or square feet sold; Buyers simply purchased multiple units by combining units to create bigger suites. They did the same on the 2nd condo building, 7180, and the applicant is misleading staff and the City. They have used all of the density they were entitled to and are playing numbers games.

I am a member of Protect 7120 Optima, a group of nearly 100 7120 Owners and we have filed a formal petition with the city today for an Ordinance Interpretation. We are not a radical no growth group and have made one rational request to the Developer who has built four rental and condo buildings in Kierland. We asked the developer to move the proposed building further away from 7120 so that the privacy and view corridor for half of the building owners is protected in exchange for adding two floors of height which will be the same height as 7120.

The Developer has refused our request, and won’t even meet with us, as they are 1) protecting one 12th floor Penthouse Buyer who they have positioned as President of the 7120 Optima HOA and a appointed him chairman of sham organization called KCA which is a watchdog group for Hovey’s interests, and 2) they are betraying all of the Owners of 7120 who they rallied two years ago to prevent DMB from approving a similar project so they could buy the property. This is classic bait and switch motivated by sheer greed as the new building has 277 units and will substantially

block 3 buildings. They owe us the respect to prevent a decrease in property values especially when a viable solution has been prevented.

On a zoom call last week the Applicants legal counsel admitted the following:

- 1) No other Developer besides DCH (Hovey) can combine the Le Masion parcel to the prior Optima parcels and build the same project Optima is proposing.*
- 2) The Le Masion parcel can NOT be approved as a "stand alone" project without using/combining access, parking, open space, circulation and density.*
- 3) There is NO loading area for 7190 and an already congested loading area off of Greenway Road will need to service 3 towers.*
- 4) The proposed 7190 application has a Zero Setback but it actually extends beyond the property line in two locations in violation of Development Standards.*

Equally important, approving this project and allowing the Developer to use falsely claimed 2014 unused density credits, will set a dangerous precedent that this developer can continue to purchase connected parcels along Scottsdale Road and repeat this pattern to the detriment of all previous Owners.

If the Village Planning chooses to approve this project, they should stipulate that it be moved 100 feet further away from 7120 and permit the applicant to add tow floors.

It is the responsibility of the Committee to objectively review each application, not be swayed by cool architecture which we all appreciate, and hold this developer accountable to the people they sold to while adhering to the design criteria the City has established to prevent people from abusing the process.

Thank you for your listening to us as we need your help.

*Jim and Kim Riggs
Unit 807, Optima 7120*

-----Original Message-----

From: Jim Riggs <hoyatrojan@aol.com>

To: david.simmons@phoenix.gov <david.simmons@phoenix.gov>

Sent: Fri, Dec 4, 2020 8:30 am

Subject: Re: 7190

David Please acknowledge receipt of my opposition letter for the 7190 application and forward to the Village Planning committee asap.

Jim Riggs
m - 602-292-2398

Platinum Advisors, A Real Estate Services Company

Development Brokerage Investments
SkyViews Miami - jimr@skyviewsmiami.com

-----Original Message-----

From: David O Simmons <david.simmons@phoenix.gov>
To: Jim Riggs <hoyatrojan@aol.com>
Sent: Tue, Dec 1, 2020 8:52 am
Subject: RE: 7190

I will call you at 9:30.

Talk soon,

David Simmons, MA
Planner II* Village Planner
200 West Washington Street
3rd Floor
Phoenix, AZ 85003
602-262-4072
david.simmons@phoenix.gov



From: Jim Riggs <hoyatrojan@aol.com>
Sent: Tuesday, December 1, 2020 8:50 AM
To: David O Simmons <david.simmons@phoenix.gov>
Subject: Re: 7190

Thanks I am free at 930

Jim Riggs
m - 602-292-2398

Platinum Advisors, A Real Estate Services Company

Development Brokerage Investments
SkyViews Miami - jimr@skyviewsmiami.com

-----Original Message-----

From: David O Simmons <david.simmons@phoenix.gov>
To: Jim Riggs <hoyatrojan@aol.com>
Sent: Tue, Dec 1, 2020 8:45 am
Subject: RE: 7190

Good morning, Jim,

I am available to chat this morning. Let me know when you are available and I will give you a call.

Respectfully,

David Simmons, MA
Planner II* Village Planner
200 West Washington Street
3rd Floor
Phoenix, AZ 85003
602-262-4072
david.simmons@phoenix.gov



From: Jim Riggs <hoyatrojan@aol.com>
Sent: Monday, November 30, 2020 5:37 PM
To: David O Simmons <david.simmons@phoenix.gov>
Subject: Re: 7190

Can I schedule 5 minutes with you for a call tomorrow?

Jim Riggs
m - 602-292-2398
Platinum Advisors, A Real Estate Services Company
Development Brokerage Investments
SkyViews Miami - jimr@skyviewsmiami.com

-----Original Message-----
From: David O Simmons <david.simmons@phoenix.gov>
To: Jim Riggs <hoyatrojan@aol.com>
Sent: Mon, Nov 30, 2020 2:15 pm
Subject: RE: 7190

Good afternoon, Jim,

I have attached the staff report and a link to the hearing draft of the development narrative for your review. Please let me know if you would like to discuss after reviewing. <https://www.phoenix.gov/pdd/planning-zoning/pzservices/pud-cases>
Case No. Z-33-20-2.

Respectfully,

David Simmons, MA
Planner II* Village Planner
200 West Washington Street
3rd Floor
Phoenix, AZ 85003
602-262-4072
david.simmons@phoenix.gov



From: Jim Riggs <hoyatrojan@aol.com>
Sent: Monday, November 23, 2020 1:09 PM
To: David O Simmons <david.simmons@phoenix.gov>
Subject: 7190

David:

Please call me asap to discuss Z-33-20-2 Optima 7190

Jim Riggs
m - 602-292-2398

Platinum Advisors, A Real Estate Services Company

Development Brokerage Investments
SkyViews Miami - jimr@skyviewsmiami.com

David O Simmons

From: joe popp <jpopp17@gmail.com>
Sent: Saturday, December 5, 2020 11:30 AM
To: David O Simmons
Subject: Optima 7190

Re: Case # Z-33-20-2

Attn: David Simmons

I am writing to express my strong opposition to proposed plan for 7190 and to formally request that the Village Planning Committee continue this application until the City uniformly applies the standards in its Ordinance which will require the a Major Amendment to approve this project as designed.

In short, the applicant is falsely claiming it has “unused density” by citing it was approved for 204 Units at 7120 and ended up with 172 Platted units. All 204 units were sold, they didn’t reduce the number of units or square feet sold; Buyers simply purchased multiple units by combining units to create bigger suites. We are paying They did the same on the 2nd condo building, 7180, and the applicant is misleading staff and the City. They have used all of the density they were entitled to and are playing numbers games.

I am a member of Protect 7120 Optima, a group of nearly 100 7120 Owners and we have filed a formal petition with the city today for an Ordinance Interpretation. We are not a radical no growth group and have made one rational request to the Developer who has built two rental and two condo buildings in Kierland. We asked the developer to move the proposed building further away from 7120 so that the privacy and view corridor for half of the building owners is protected in exchange for adding two floors of height, which will be the same height as 7120.

The Developer has refused our request, and won’t even meet with us, as they are 1) protecting one 12th floor Penthouse Buyer who they have positioned as President of the 7120 Optima HOA (and refuses to help us) and made him Chairman of a sham organization called KCA which is a watchdog group for Hovey’s interests, and 2) they are betraying all of the Owners of 7120 who they rallied two years ago to prevent DMB from approving a similar project so they could buy the property. This is classic bait and switch motivated by sheer greed as the new building is massive, has 277 units and will substantially block 3 buildings. They owe us the respect to prevent a decrease in property values especially when a viable solution has been presented.

It is a disgrace that the 7120 Optima HOA is not fighting this aggressively.

On a zoom call last week the Applicants legal counsel admitted the following:

- 1) No other Developer besides DCH (Hovey) can combine the Le Maison parcel to the prior Optima parcels and build the same project Optima is proposing.
- 2) The Le Maison parcel can NOT be approved as a “stand alone” project without using/combining access, parking, open space, circulation and density.
- 3) There is NO loading area for 7190 and an already congested loading area off of Greenway Road will need to service 3 towers.
- 4) The proposed 7190 application has a Zero Setback but it actually extends beyond the property line in two locations in violation of Development Standards.

Equally important, approving this project and allowing the Developer to use falsely claimed 2014 unused density credits, will set a dangerous precedent that this developer can continue to purchase connected parcels along Scottsdale Road and repeat this claim to the detriment of all previous Owners.

If the Village Planning chooses to approve this project, they should stipulate that it be moved 100 feet further away from 7120 and permit the applicant to add two floors.

It is the responsibility of the Committee to objectively review each application, not be swayed by cool architecture which we all appreciate, and hold this developer accountable to the people they sold to and the design criteria the City has established to

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Thank you for your listening to us as we need your help.

Protect 7120 Optima

2 [facebook.com]

Manage

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Joe Popp
7120 E Kierland Blvd
Scottsdale AZ 85254
Unit 813

David O Simmons

From: Len Harlig <len@lenharlig.com>
Sent: Friday, December 4, 2020 4:18 PM
To: David O Simmons
Cc: PDD Paradise Valley VPC; Council District 2 PCC
Subject: Application Z-33-20-2
Attachments: SK_Optima Kierland Center Phase 2 2nd Review Z-33-20-2 (4).pdf

Dear Mr. Simmons, Council Members, and Councilman Waring,

As a resident of Kierland 7120, I must express my continued objections to Application Z-33-20-2 in its present form. I have previously sent the PVVPC several letters (8/18/20 and 9/18/20) concerning my objection to an expansion of the existing underlying zoning by seeking a rezone under the expanded cover of a PUD Ordinance. I am a firm believer in the right of a property owner to develop her/his property under existing zoning regulations, but I'm just as firmly a believer that adjacent property owners have an equivalent right to depend on underlying zoning when they acquired their own neighboring property. The applicant's proposal (Z-33-20-2) deprives surrounding property owners of their part in the planning and zoning compact that a city has with its property owners. The Applicant should be required to live by the rules that applied when he/she acquired the property and not seek to change the regulations for personal profit, especially not to the detriment of surrounding neighbors. This 'fairness' doctrine is the bedrock of planning and zoning throughout the United States. Allowing this proposed expansion would violate the basic reason citizens of the United States accept (and depend on) the concept of planning and zoning when they purchase property and pay property taxes.

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The PVVPC has a wonderful opportunity to restore faith in the government process; please avail yourselves of this opportunity and require a Major Amendment for the Optima area before a Rezone application can even be considered.

Thank you for the opportunity to comment

Carol and Len Harlig

Len Harlig

7120 E. Kierland Blvd. #1005
Scottsdale, AZ 85254

(208) 720-1043

David O Simmons

From: Mozhgan Kimble <mozhgankimble@gmail.com>
Sent: Saturday, December 5, 2020 7:22 PM
To: PDD Paradise Valley VPC; David O Simmons
Subject: opposition to current 7190 Optima design

Dear Paradise Valley Village Planning Committee members,

I am writing to ask you to oppose the current design for the 7190 Optima application. As an owner of a unit in the 7120 Optima building, I was aware of the high probability that La Maison would be rezoned and a larger building would be built in its place. However, it was explicitly written in the building documents and explained by the seller/Optima that no building could occur *within* the landscaped footprint that surrounded the current Optima buildings. Though neither specific construction nor its prevention could be specifically guaranteed *outside* the footprint, the space within the footprint was established to remain unimposed, since it was drawn into the approved building documents. However, the current 7190 Optima design, unlike the DLC building application, intrudes upon this open space that was guaranteed to the condo owners.

Many 7120 owners, including myself, feel deceived that our influence was used to defeat the previous building application, so that Optima/Hovey could be enabled to submit their own building application. I am not opposing the construction of another hi-rise on the La Maison space. I am only asking that the legal open space around the 7120, 7140 and 7180 buildings, that was submitted in the original building documents, upon which city approval was granted and condo owners based their purchases, be maintained and not be intruded upon.

Thank you for your time.

Respectfully,

Mozhgan H. Kimble

7120 E Kierland Blvd, #607
Scottsdale, AZ 85254
480-326-8172



December 4, 2020

VIA ELECTRONIC MAIL & U.S. MAIL

Ms. Tricia Gomes, Zoning Administrator
City of Phoenix
Planning & Development Department
200 W Washington St., 2nd Floor
Phoenix, AZ 85004

RE: Formal Interpretation Request – Section

Dear Ms. Gomes:

We represent Protect 7120 Optima, LLC, which is a group of approximately 90 homeowners' in the existing 7120 Kierland Boulevard Optima tower (the "Owners") directly west of the proposed 288 unit/10-story project in Case # Z-33-20-2 ("7190 Optima PUD"). The Owners building was approved as part of a separate PUD with case # Z-22-14-2 ("7120 Optima PUD"). We respectfully request a formal interpretation on whether a building can cross over a property line, onto a separate property with a zero (0) foot setback requirement. Secondly, we request an interpretation on whether a new PUD can use an existing PUD's unused amended development standards without a major amendment to the existing PUD. The applicant is falsely claiming it has 'unused density' by citing it was approved for 204 Units at 7120 Optima PUD and ended up with 172 platted units. All 204 units were sold, they did not reduce the number of units or square feet sold, buyers simply purchased multiple units by combining units to create a bigger suite. This also occurred on the 2nd condo building, 7180 Optima, and the applicant for the #Z-33-20-2 case is misleading staff and the City. These units could be re-divided in the future and resold based off approved density for the 7120 Optima PUD.

Property Background

The 7120 Optima PUD is approved for a multi-family development of four (4) residential towers in the Kierland area. This project is mostly completed. The 7190 Optima PUD is a proposed PUD for a singular residential tower on an adjacent parcel to the east of 7120 Optima PUD. The 7190 Optima PUD is a separate parcel requesting a rezoning to apply a separate PUD to the separate property. The proposal appears to be too large to fit on the property and is therefore requesting the building to encroach on a separate property (the 7120 Optima PUD) governed by a separate PUD.



Proposal

We respectfully request an interpretation from the City regarding the setback definition and two (2) provisions of the PUD major amendment process within the Phoenix Zoning Ordinance ("PZO").

Setback Ordinance Provision Interpretation

Section 202, Definitions, of the PZO, it states the following regarding setbacks:

Setback: The required minimum distance between the building line and the related front, side, or rear lot line and over which no part of any building may extend, except as otherwise provided. When the property abuts a dedicated right-of-way, the distance shall be measured from the dedicated right-of-way line or future right-of-way line as shown on the street classification map. When the property abuts a private street, the distance shall be measured from the back of the tract or easement used for the private access way.

According to the PZO, if the setback is set at 0 feet, then the building can be placed up to the property line. It does not state that the building can go over a property line and encroach into another property with separate entitlements, but it specifically states that no part of the building may extend over the property line, which would include the building itself. As such, we request that the PZO setback requirement of 0 feet means that a building, and its encroachments, can only go to the edge of the property line with the 0-foot setback requirement. Additionally, this would mean that the PZO does not allow the building to cross over the property line onto adjacent property with different development standards. The property line serves as the end of any proposed building with a 0-foot setback requirement. This should be a reasonable interpretation on its face as no building of another property owner should be able to cross over a property line into another property owner's parcel. This has many practical and legal ramifications that create a burden upon a neighboring parcel.

As for the encroachment of the 7190 Optima building into the 7120 Optima PUD, the applicant for case # Z-33-20-2 states that this was 'always planned.' This is a false statement as a previous PUD was proposed for the 7190 Optima property that was opposed by the 7190 Optima PUD applicant and denied by the City Council with greater setback requirements.

PUD Major Amendment Provisions Interpretations

Under the current 7120 Optima PUD, certain development standards would not allow the proposed building of the 7190 Optima PUD to encroach into the 7120 Optima PUD. In order to allow for the 7190 Optima PUD building into the 7120 Optima PUD, it would



require a major amendment to the 7120 Optima PUD. The following is from the PZO regarding major amendments to PUD's:

Section 671 E. PUD Amendments, states:

1. Major amendments. Amendments to the approved PUD narrative that are determined to be major amendments shall follow the application and approval process stated in the zoning map amendment (rezoning) section of the Zoning Ordinance. Amendments shall be considered major if they include any of the following:

- a. **A change in the PUD boundary.***
- b. **Any change in the height, density, setback, or lot coverage development standards.***
- c. **Any change in the location of a land use depicted on the land use plan in the development narrative.***
- d. Any addition to the list of uses in the development narrative.*
- e. Any change to the design guidelines that is inconsistent with the intent of the PUD as described in the development narrative.*

The PZO demonstrates that all or any one of the bolded highlighted sections above clearly apply to the proposed 7190 Optima PUD if were to encroach into the existing 7120 Optima PUD area with its applicable development standards, including the setback standards.

In addition, when a major amendment is required, the following is required by the PZO per Section 506 A. 6.

*Section 506 A. 6. The application for amendment shall be signed by a real property owner in the area included in the application. In the event that an application filed by a real property owner in the area involved included property other than that owned by the applicant, then before the application will be accepted for processing, the applicant shall file, on a form provided by the Planning and Development Department, a petition in favor of the request signed by the real property owners representing **at least seventy-five percent of the land area to be included in the application. Said petition shall bear the property owners' signatures and addresses, the legal description and land area of each property represented on the petition, the total land area represented by the petition, and the total land area of individual properties included in the application.***



**TIFFANY
& BOSCO**
P.A.

As outlined above, the major amendment of the 7120 Optima PUD case would require at least 75% of the owner to sign off and approve the major amendment to the 7120 Optima PUD.

Conclusion

Overall, the Owners will be severely impacted by the approval of the 7190 Optima PUD case. The City is allowing the 7190 Optima PUD case to proceed without these three (3) major zonings ordinance deficiencies being properly addressed. We respectfully request that the City understand the unreasonableness of a building being able to encroach onto another adjacent property owner's property. Additionally, allowing this to happen without the 7120 Optima PUD owners going through the proper major amendment process of the PZO is egregious and is skirting the proper process that any City property owner is required to go through. These are significant impacts on the Owners and the case should not move forward based on the above interpretation request.

Should you have any questions or require additional information, please contact me at 602-452-2716 or wel@tblaw.com. Thank you and I look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'W.E. Lally', with a long horizontal flourish extending to the right.

William E. Lally

cc: Alan Stephenson, City of Phoenix Planning & Development Director

David O Simmons

From: Anthony A Admire, MD FACS <dradmire@admireplasticsurgery.com>
Sent: Sunday, December 6, 2020 12:16 PM
To: David O Simmons
Cc: Anthony A Admire, MD FACS
Subject: 7190 Optima Kierland project Opposition

Dear Mr Simmons,

My wife and I strongly oppose all aspects of the 7190 Optima project. We were owners in 7120 Optima building and saw our condo get devalued with 2 additional buildings going up, obstructing our views that were promised not to be blocked when we moved in. We felt forced to sell to keep from further losing the value of our condo, and bought a unit in the 7180 Optima building facing the NE corner. Now another 2 buildings are planned, with the 7190 building once again blocking our views on the North side. And yet again, likely devaluing our purchase and investment. We need more restaurants, shops, and a convenient walking distance to a grocery store that would make better use of that land, or a nice park.

Sincerely,

Anthony A Admire, MD, FACS

Diplomate, American Board of Plastic Surgery

17300 N. Perimeter Drive, Suite 175

Scottsdale, AZ 85255

480-946-3155 {p}

480-946-2122 {f}

dradmire@admireplasticsurgery.com

www.admireplasticsurgery.com [admireplasticsurgery.com]

ADMIRI



Member



The
American



FAC
FELLOW OF THE



David O Simmons

From: Britt Dimmick <brittdimmick@gmail.com>
Sent: Saturday, December 5, 2020 5:09 PM
To: David O Simmons; PDD Paradise Valley VPC; Council District 2 PCC
Subject: Opposition to 7190 Optima Kierland

December 6, 2020
Re: Case # Z-33-20-2

Dear Mr. David Simmons,

I am writing to express my strong opposition to the proposed plan for 7190 and to formally request that the Village Planning Committee continue this application until the City uniformly applies the standards in its ordinance, which will require the Major Amendment to approve this project as designed.

Concerns; The proposed 7190 application has a Zero Setback, but it actually extends beyond the property line in two locations in violation of Development Standards. There is no loading area for 7190, and an already congested loading area off of Greenway Road will need to service 3 towers. Combining access and parking will add to the current traffic flow, which is already becoming problematic - and two towers are still not full. There are not enough entrances and exits to support so many vehicles safely.

If the Village Planning chooses to approve this project, they should at least stipulate that it be moved 100 feet further away from 7120.

It is the responsibility of the Committee to objectively review each application and hold this developer accountable to the people they sold to and the design criteria the city has established to prevent people from mishandling the process.

Thank you for your consideration.

Sean & Britt Dimmick
Unit 1010
7120 Optima Kierland

David O Simmons

From: David Kaminsky <kaminsky610@gmail.com>
Sent: Sunday, December 6, 2020 5:24 PM
To: David O Simmons
Subject: Case #Z-33-20-2

December 5, 2020
Re: Case # Z-33-20-2

Attn: David Simmons

I am writing to express my strong opposition to proposed plan for 7190 and to formally request that the Village Planning Committee continue this application until the City uniformly applies the standards in its Ordinance which will require the a Major Amendment to approve this project as designed.

I am a member of Protect 7120 Optima, a group of nearly 100 7120 Owners and we have filed a formal petition with the city today for an Ordinance Interpretation. We asked the developer to move the proposed building further away from 7120 so that the privacy and view corridor for half of the building owners is protected in exchange for adding two floors of height, which will be the same height as 7120.

The proposed 7190 application has a Zero Setback but it actually extends beyond the property line in two locations in violation of Development Standards.

If the Village Planning chooses to approve this project, they should at least stipulate that it be moved 100 feet further away from 7120 and permit the applicant to add two floors.

It is the responsibility of the Committee to objectively review each application, not be swayed by cool architecture which we all appreciate, and hold this developer accountable to the people they sold to and the design criteria the City has established to prevent people from abusing the process.

Thank you for your listening as we need your help.

Sincerely,
Dave Kaminsky
7120 Unit 615

David O Simmons

From: Jeff <jeffreynunn@yahoo.com>
Sent: Saturday, December 5, 2020 9:26 PM
To: PDD Paradise Valley VPC; jim@jimwaring.com; Council District 2 PCC
Subject: Fw: Case #Z-33-20-2 - opposition to proposed plan for 7190

Attn: David Simmons

I am writing to express my strong opposition to proposed plan for 7190 and to formally request that the Village Planning Committee continue this application until the City uniformly applies the standards in its Ordinance which will require the a Major Amendment to approve this project as designed.

In short, the applicant is falsely claiming it has “unused density” by citing it was approved for 204 Units at 7120 and ended up with 172 Platted units. All 204 units were sold, they didn’t reduce the number of units or square feet sold; Buyers simply purchased multiple units by combining units to create bigger suites. I am one of those homeowners who bought 2 units to combine sq footage for my current unit. They did the same on the 2nd condo building, 7180, and the applicant is misleading staff and the City. They have used all of the density they were entitled to and are playing numbers games.

I am a member of Protect 7120 Optima, a group of nearly 100 7120 Owners and we have filed a formal petition with the city today for an Ordinance Interpretation. We are not a radical no growth group and have made one rational request to the Developer who has built two rental and two condo buildings in Kierland. We asked the developer to move the proposed building further away from 7120 so that the privacy and view corridor for half of the building owners is protected in exchange for adding two floors of height, which will be the same height as 7120.

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It is a disgrace that the 7120 Optima HOA is not fighting this aggressively.

On a zoom call last week the Applicants legal counsel admitted the following:

- 1) No other Developer besides DCH (Hovey) can combine the Le Maison parcel to the prior Optima parcels and build the same project Optima is proposing.
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Equally important, approving this project and allowing the Developer to use falsely claimed 2014 unused density credits, will set a dangerous precedent that this developer can continue to purchase connected parcels along Scottsdale Road and repeat this claim to the detriment of all previous Owners.

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Protect 7120 Optima

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Protect 7120 Optima

2 [facebook.com]

Manage

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Joe Popp
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Scottsdale AZ 85254
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Carol and Len Harlig

Len Harlig

7120 E. Kierland Blvd. #1005
Scottsdale, AZ 85254

(208) 720-1043

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From: Mozhgan Kimble <mozhgankimble@gmail.com>
Sent: Saturday, December 5, 2020 7:22 PM
To: PDD Paradise Valley VPC; David O Simmons
Subject: opposition to current 7190 Optima design

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Mozhgan H. Kimble

7120 E Kierland Blvd, #607
Scottsdale, AZ 85254
480-326-8172

Ricardo Fusi
Rachel Zollner
7120 E Kierland Blvd Apt 918 & Apt 1020
Scottsdale, AZ 85254

December 6, 2020

Mr. David Simmons, David.simmons@phoenix.gov
Paradise Valley Village Planning Council, ParadiseValleyVPC@phoenix.gov
Councilman Waring, jim@jimwaring.com, council.district.2@phoenix.gov

Re: Topics of Comments for Application Z-33-20-2, (3rd submittal):

Councilman Waring, David, and the members of the Paradise Valley VPC,

We would like to express our displeasure at the application process for Z-33-20-2 aka 7190, Optima Kierland Center Phase II. We are currently homeowners in 7120. I would also ask that the councils come and tour the facility and the underground parking. You can see the current planned community and then better visualize the elevations shown in the plan, and the affect it will have on the existing community if the developer is allowed to combine the parcel.

Standalone or Together – The Vanishing Property Line

7190 needs to be a standalone parcel. Everything needs to fit within the property lines with proper setbacks. Prior to 7140 and 7180 towers being built, 7120 and 7160 had segregated parking underground. Since the two additional towers (7140 & 7180) have been built there is no longer segregation in the underground parking areas. Looking at the 7190 plan, where are the deliveries from FedEx, United Parcel Service, Amazon Prime going to take place? Where is Uber or Lyft picking up their customers? There is no pull out for them in the 7190 area. Are they all going to come over to 71st street and park then walk through the complex? Currently that is what is happening with 7180 & 7140 deliveries. How can the developer control the parking garage when we as owners own our spaces? We need segregation and a proper flow of traffic for each tower.

Zero Lot Lines –

Zero lot lines set a dangerous precedent. Allowing the buildings to be so close together having these dark canyons between the buildings is not visually appealing and should not be allowed.

Climate Change –

One of the City of Phoenix' goal is to become the first heat-ready city. Please refer to the below link. Adding more of these 10 and 12 story glass towers in my opinion does not achieve that goal. Wondering if there has been a heat study done on the existing community?

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Meetings using the current webinar format are not viable. When a participant asks questions the standard typed response is either “We will get back to you” or “We do not have the number” from the developer. We do not get our answers.

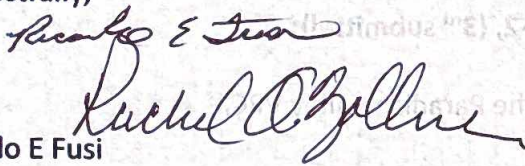
We love our community and want to keep it that way!

Thank you for listening to our concerns,

Respectfully,

Ricardo E Fusi

Rachel Zollner



David O Simmons

From: Vickie Larsen <vicsen33@gmail.com>
Sent: Saturday, December 5, 2020 2:24 PM
To: David O Simmons
Subject: Opposition to 7190 Optima Kierland

Dear Mr. Simmons,

I am writing to express my strong opposition to proposed plan for 7190 and to formally request that the Village Planning Committee continue this application until the City uniformly applies the standards in its Ordinance which will require the a Major Amendment to approve this project as designed.

In short, the applicant is falsely claiming it has “unused density” by citing it was approved for 204 Units at 7120 and ended up with 172 Platted units. All 204 units were sold, they didn’t reduce the number of units or square feet sold; Buyers simply purchased multiple units by combining units to create bigger suites. We are knowThey did the same on the 2nd condo building, 7180, and the applicant is misleading staff and the City. They have used all of the density they were entitled to and are playing numbers games.

I am aware of Protect 7120 Optima, a group of nearly 100 7120 Owners and we have filed a formal petition with the city today for an Ordinance Interpretation. They are not a radical no growth group and have made one rational request to the Developer who has built two rental and two condo buildings in Kierland. They asked the developer to move the proposed building further away from 7120 so that the privacy and view corridor for half of the building owners is protected in exchange for adding two floors of height, which will be the same height as 7120.

The Developer has refused the request, and won’t even meet with us, and they are betraying all of the Owners of 7120 who they rallied two years ago to prevent DMB from approving a similar project so they could buy the property. This is classic bait and switch motivated by sheer greed as the new building is massive, has 277 units and will substantially block 3 buildings. They owe us the respect to prevent a decrease in property values especially when a viable solution has been presented.

It is a disgrace that the 7120 Optima HOA is not fighting this aggressively.

On a zoom call last week the Applicants legal counsel admitted the following:

- 1) No other Developer besides DCH (Hovey) can combine the Le Maison parcel to the prior Optima parcels and build the same project Optima is proposing.
- 2) The Le Maison parcel can NOT be approved as a “stand alone” project without using/combining access, parking, open space, circulation and density.
- 3) There is NO loading area for 7190 and an already congested loading area off of Greenway Road will need to service 3 towers.
- 4) The proposed 7190 application has a Zero Setback but it actually extends beyond the property line in two locations in violation of Development Standards.

Equally important, approving this project and allowing the Developer to use falsely claimed 2014 unused density credits, will set a dangerous precedent that this developer can continue to purchase connected parcels along Scottsdale Road and repeat this claim to the detriment of all previous Owners.

If the Village Planning chooses to approve this project, they should stipulate that it be moved 100 feet further away from 7120 and permit the applicant to add two floors.

It is the responsibility of the Committee to objectively review each application, not be swayed by cool architecture which we all appreciate, and hold this developer accountable to the people they sold to and the design criteria the City has established to prevent people from abusing the process.

I agree with all the Project Optima 7120 has done to work out a viable solution for all involved. I am honestly very concerned about any additional units sharing the parking garage. 7160 and 7180 are only 1/2 full at this point and the traffic and ability to move through the garage is very problematic! There are not enough entrances and exits to support so many vehicles. I am confident additional traffic will be a mess and dangerous.

I am hopeful that you and the other members of the planning committee give us an opportunity to live the life we paid the developers for, and not allow us to live in darkness from yet another giant building blocking all light for those of us on the East side of 7120.

Thank you for your consideration,

Vickie Larsen
Unit 803
7120 Optima Kierland

December 7, 2020
Re: Case # Z-33-20-2

Attn: David Simmons

I am writing to express my strong opposition to proposed plan for 7190 and to formally request that the Village Planning Committee continue this application until the City uniformly applies the standards in its Ordinance which will require the a Major Amendment to approve this project as designed.

I am a member of Protect 7120 Optima, a group of nearly 100 7120 Owners and we have filed a formal petition with the city today for an Ordinance Interpretation. We asked the developer to move the proposed building further away from 7120 so that the privacy and view corridor for half of the building owners is protected in exchange for adding two floors of height, which will be the same height as 7120.

The proposed 7190 application has a Zero Setback but it actually extends beyond the property line in two locations in violation of Development Standards.

If the Village Planning chooses to approve this project, they should at least stipulate that it be moved 100 feet further away from 7120 and permit the applicant to add two floors.

It is the responsibility of the Committee to objectively review each application, not be swayed by cool architecture which we all appreciate, and hold this developer accountable to the people they sold to and the design criteria the City has established to prevent people from abusing the process.

Thank you for your listening as we need your help.

Pat Barker
Unit 801
7120 Optima

Ricardo Fusi
Rachel Zollner
7120 E Kierland Blvd Apt 918 & Apt 1020
Scottsdale, AZ 85254

December 6, 2020

Mr. David Simmons, David.simmons@phoenix.gov
Paradise Valley Village Planning Council, ParadiseValleyVPC@phoenix.gov
Councilman Waring, jim@jimwaring.com, council.district.2@phoenix.gov

Re: Topics of Comments for Application Z-33-20-2, (3rd submittal):

Councilman Waring, David, and the members of the Paradise Valley VPC,

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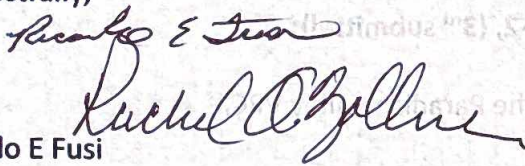
We love our community and want to keep it that way!

Thank you for listening to our concerns,

Respectfully,

Ricardo E Fusi

Rachel Zollner



David O Simmons

From: Scott Smith <camelotcapitals@gmail.com>
Sent: Friday, December 4, 2020 11:31 AM
To: David O Simmons; PDD Paradise Valley VPC; Council District 2 PCC
Subject: Re: Application Z-33-20-2 (15450 North Scottsdale Rd)
Attachments: PVVPC 12.4.20 - revised.docx

David,

Please add this letter (below and attached) to the file for Monday night's hearing.

As a favor, can I ask you to confirm that the screenshots came through.

Thank you,

Scott Smith

TO: David Simmons, David.simmons@phoenix.gov
Paradise Valley Staff Planner & Committee

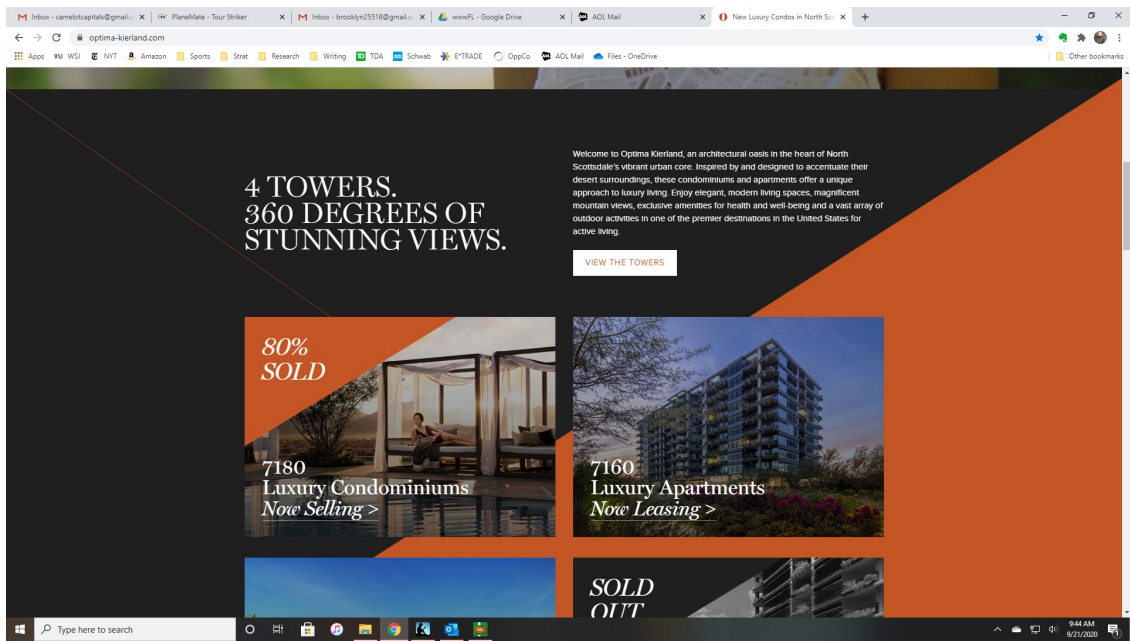
Paradise Valley VPC, ParadiseValleyVPC@phoenix.gov
City of Phoenix Planning and Zoning Department

Jim Waring, council.district.2@phoenix.gov
City Council

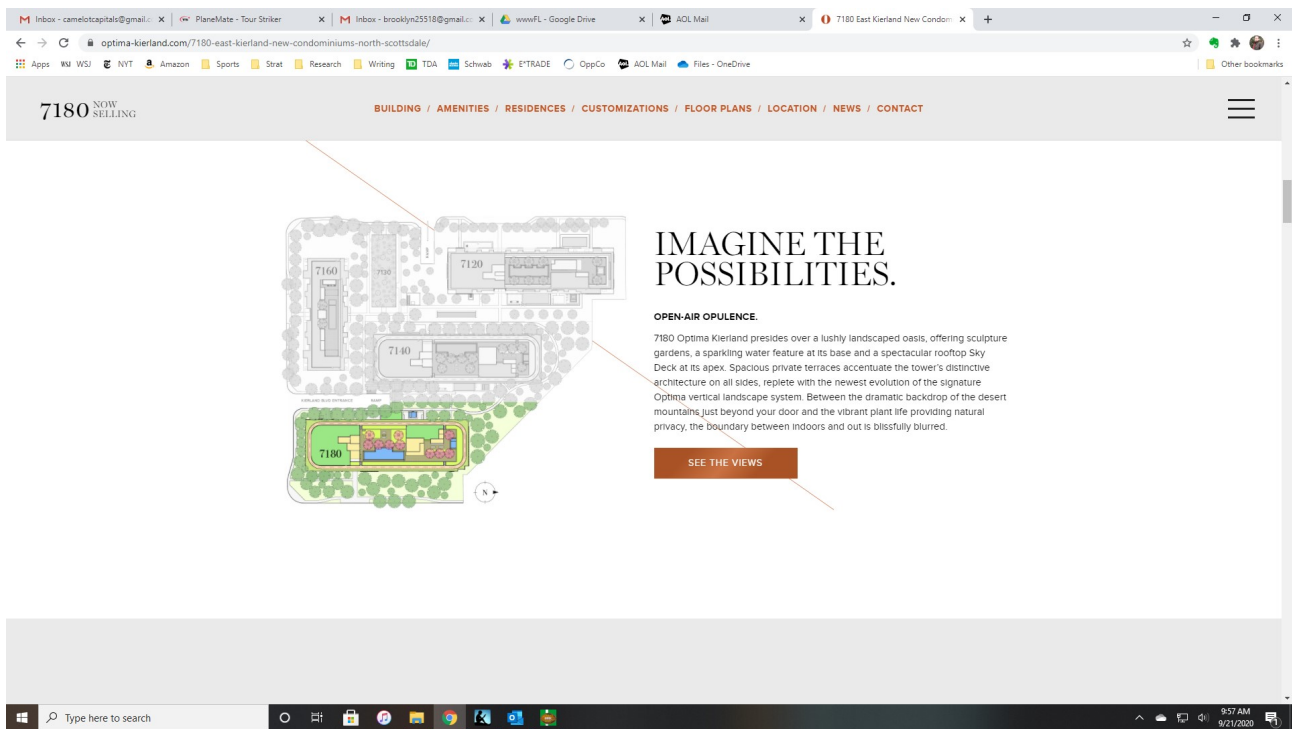
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Mr. Simmons, Mr. Waring, and Paradise Valley Village planners,

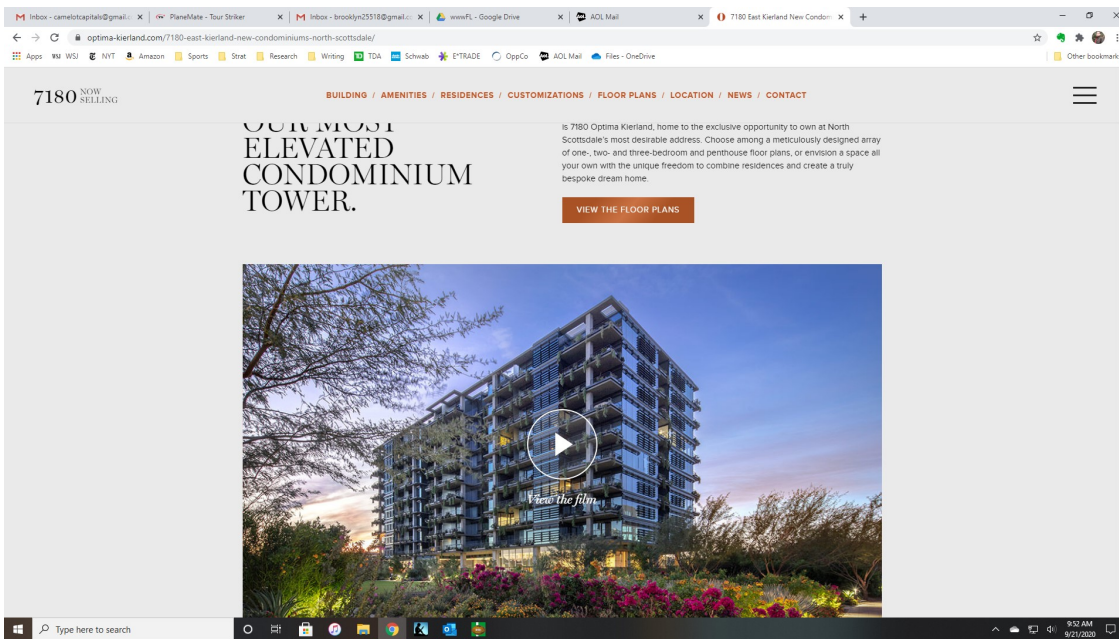
At previous meetings before the PVVPC, Optima Kierland has repeatedly stressed that it does not “sell” views. These pages, downloaded from Optima Kierland’s own website this week, clearly undermine that position.



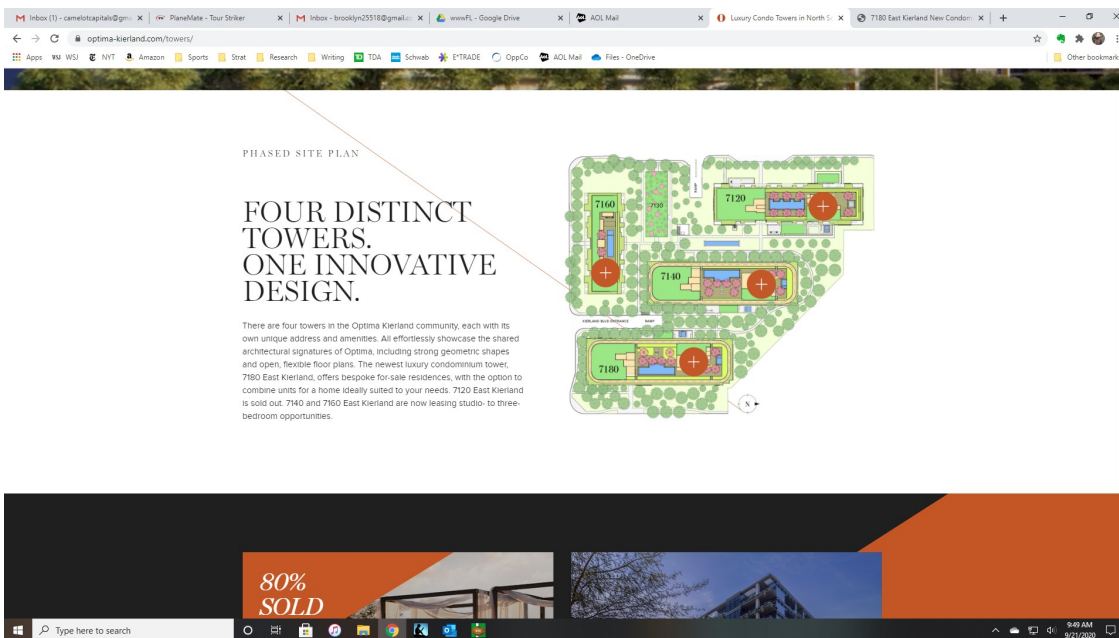
Please note the SEE THE VIEWS button below:



Here is a rendering of the 7180 tower, standing alone with unobstructed views in all directions.



Please note the 7180 tower does not stand alone. It is part of a 4 building Optima campus (likely to become a 6 building Optima campus).



Optima’s salespeople also sell views. Our neighbors, the Orkins, had a meeting with an Optima representative on Sunday August 2, 2020 and have provided the following comments:

When touring the 7180 building (while still under construction) I inquired if there were still some good units left for sale. We were told by an Optima representativeAND I QUOTE.....”yes there are still some HIDDEN GEM units available for sale....these units will always have mountain views from the master bedroom and part of the living room.

“ We were then walked out onto the running/walking path on the rooftop and showed the mountain view that we would still have once the North facing building was built.

Accordingly, I ask the PVVPC to stand up to Optima. While I understand that Arizona law does not protect views, Optima clearly sells them. Furthermore, in the latest 7190 proposal, Optima seeks to “annex” the proposed La Maison site into our development, erase lot lines, cantilever construction over supposed “open space”, and combine parking garages. To gain such favorable concessions, Optima should be required to apply for a Major Amendment - as suggested by PVVPC’s own staff in its October report, as well as to cease its deceptive sales practices.

In addition, I understand that Optima’s lawyers had a private meeting with PVVPC staff in November to present their case BEFORE staff recommended approval. Unsurprisingly, Optima’s lawyers left this meeting off their extensive list of outreach events which they display at every opportunity. Why weren’t other stakeholders in the Kierland community invited to this critical event? How many more private meetings has Optima held with public officials? How many dollars has Optima contributed to political war chests?

We deserved as much opportunity as Optima to present our case directly to PVVPC staff BEFORE a recommendation was made. Our Protect7120 group has several members with extensive expertise in the field, including Heidi Smith (planning and architectural review), Len Harlig (urban planning), Jim Riggs (project development), and Pat Simpson (real estate). How can PVVPC staff recommend the “revised” Optima plan which contains NO actual revisions, only fancier legal language, without allowing our team equal access. I’m sorry but a 2 minute comment on a Zoom call does not count nearly as much as Optima’s private meeting with the PVVPC staff.

Finally, I would point out that Arizona law does not protect the profits of developers. Optima has ample financial leeway to design a building that better reflects its obligation to the Kierland community as well as to current residents, who, in fact, purchased their homes from Optima. The PVVPC must not be bullied by Optima’s legal onslaught to accept any shortcuts.

Thank you,

Scott Smith
7120 resident

David O Simmons

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Sent: Saturday, December 5, 2020 2:24 PM
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