

REPORT OF PLANNING HEARING OFFICER ACTION

Teresa Hillner, Planner III, Hearing Officer

Jazmine Braswell, Planner I, Assisting

April 18, 2018

ITEM 1

DISTRICT 3

SUBJECT:

Application #: Z-307-85-1(3)

Zoning: R1-8

Acreage: 1.30

Location: Approximately 335 feet north of the northeast corner of 29th Street and Nisbet Road

Proposal:

- 1) Modification of Stipulation No. 1 to include site plan date stamped February 1, 2018.
- 2) Modification of Stipulation No. 4 regarding amenities to be provided.
- 3) Deletion of Stipulation No. 6 regarding a 6-foot wall along the north and south boundaries, fencing the west boundary, and mature landscaping along the street.
- 4) Modification of Stipulation No. 11 regarding the maximum height shall not exceed 18 feet from finished floor for one-story units.
- 5) Deletion of Stipulation No. 19 regarding units being for sale and not rental units.

Applicant: MJQ Properties LLC

Owner: MJQ Properties LLC

Representative: Nick Labadie, Rose Law Group

ACTIONS:

Planning Hearing Officer Recommendation: The Planning Hearing Officer took the case under advisement to evaluate the technical requirements for the site plan. On May 17, 2018, the Planning Hearing Officer took the case out from under advisement and approved with an additional stipulation.

Village Planning Committee (VPC) Recommendation: At their March 5, 2018 meeting, the Paradise Valley Village Planning Committee recommended approval with modifications by an 11-0 vote.

DISCUSSION:

Mr. Nick Labadie with Rose Law Group, representing the applicant and property owner, explained the boundaries of the original rezoning site. This subject parcel is the last parcel that has not been developed. There have been previous requests for modifications of stipulations to facilitate development on the adjacent parcels. Today, he

is requesting to modify stipulations that will allow development on the last vacant parcel. The first request is to modify the original site plan to allow for the development of the proposed site plan. The second request is to modify the stipulation regarding amenities to be provided, more specifically, a pool. The proposed development is a five-lot subdivision therefore, amenities are not feasible. As well, the development to the south did construct a pool. It could be interpreted that this stipulation has been met since are amenities within the entire rezoning area. He is requesting to delete the stipulation for his parcel.

Ms. Teresa Hillner asked if there is going to be a shared agreement to use that pool since it is a separate subdivision and homeowner's associations.

Mr. Labadie stated there is no intention of that. However, that is an option if the two HOA's wanted to make that agreement. He went on to state the request to delete Stipulation No. 6 is regarding a six-foot wall and landscaping along the north and south boundaries of the development. This stipulation was regarding the overall large rezoning site therefore, the boundaries are not adjacent to today's subject site. The west boundary is a part of this subject site therefore, they are going to provide a 30-foot landscape setback along the west side of the site and the landscaping will be per the City standards. He stated that if the PHO found the north and south boundaries were pertaining to his subject site and not the original rezoning case site, he would be fine with not deleting this stipulation because he intends on constructing walls on the north and south boundary of his subject site.

Ms. Hillner asked if the applicant knows if the property to the north and south construct the undulating six-foot wall. She stated that if the properties to the north and south did construct the wall, this stipulation may have already been met therefore, as opposed to deleting it, they might be in compliance with this stipulation.

Mr. Labadie stated walls have been constructed on the north and south boundaries of the original rezoning case boundaries but he is not sure if they are undulating. He went on the state the request to modify Stipulation No. 4 is regarding building height. They are requesting 24 feet of all houses in the subdivision.

Ms. Hillner asked Mr. Labadie, regardless of the number of stories, no building height would exceed 24 feet.

Mr. Labadie stated that is correct. He went on the state the last stipulation he is seeking to delete is regarding the homes being for sale and not rental units. This stipulation was discussed at the Paradise Valley Village Planning Committee and was suggested not to delete this stipulation. He stated his client's intent is to sell the units but the option to have them as rental units would be beneficial compared to a vacant house with no occupants.

Ms. Hillner stated she believes this stipulation was created during the original rezoning case because the making of the subdivision was an area of concern.

Mr. Labadie stated the proposed development will match the color, character and theme of the surrounding neighborhood. He stated these modifications are necessary to develop this last parcel of the original rezoning case are.

Ms. Hillner asked Mr. Labadie how they are addressing the traffic reviewers concern regarding providing a cul-de-sac or turn-around at the end of lot 5.

Mr. Labadie stated in response to the development comments, they propose to construct the driveways on lots 4 and 5 on the same property line with an easement that would allow for a hammer-head turn-around in those driveways.

Ms. Kay Lynne Jacobson stated Mr. Labadie has answered most of her questions during his presentation. However, she did have a question about Stipulation No. 6 regarding the undulating wall. She is with the Nisbet Greens Neighborhood Association and lives in the adjacent subdivision. She was wondering if the existing wall that is a part of her community, will it now be a community shared wall with the proposed subdivision or will they build their own wall. She asked who will pay for the maintenance of the wall if it gets damaged in the construction process. She also asked if the proposed homes are going to be one story or two story.

Ms. Hillner stated the plans she looked at does not show a new wall and a 5-foot landscape tract. She asked Mr. Labadie if they plan to construct a new wall.

Mr. Labadie stated it depends on where the existing wall is placed. If the existing wall is placed on the adjacent property, they would build a new wall. If the existing wall is on the common property line, they will work with the adjacent HOA to determine if a new wall will be built or if the existing wall will suffice.

Mr. Labadie stated the current plan right now is to have single-story homes throughout the development but he does not want to restrict themselves if they choose to build a two-story home. They would like to have the same options as the rest of the surrounding community.

Ms. Hillner clarified that the building height would never exceed 24-feet.

Mr. Labadie stated that is correct.

Ms. Hillner asked Ms. Jacobson if there are other two-story homes in the surrounding developments.

Ms. Jacobson stated there are a couple of two-story homes in the surrounding development. Her concern was being able to look into the backyards of the adjacent development.

Mrs. Kathleen Baughman, with the Nisbet Greens Neighborhood Association, asked for clarification on how many units are in the proposed development.

Mr. Labadie stated there will be five units.

Ms. Hillner stated there are some stipulations from the original case that impact the subject property. She asked if they will be complying with Stipulation No. 18 regarding the first 15 feet of any unit along 29th Street shall be one story.

Mr. Labadie stated 29th Street along their western boundary. They are providing 30 feet of a landscape tract west of the property line of the first unit. Then there will be an additional building setback. He stated per his interpretation of this stipulation, they exceed this requirement by providing the landscape tract and the additional building setback.

Ms. Hillner stated she is going to take this case under advisement to confirm with the traffic reviewers if the hammerhead turn-around is an acceptable solution and to review the intent of Stipulation No. 18 and see where the 15 feet is measured from.

FINDINGS:

1. This proposal is for a five-lot subdivision on one of the last lots of a much larger rezoning area. At least two separate subdivisions have been created out of the originally planned area. This proposal will have one point of access and will require a technical appeal to allow the unique turnaround on the eastern portion of the site.
2. The request to delete the amenity requirement for this small subdivision is warranted due to the size. With only five lots, any amenity would be costly to construct and maintain.
3. Since this request is only for a small portion of the overall rezoning site, the stipulation regarding the wall along the north and south boundaries does not apply to this site. This proposed subdivision will treat the western boundary the same as the existing two subdivisions have treated the boundary.

DECISION:

The Planning Hearing Officer took the case under advisement. On May 17, 2018, the Planning Hearing Officer took the case out from under advisement and approved with an additional stipulation.

STIPULATIONS:

1.	That Development shall be in general conformance to the site plans dated 10/22/86 and 5/3/99 AND DATE STAMPED FEBRUARY 1, 2018. Those portions (of the original rezoning) not included within either site plan shall be
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	subject to further public hearing prior to submittal of plans to the PLANNING AND Development Services Department.
2.	That approval of this rezoning be conditioned upon development in accordance with Section 108-M of the Zoning Ordinance, within 12 months of the final approval of the change of zone by the City Council.
3.	That there shall be a homeowner's association responsible for the maintenance of any common areas, including landscaping and amenities.
4.	That a Amenities will include a swimming pool, and a barbecue and picnic ramada, EXCEPT FOR THE AREA DESCRIBED IN THE SITE PLAN DATE STAMPED FEBRUARY 1, 2018.
5.	That setbacks along the boundaries of the project shall be a minimum of 20 feet from the property line. That access to the site shall be from 29th Street and 30th Street only, as approved by the City of Phoenix.
6	That an undulating 6-foot wall with an average 10-foot setback shall be constructed along the north and south boundaries of the property. That the west boundary shall be fenced where appropriate. Mature landscaping along the street side of the wall shall include 15-gallon trees of a variety that are fast growing and spaced an average of 20 feet on center or in comparable clusters. Trees shall be planted in the landscaped buffer to screen second-story views to the south.
67.	That access to the site shall be from 29th Street and 30th Street only, as approved by the City of Phoenix. .
78.	Guest parking shall be provided within the development. The developer shall not post no-parking signs on interior streets
89.	That each dwelling unit shall contain a minimum of 1,200 square feet livable space, excluding the garage.
910.	That entrances on the west side of the property shall be staggered from streets of the Century Vista development as shown on the site plan presented. There shall be no east to west through streets through the development, as approved by the City of Phoenix.
1011.	Maximum building height shall not exceed 24 feet measured from finished floor for the two-story units and not to exceed 18 feet from finished floor for the one-story units.

1112.	That exterior color shall be in earth tones compatible with existing dwellings located south of the project.
1213.	That each dwelling unit shall have a garage with a door.
1314.	That the roofs will not be constructed of wood shake shingles with the exception of decorative trim.
1415.	That outdoor lighting shall be placed so as not to reflect onto adjacent residential property.
1516.	That the entrance to the sales office will not be from Nisbet.
1617.	Covenants, conditions, and restrictions shall be written so that these units shall be used for residential purposes only.
1718.	That the developer shall build a minimum of 4 one-story units on Nisbet Road as shown on the site plan presented. The first 15 feet of any unit along 29th Street will be one-story.
19.	That the developer intends to market these units for sale and not as rental units.
1820.	That during construction all possible means shall be taken to cause the least amount of disturbance to existing neighborhoods. All construction personnel and equipment should use 30th Street from Greenway Road as much as possible.
19	THE DEVELOPER SHALL RECORD A NOTICE TO PROSPECTIVE PURCHASERS OF PROXIMITY TO AIRPORT IN ORDER TO DISCLOSE THE EXISTENCE AND OPERATIONAL CHARACTERISTICS OF SCOTTADALE MUNICIPAL AIRPORT (SDL) TO FUTURE OWNERS OR TENANTS OF THE PROPERTY.

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