



## Village Planning Committee Meeting Summary

### GPA-DV-1-23-3

<b>Date of VPC Meeting</b>	August 10, 2023
<b>Request From</b>	Residential 2 to 5 dwelling units per acre
<b>Request To</b>	Mixed Use (Commercial / Commerce/Business Park)
<b>Proposal</b>	Office/commerce park
<b>Location</b>	Approximately 1,200 feet east and 360 feet north of the northeast corner of 19th Avenue and Tierra Buena Lane
<b>VPC Recommendation</b>	Approval
<b>VPC Vote</b>	8-4

*Item No. 6 (GPA-DV-1-23-3) and Item No. 7 (Z-31-23-3) are companion cases and were heard together.*

*Six members of the public registered to speak on this item, in opposition.*

#### **VPC DISCUSSION:**

**Matteo Moric**, staff, noted that Case GPA-DV-1-23-3 would be heard at the same time as Case Z-31-23-3, but would require two separate motions. Mr. Moric provided an overview and identified where the site was located, the site size and the requests. Mr. Moric noted a general plan amendment was required and there would be no stipulations associated with the general plan land use change request. Mr. Moric described the surrounding zoning, uses and general plan land use designation and showed the renderings and conceptual plan. Mr. Moric noted there was one letter of opposition for the general plan request and identified the staff findings and stipulations.

**Keith Greenberg** stated a concern with the milkweed specifically stipulated as he felt it was an invasive plant which could take up a lot of space. Mr. Moric, staff, and Sandra Hoffman provided additional information on the milkweed plant and the monarch butterfly pledge.

#### **APPLICANT PRESENTATION**

**Paul Gilbert** with Beus, Gilbert, McGroder, LLC, introduced himself as representing CT Realty who had a majority of the Turf Paradise property under contract and were currently doing their due diligence. Mr. Gilbert explained that 85% of the overall Turf

Paradise property was already zoned and tonight was a rezone of the small piece of the property of approximately 28 acres. Mr. Gilbert shared the zoning history as he was the attorney who represented the Turf Paradise property owner in 2002. Mr. Gilbert said a majority of the property was zoned S-1 but in 2002, the applicant rezoned the property but did not vest the property. Mr. Gilbert added that in 2002 Turf Paradise was able to operate with the Special Permit overlay. Mr. Gilbert noted the zoning would change upon processing a site plan, but they were not doing that, and they needed to wrap up the zoning to decide if his client wanted to move forward with the purchase. Mr. Gilbert described the zoning of the majority of the Turf Paradise property, which is approved but not vested, and said the property on the west side was zoned for a combination C-2 (Intermediate Commercial) or CP/BP (Commerce Park/Business Park Option). Mr. Gilbert noted the C-2 allows for all types of retail and services and the CP/BP would allow employment, warehouse distribution, along with light manufacturing and assembly. Mr. Gilbert added the east side was zoned CP/GCP (Commerce Park/General Commerce Park Option) and said this option allows a little more flexibility.

**Mr. Gilbert** said the subject of the zoning request was for the 28 acre portion and did not know why the land was not rezoned from S-1 in 2002. Now, Mr. Gilbert said they wanted it to be CP/GCP to be commensurate with the bulk of the Turf Paradise site. Mr. Gilbert said this was a conceptual site plan and they were not ready to create a final site plan. Mr. Gilbert added that the conceptual site plan showed the uses that could go in a commerce park, and they were going to use commercial retail option on the small portion that fronts Bell Road at the intersection of 15th Avenue. Mr. Gilbert noted they wanted to keep the grandstand structure of Turf Paradise and continue the off-track racing. He said they'd continue with the off-track betting but not live horse racing. The parking and grandstand would remain; however, the horse track and racing would go.

**Mr. Gilbert** added that in addition to the rezoning request a general plan amendment was required to change about 14 acres of the property. Mr. Gilbert said approximately half the 28 acres had the correct general plan land use designation.

**Mr. Gilbert** shared their public outreach efforts and said they presented their case virtually to every neighborhood association in the area. He explained how they utilized the entire boundary of Turf Paradise rather than the 28 acres which was 6 or 7 times more people required to contact.

**Mr. Gilbert** said there was a strong staff recommendation and strong encouragement from the Economic Development Department. Mr. Gilbert read the staff findings and emphasized a portion of the site was within the I-17 Major Employment Corridor. Mr. Gilbert said they agreed with all the stipulations except one minor exception with stipulation number 11 which states vehicular access shall not be permitted on Tierra Buena Lane. Mr. Gilbert said there was good reason for the stipulation as Tierra Buena Lane was a residential street and requested the stipulation to be modified to say vehicular access shall not be permitted on Tierra Buena Lane as long as the applicable roadway is classified as a residential road.

## **QUESTIONS FROM COMMITTEE**

**Trilese DiLeo** questioned how much of the property the escrow was addressing to which **Mr. Gilbert** replied that it was for the entire Turf Paradise property.

**Ms. DiLeo** inquired about the history of the zoning and why the zoning was not for the entire property since Turf Paradise existed in 2002. **Mr. Gilbert** said he could not remember all the history of why that was other than staff pointed him in that direction at the time. **Mr. Gilbert** indicated staff wanted to control the site plan as they had no uses for that part of the site at that time.

**Ms. DiLeo** asked why it was not being rezoned to residential due to the housing demand. **Mr. Gilbert** said there was a need for both housing and employment and they spent a significant amount of time with Economic Development Department and stated the site would be much more conducive to commerce park uses.

**Braden Lopez-Biggs** inquired about the amount of property in the S-1 zoning and if there was any intention to build housing on that portion. **Mr. Lopez-Biggs** also wanted clarity on stipulation No. 11 and wanted to know how it could be classified as a non-residential street.

**Mr. Gilbert** stated the C-2 allows building multifamily. **Mr. Gilbert** also noted that they were welcome to add a stipulation to come to the Village Planning Committee with a site plan in the future.

**Will Novak** questioned if there was a study on how much property tax the property generated as is versus the amount after it is developed. **Mr. Novak** asked if a user was lined up and if there was a phasing plan.

**Mr. Gilbert** mentioned that there was no phasing plan developed yet.

**Mr. Novak** also asked if they thought about the grandstand getting historic preservation designation. **Mr. Gilbert** said he was not sure as they had never been asked the question with his client.

**Ms. Hoffman** asked if there was a traffic analysis. **Mr. Gilbert** said a traffic study was required for the entire project when they come in to do the site plan. **Ms. Hoffman** stated the plan was quite conceptual and it may be premature to move forward. **Ms. Hoffman** asked if they'd come back with more details.

**Mr. Gilbert** said they'd comply with the Zoning Ordinance for setbacks and height. And **Mr. Gilbert** said he was keenly aware this was a major development as approximately 250 acres. He said if they'd want more details later he'd come back when its time for the site plan.

**Trilese DiLeo** believed modifying stipulation no. 11 would not work. She felt the entire mobile home park and residents down the road would be impacted.

### **Public Comments**

**Stephan H. Nolan** said he lived in the area for many years and has been in the horse race business. Mr. Nolan said that the acting general manager of the property does not know if the property sale will be complete. Mr. Nolan said he was concerned with car accidents and traffic. Mr. Nolan wanted this at least postponed to October to decide if the owner of the horse race business wanted to go through. He noted that there was litigation of the property and expressed concerns about the current owners previous motivation to sell and there was a concern if the sale would even go through. Mr. Nolan wanted the issue to be tabled and indicated the horse race industry employees felt the meeting was strategic so there would not be opposition.

**Chairman Grossman** informed Mr. Nolan that his 3 minute time had expired. **Ms. DiLeo** stated she wanted to continue to listen to Mr. Nolan's comments. **Mr. Lopez-Biggs** noted that if they allow Mr. Nolan to exceed 3 minutes they would need to allow all members of the community to do so.

**Chairman Grossman** stated he would allow Mr. Nolan to continue his remarks yet adhere to the 3 minute time line unless he feels it is appropriate to extend.

**Mr. Nolan** noted that this is an agricultural entertainment industry that would impact many people's livelihoods.

**Ms. DiLeo** asked about the amount of money horse racing brings to the region economically. **Mr. Nolan** responded that there was a lot of money brought into the state and felt this site needed to remain horse racing.

**Cynthia George** shared her ties to the community and said she was a horse racing professional. Ms. George said Turf Paradise supports many self-supportive businesses and the racetrack is a job for many people. It would put thousands of people in the community at risk to sell their homes as they would need to leave their employment.

**Debi Ferguson** stated she represented many people who love horse racing. Ms. Ferguson said the property would need to be zoned and she said the racetrack is in operation, but they are closed during the summer months. Ms. Ferguson discussed the request to remove the Special Permit. She said there are two dedicated parties interested in buying the racetrack immediately as an operating racetrack. The property would continue to be in use with the new buyers. She said Turf Paradise had a major economic impact for the region. She asked for help in supporting the horserace industry.

**Keith Greenberg** asked what the community would like to see on the property if horse racing goes away.

**Hanna Adams** stated she moved to Arizona to live in the area and said the economic impact would be devastating as feed stores, veterinarians, local shops, etc. rely on this industry. Ms. Adams was concerned that everything surrounding the property was residential and traffic would increase which the residents would not like and added turf paradise was sensitive to the neighborhood and did not do nighttime racing for this reason.

**Terri Ferguson** shared her background and the history of horse racing in Arizona. Ms. Ferguson said if there is no live racing there would be no permit for off race betting and mentioned they need live racing to continue. Ms. Ferguson indicated all they see are warehouse facilities going up but thought they could have the new owners remain yet add stipulations to their property to upkeep the area. She stated she opposes the zone change.

**Phil Hartman** stated concerns regarding speeding cars and the animals that frequented the ponds in the area. Mr. Hartman expressed frustration with the city and thought the project could be pushed across the street from 19th Avenue.

**Mr. Lopez-Biggs** identified his concerns with the stipulation on Tierra Buena Lane and said the stipulation would not permit access to the development from Tierra Buena Lane.

**Bill Allison** of the law firm Withey Morris Baugh explained he was there to ask questions on behalf of his client Bruin Corporation Properties. Mr. Allison raised concerns that the application was lacking detail necessary to form an opinion of the request and the zoning application was not adequate. Mr. Allison said it was not fair to the public since they did not provide details which could be analyzed, and the data center may not even fit on the property.

**Mr. Allison** said there was no traffic study provided as part of this project and the neighbors should know how this is being resolved. Mr. Allison noted his client did not hear about the hearing until recently. In conclusion, Mr. Allison stated the community was not given an opportunity to evaluate the proposal and added this needed to be addressed in a public forum rather than at the site plan process.

### **Applicant Response**

**Paul Gilbert** stated the concerns expressed from the community were regarding the current racetrack business and why it should stay, yet the purpose of the meeting was just to determine the zoning and land use change request. Mr. Gilbert stated the proposal would generate more revenue than the existing use.

**Mr. Gilbert** said there were strong findings from staff that this should be approved. Mr. Gilbert said his client was working with the horse race industry and other opportunities to preserve horse racing in Arizona, possibly in another location. Mr. Gilbert addressed the traffic concerns stating there was a stipulation to do a full and complete traffic study and his client would be willing to bring the site plan to the Committee for future review. Mr. Gilbert defended his client's conceptual site plan. Mr. Gilbert stated the ongoing litigation should not be pertinent to the request, and that the major opposition is against the cessation of horse racing.

**Chair Grossman** asked how long Mr. Gilbert had been a zoning attorney. **Mr. Gilbert** replied for 48 years. The Chair then asked if in the 48 years if Mr. Gilbert ever had cases that they left so open in concept, and Mr. Gilbert replied in 50% of the cases they had. Mr. Gilbert said they were not asking for any zoning variances.

**Mr. Greenberg** asked if approval of this zone change required the removal of the Special Permit. **Mr. Gilbert** said they would still need to go to the City to formally remove the Special Permit and racing could continue until it is removed.

**Ms. DiLeo** asked if the purchase contract forced him to sell. Mr. Gilbert said he did not read the purchase contract. Ms. DiLeo felt Mr. Gilbert was dismissive and disrespectful to this public body and believed it was their business to look into this deeply to see if the future development will support the current economy in this area of the City. Ms. DiLeo knew thousands of people rely on this industry and it was unimaginable to her of why Mr. Gilbert would be so dismissive on these individuals' livelihoods being threatened if the industry were to go away.

**Ricardo Romero** said Turf Paradise was an iconic place and there could be concerns of poor management.

**Gregory Freeman** provided insight to how there are many ways a real estate transaction can be broken.

**Mr. Gilbert** said the primary negative effect of postponing the case is it leaves some uncertainty to the client that the zoning will move forward. Mr. Gilbert clarified he represented the buyer of Turf Paradise.

### **Comments from Committee**

**Will Novak** felt what CED had to say about the case was not relevant and added that they did not do the most basic calculation of what the property taxes would be. Mr. Novak said he felt Mr. Gilbert spoke on both sides and indicated the applicant was demeaning and did a poor job for his client. Mr. Novak believed the matter needed to be tabled and recommended for the community to look at HP landmark designation for the folks interested in horse track racing.

**Ms. DiLeo** said this was a lot of commercial in the area and questioned if this was right for the area. Ms. DiLeo felt one strip of land had the say which could impact people economically and traffic in the area and her opinion was the area would be more appropriate as residential. Ms. DiLeo felt this was a historic location and to think an everyday commercial building would be disheartening. Ms. DiLeo was concerned with litigation and if there was a chance to preserve the location for the community, and believed they needed more concrete information to change the zoning.

**Mr. Lopez-Biggs** said the owner could demolish the whole thing and they were strictly looking at the zoning and felt there was not enough information for the entire 250-acre property. Mr. Lopez-Biggs said there was not enough information to make a decision.

**Ms. Hoffman** said the Special Permits were still over the properties, and the zoning would not vest until the site plan was approved. Ms. Hoffman's biggest concern was the neighbors saying they did not get sufficient notice and wanted to ensure the public had a voice, and felt the case needed to be postponed a month or two for time conversations to take place. Ms. Hoffman suggested making a motion for a continuance.

**Mr. Greenberg** said this was a zoning case on one strip of land. Mr. Greenberg did not see the reason to postpone the case and said if it was up to them for Turf Paradise to stay and if it goes he felt this would only allow a new owner to develop the land properly. Mr. Greenberg stated if Turf Paradise goes away that they would not need a big vacant site.

**Mr. Freeman** said he represents Bell Road Business Alliance and he verified he received the communication. Mr. Freeman added they are doing a rezoning issue and felt the zoning question should be answered.

**Mr. Virgil** mentioned that there was an airport where Turf Paradise is located.

**Chair Grossman** said a portion of the Board wants to postpone, which requires a motion to recommend a continuance, and a portion who want to vote today. Chair Grossman reminded that this was the first hurdle of the public process to go through and added there was a desire to modify the stipulation for vehicular traffic from Tierra Buena Lane.

**MOTION:**

**MOTION #1:**

**Committee Member Trilese DiLeo** motioned to recommend a continuance of GPA-DV-1-23-3. **Committee Member Will Novak** seconded the motion.

**VOTE #1:**

**6-6**, motion to recommend a continuance of GPA DV-1-23-3 fails with Committee Members DiLeo, Hoffman, Lopez-Biggs, Novak, Romero, and Virgil in favor; and

Committee Members Davenport, Freeman, Greenberg, Sutphen, Vice Chair Kenney and Chair Grossman in opposition.

**MOTION #2:**

**Committee Member Keith Greenberg** made a motion to recommend approval of GPA-DV-1-23-3 per the staff recommendation. **Vice Chair Matthew Kenney** seconded the motion.

**VOTE #2:**

**8-4**, motion to recommend approval of GPA-DV-1-23-3 per the staff recommendation passes with Committee Members Davenport, Freeman, Greenberg, Hoffman, Lopez-Biggs, Sutphen, Vice Chair Kenney and Chair Grossman in favor; and Committee Members DiLeo, Novak, Romero and Virgil in opposition.

**STAFF COMMENTS REGARDING VPC RECOMMENDATION:**

None.