



City of Phoenix

PLANNING AND DEVELOPMENT DEPARTMENT

ADDENDUM B

Staff Report: Z-58-21-8

February 1, 2022

| | |
|--|---|
| South Mountain Village Planning Committee Meeting Date: | January 11, 2022 December 14, 2021 |
| Planning Commission Hearing Date: | February 3, 2022 January 6, 2022 |
| Request From: | S-1 (Ranch or Farm Residence District), approved R1-18 (Single-Family Residence District) (20.76 acres) |
| Request To: | R1-10 (Single-Family Residence District) (20.76 acres) |
| Proposed Use: | Detached single-family residential |
| Location: | Southwest corner of 19th Avenue and South Mountain Avenue |
| Owner: | PW Again, LLC |
| Applicant: | Paul Gilbert, Beus Gilbert McGroder, PLLC |
| Representative: | Paul Gilbert, Beus Gilbert McGroder, PLLC |
| Staff Recommendation: | Approval, subject to stipulations |

On January 6, 2022, the Planning Commission voted unanimously to continue this case to the February 3, 2022 Planning Commission hearing and allow the applicant to return to the South Mountain Village Planning Committee for recommendation.

The South Mountain Village Planning Committee heard this rezoning request on January 11, 2022 recommended denial of the request by a vote of 9 to 4 with one abstention. Concerns discussed during this meeting by members of the South Mountain Village Planning Committee pertained to the level of community opposition to the project, site layout, and proposed density.

The site plan, wall plan and wall elevations attached to this addendum were submitted by the applicant after the Addendum A Staff Report and presented at the January 11, 2022 South Mountain Village Planning Committee meeting. The changes from Addendum A proposed in the current site plan include a decrease in the number of lots from 66 to 63, lot width distribution, and an emergency or exit only access along 19th Avenue.

Due to these changes, staff recommends modifying the following stipulations:

- **Stipulation No. 1** regarding general conformance with the site plan and updates reflected within the latest plan pertaining to lot widths and location of lots;
- **Stipulation No. 6** regarding general conformance to the new proposed wall plan and wall elevations;
- **Stipulation No. 9.c.** regarding a central pedestrian connection through the site; and
- New **Stipulation No. 9.E** regarding pedestrian access through the development from both 19th Avenue and South Mountain Avenue.

Leading up to and following the January 11, 2022 South Mountain Village Planning Committee meeting, staff received additional correspondence from the public regarding this case. This additional correspondence is also attached.

Staff recommends approval per the modified stipulations, reflecting updates to the site plan, provided below:

Stipulations

1. The development shall be in general conformance with the site plan date stamped ~~November 22, 2021~~ ~~JANUARY 3, 2022~~, **JANUARY 11, 2022**, as modified by the following stipulations and approved by the Planning and Development Department with specific regard to the following:
 - a. The development shall be limited to a maximum of ~~67~~ ~~66~~ **63** lots.
 - b. Lots 1 through 44 ~~7~~, **13 THROUGH 27**, AND LOTS ~~62~~ **58** THROUGH ~~66~~ **63** shall be a minimum of 65 feet in width.
 - c. ~~Lots 15, 16, 17 and 49 8 THROUGH 13 shall be a minimum of 60 feet in width.~~
 - d. Lots ~~50~~ ~~44~~ **28** through ~~67~~ ~~28~~ **31** AND LOT ~~64~~ shall be a minimum of 70 feet in width.
 - e. All other lots shall be a minimum of ~~50~~ **60** feet in width.
 - f. Lots shall be a minimum of 45 feet from the southern perimeter property line.

~~g.~~ Lots shall be a minimum of ~~25~~ 50 feet from the western perimeter property line.
F.

~~h.~~ A minimum 10-foot wide landscape setback shall be provided along the southern
G. and western perimeter of the site.

~~i.~~ The location of the open space areas.
H.

~~j.~~ A minimum of 17 percent of the gross site area, exclusive of required landscape
I. setbacks, shall be provided as open space.

~~k.~~ A minimum building setback of 50 feet, exclusive of fencing, entry features or
J. detached accessory structures, shall be provided along the northern and eastern
perimeter of the site along 19th Avenue and South Mountain Avenue.

~~l.~~ A minimum 25-foot wide landscape setback shall be provided along 19th Avenue
K. and South Mountain Avenue. The landscape setback may be reduced to 20 feet
for up to 50 percent of this frontage for the purpose of staggering the perimeter
theme wall.

~~M.~~ FULL INGRESS AND EGRESS TO THE DEVELOPMENT SHALL BE LIMITED
L. TO SOUTH MOUNTAIN AVENUE.

2. All landscape setbacks shall be planted with minimum 50-percent 2-inch caliper and 50-percent 3-inch caliper large canopy drought-tolerant trees, 20 feet on center or in equivalent groupings, with five 5-gallon shrubs per tree, as approved by the Planning and Development Department.
3. The maximum building height for ~~lots 1 through 17 and lots 49 through 67, as depicted on the site plan date stamped November 22, 2021,~~ shall be limited to one story and ~~20~~ 22 feet.
4. All lots in the development shall be subject to Single-Family Design Review, including lots that are wider than 65 feet, as approved by the Planning and Development Department.
5. Building elevations shall be developed to the following standards, as approved by the Planning and Development Department:
 - a. Building elevations shall contain multiple colors, exterior accent materials and textural changes that exhibit quality and durability such as brick, stone, colored textured concrete or stucco, or other materials to provide a decorative and aesthetic treatment.

- b. A minimum of 50 percent of the elevations for each floor plan shall provide a covered front porch in the front yard with a minimum of 60 square feet in area at a depth of at least six feet. No porch shall terminate within the plane of a door or window.
 - c. Pitched roofs shall be provided on all primary building elevations.
6. ~~Fences and wall are subject to the following stipulations, in addition to the Zoning Ordinance requirements, and approved by the Planning and Development Department.~~ FENCES AND WALLS SHALL BE IN GENERAL CONFORMANCE WITH THE SITE WALL ELEVATIONS DATE STAMPED ~~DECEMBER 23, 2021~~ **JANUARY 11, 2022** AND SITE WALL PLAN DATE STAMPED ~~JANUARY 3, 2022,~~ **JANUARY 11, 2022**, AS MODIFIED BY THE FOLLOWING STIPULATIONS, AND APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT:
 - a. Full open view fencing, WHICH MAY INCLUDE SOLID COLUMNS UP TO 24 INCHES IN WIDTH, shall be utilized where walls are proposed around open space areas adjacent to a perimeter public street.
 - b. ~~Where view fencing is required by the Zoning Ordinance, a combination of solid masonry wall and view fencing may be utilized. The solid portion of the wall shall not exceed 4 feet in height, or as otherwise required by a City or County barrier regulation.~~ THE WALL LAYOUT DEPICTED IN THE WALL PLAN SHALL BE MODIFIED WHERE NECESSARY TO ACCOMMODATE SITE LAYOUT CHANGES THAT AVOID CONFLICTS WITH THE ZONING ORDINANCE OR CITY CODE REQUIREMENTS.
 - c. Perimeter walls bounding the rear yard property lines of residential lots along 19th Avenue and South Mountain Avenue shall include minimum three foot offsets and material and textural differences, such as stucco, and/or split face OR SLUMP block or a decorative element, such as tile or stamped designs, as approved by the Planning and Development Department.
7. Project entry/exit drives along ~~19th Avenue and~~ South Mountain Avenue shall incorporate decorative pavers, stamped or colored concrete, or similar alternative material, as approved by the Planning and Development Department.
8. Project entry/exit drives along ~~19th Avenue and~~ South Mountain Avenue shall incorporate enhanced landscaping on both sides planted with a variety of at least three plant materials, as approved by the Planning and Development Department. Each landscaped area shall be a minimum of 250-square feet.
9. A system of pedestrian connections shall be provided, to connect the following as described below and as approved by the Planning and Development Department:
 - a. Amenity areas.

- b. Sidewalks.
 - c. Pedestrian path connecting the ~~northern~~ PRIMARY AMENITY AREA and ~~southern~~ **WITH THE SOUTHERN AND WESTERN** portions of the site via a centralized pathway.
 - d. The common open space tract along the southwest corner of 19th Avenue and South Mountain Avenue shall contain a minimum 8-foot wide pedestrian pathway that connects the development with the sidewalk at 19th Avenue or South Mountain Avenue near the street intersection. This pathway shall be constructed of decomposed stabilized granite, decorative pavers, stamped or colored concrete, or similar alternative material. The landscaped tract shall contain minimum 2-inch caliper shade trees planted a minimum of 25 feet on center or equivalent groupings, along both sides of the pedestrian pathway.
- E. PEDESTRIAN ACCESS SHALL BE PROVIDED ALONG VEHICULAR ACCESS POINTS TO THE DEVELOPMENT. THE PEDESTRIAN ACCESS SHALL BE CONNECTED TO THE INTERNAL PEDESTRIAN PATHWAYS BY ACCESSIBLE SIDEWALKS.**
- 10. No more than 50 percent of the landscape areas within common areas or 10 percent of the net development area whichever is less, should be planted in turf or high-water use plants. Turf areas should be located only in the common open space areas, including retention basins, as approved by the Planning and Development Department. This requirement does not apply to landscaping located within private yards on individual lots.
 - 11. The following shall be provided IN THE CENTRAL AMENITY AREA and/OR dispersed throughout the development, as approved by the Planning and Development Department:
 - a. Tot lot with shade equipment;
 - b. One picnic area with a barbeque grill, shade ramada and a picnic table; and
 - c. Two benches or seating features.
 - 12. The sidewalk along 19th Avenue shall be a minimum of five feet in width and detached with a minimum 13-foot wide landscape strip located between the sidewalk and back of curb and planted to the following standards, as approved by the Planning and Development Department.
 - a. Minimum 2-inch caliper single-trunk large canopy drought-tolerant shade trees planted 25 feet on center or in equivalent groupings that provide shade to a minimum 75 percent at maturity.
 - b. Drought tolerant vegetation to achieve 75 percent live coverage at maturity.

Where utility conflicts exist, the developer shall work with the Planning and Development Department on alternative design solutions consistent with a pedestrian environment.

13. All sidewalks along South Mountain Avenue shall be detached with a minimum five-foot wide landscape strip located between the sidewalk and back of curb and planted to the following standards, as approved by the Planning and Development Department.
 - a. Minimum 2-inch caliper single-trunk large canopy drought-tolerant shade trees planted 25 feet on center or in equivalent groupings that provide shade to a minimum 75 percent at maturity.
 - b. Drought tolerant vegetation to achieve 75 percent live coverage at maturity.

Where utility conflicts exist, the developer shall work with the Planning and Development Department on alternative design solutions consistent with a pedestrian environment.

14. The developer shall dedicate 50-feet of right-of-way and construct the west half of 19th Avenue, as approved by the Planning and Development Department.
15. The developer shall provide conduit and junction boxes at 19th Avenue and South Mountain Avenue for future traffic signal equipment on the southwest corner of the intersection. All work related to the construction or reconstruction of the conduit runs and junction box installation shall be the responsibility of the Developer.
16. Existing irrigation facilities along 19th Avenue are to be undergrounded and relocated outside of City of Phoenix right-of-way. Contact SRP to identify existing land rights and establish appropriate process to relocate facility. Relocations that require additional dedications or land transfer require completion prior to obtaining plat and/or civil plan review approval.
17. The developer shall underground all existing electrical utilities located within the public right-of-way that are impacted/ or need to be relocated as part of this project. Coordinate with the affected utility companies for their review and permitting.
18. The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, median islands, landscaping and other incidentals, as per plans approved by the Planning and Development Department. All improvements shall comply with all ADA accessibility standards.
19. Prior to final site plan approval, the property owner shall record documents that disclose to purchasers of property within the development the existence and operational characteristics of agricultural uses. These documents must advise purchasers that, under Section 3-112(E), Arizona Revised Statutes, the City of

Phoenix may not declare an agricultural operation conducted on farmland to be a nuisance if the agricultural use is lawful, customary, reasonable, safe and necessary to the agriculture industry. The form and content of such documents shall be reviewed and approved by the City prior to recordation.

20. Prior to final site plan approval, the property owner shall record documents that disclose to purchasers of property within the development the existence and operational characteristics of the Phoenix Regional Police Academy gun range. The form and content of such documents shall be reviewed by the City prior to recordation.
21. The property owner shall record documents that disclose the existence, and operational characteristics of Phoenix Sky Harbor Airport to future owners or tenants of the property. The form and content of such documents shall be approved by the Planning and Development Department.
22. The developer shall grant and record an avigation easement to the City of Phoenix Aviation Department for the site, per the content and form prescribed by the City Attorney prior to final site plan approval.
23. The developer shall provide a No Hazard Determination for the proposed development from the FAA pursuant to the FAA's Form-7460 obstruction analysis review process, prior to construction permit approval, as per plans approved by the Planning and Development Department.
24. In the event archeological materials are encountered during construction, the developer shall immediately cease all ground-disturbing activities within a 33-foot radius of the discovery, notify the City Archeologist, and allow time for the Archeology Office to properly assess the materials.
25. IN ADDITION TO THE PUBLIC SIDEWALK, A MINIMUM 8-FOOT-WIDE PEDESTRIAN PATHWAY OR TRAIL SHALL BE PROVIDED AND MAINTAINED WITHIN THE DEVELOPMENT ALONG 19TH AVENUE AND SOUTH MOUNTAIN AVENUE, CONSTRUCTED OF DECOMPOSED GRANITE OR SIMILAR ALTERNATIVE MATERIAL, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.
26. THE DEVELOPER SHALL PROVIDE 3 DIFFERENT FRONT YARD PALETTES CONSISTING OF ONE LARGE CANOPY ACCENT TREE, FIVE SHRUBS AND TURF OR GROUND COVER, OR OFFER EVIDENCE OF A LANDSCAPING INCENTIVE PACKAGE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. REQUIRED FRONT YARD TREES SHALL BE A MINIMUM OF 2-INCH CALIPER SIZE AND LOCATED TO PROVIDE THE MAXIMUM SHADE POSSIBLE TO SIDEWALKS WITHIN THE DEVELOPMENT, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT.

27. THE DEVELOPER SHALL CONSTRUCT ONE BUS STOP PAD ALONG SOUTHBOUND 19TH AVENUE. THE BUS STOP PAD SHALL BE CONSTRUCTED ACCORDING TO CITY OF PHOENIX STANDARD DETAIL P1260 WITH A MINIMUM DEPTH OF 10 FEET AND SHALL BE SPACED FROM THE INTERSECTION OF SOUTH MOUNTAIN AVENUE ACCORDING TO CITY OF PHOENIX STANDARD DETAIL P1258.

Exhibits

Conceptual Site Plan date stamped January 11, 2022

Conceptual Wall Plan date stamped January 11, 2022

Conceptual Wall Elevations date stamped January 11, 2022

Community correspondence (24 pages)



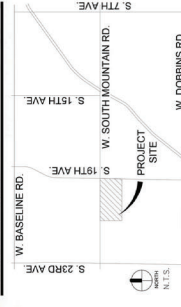
OWNER CONTACT

K. HOVNANIAN HOMES
 SUITE 250
 PHOENIX, ARIZONA 85020
 ATTN: CHUCK CHISHOLM
 (480) 824-4175
 CCHISHOLM@KHOV.COM

LANDSCAPE ARCHITECT

HARRINGTON PLANNING + DESIGN (HP+D)
 1000 W. BUCKLEBROOK RD.
 MESA, AZ 85210
 JASON HARRINGTON, RLA, ASLA, APWA
 (480) 250-0116
 JASON@HARRINGTONPLANNINGDESIGN.COM

VICINITY MAP



SITE DATA

PROPOSED DEVELOPMENT STANDARDS WILL FOLLOW
 ZONING ORDINANCE REQUIREMENTS (R1-10 PRD)
 NET AREA = 19.3 AC
 GROSS AREA = 20.74 AC
 GROSS DENSITY = 30 DU/AC
 TOTAL LOTS = 65 31 LOTS
 65 WIDE LOTS = 28 LOTS
 70 WIDE LOTS = 4 LOTS
 % OPEN SPACE (INCLUDING LANDSCAPE SETBACKS): 17% OF GROSS AREA
 % OPEN SPACE (INCLUDING LANDSCAPE SETBACKS): 22% OF GROSS AREA
 * SINGLE STORY HOME ONLY

PLANNING & DEVELOPMENT DEPARTMENT

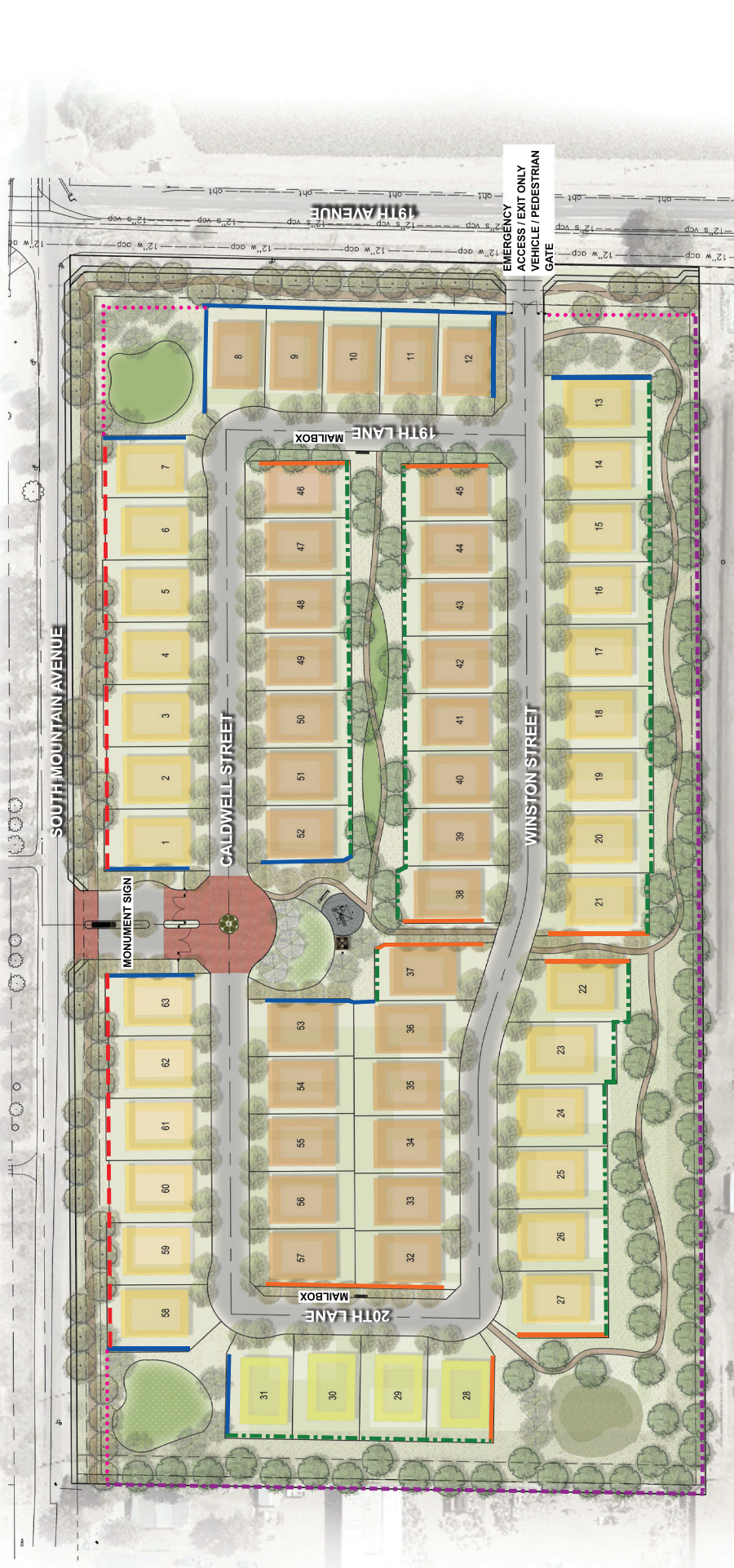
JAN 11 2022

CITY OF PHOENIX

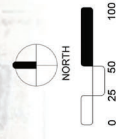


Harrington Planning + Design
 landscape architecture environmental planning urban design

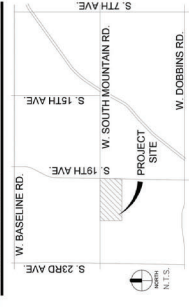
SITE PLAN
 Andora L 0.1
 Phoenix, Arizona



CITY OF PHOENIX
JAN 11 2022
Planning & Development Department



VICINITY MAP



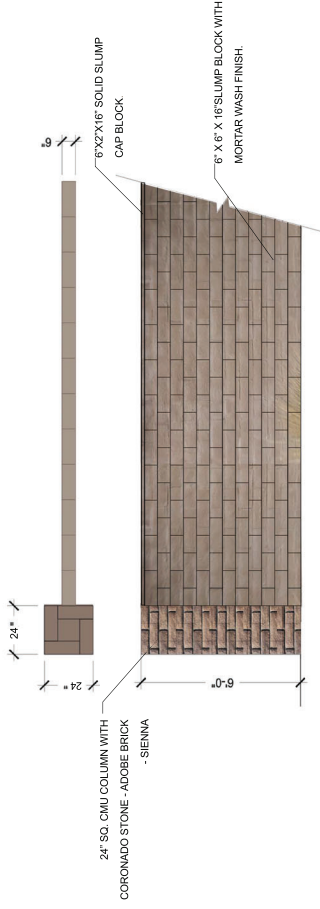
KEYNOTE LEGEND

- 1 THICK WALL 6'-0" SLUMP BLOCKS, WITH MORTAR WASH FINISH
- 2 THIN PARTIAL VIEW WALL 6'-0" WITH 5'-0" MORTAR WASH FINISH SLUMP BLOCKS AND 1'-0" METAL FENCE
- 3 PARTIAL VIEW WALL 6'-0" WITH 4'-0" MORTAR WASH FINISH SLUMP BLOCKS AND 2'-0" METAL FENCE
- 4 FULL VIEW FENCE METAL 6'-0" BRONZE FINISH
- 5 SECONDARY WALL ORU-4, 6'-0" STANDARD FACE BLOCK
- 6 THIN VIEW WALL 6'-0" WITH 2'-0" MORTAR WASH FINISH SLUMP BLOCKS AND 4'-0" METAL FENCE

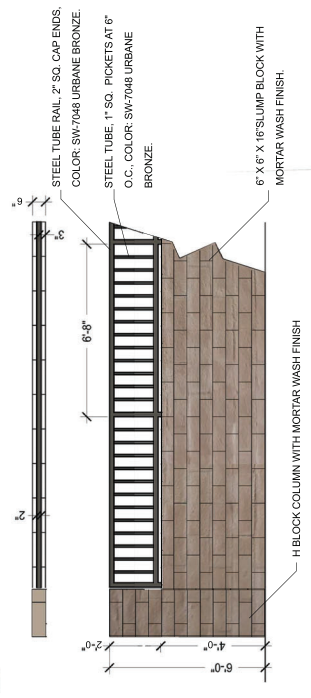
SITE WALL PLAN
 Andora L 1.0
 Phoenix, Arizona

Harrington Planning + Design
 landscape architecture environmental planning urban design



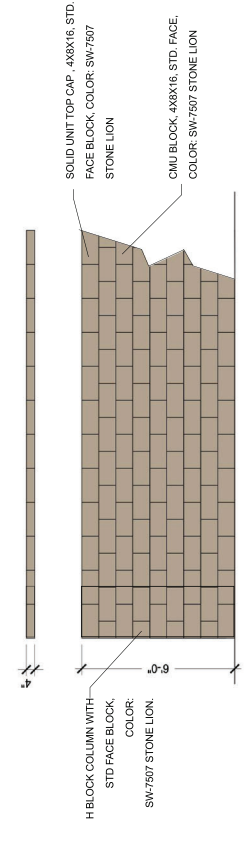


1 THEME WALL, 6 FT. - ANDORA
SCALE: N.T.S.



2 THEME PARTIAL VIEW WALL, 6 FT. - ANDORA
SCALE: N.T.S.

3 PARTIAL VIEW WALL, 6 FT. - ANDORA
SCALE: N.T.S.



4 FULL VIEW FENCE, 6 FT. - ANDORA
SCALE: N.T.S.

5 SECONDARY WALL, 6 FT. - ANDORA
SCALE: N.T.S.

6 THEME VIEW WALL, 6 FT. - ANDORA
SCALE: N.T.S.

From: [donatus agbakwu](#)
To: [Enrique A Bojorquez-Gaxiola](#)
Subject: Objection
Date: Monday, January 10, 2022 5:27:11 PM

Hello Enrique

This is to inform that I oppose applicant case numbers GPA-SM-3-21-8 and Z-58-21-8 (agenda items 8 and 9). The applicant, K Hovnanian, has been unwilling to work with the neighborhood on any changes to this project, specifically in regards to density, which is entirely inappropriate for our area.

Regards

Donarus Agbakwu

Magdalena Estate

From: [Erin Hegedus](#)
To: [Enrique A Bojorquez-Gaxiola](#)
Subject: GPA-SM-3-21-8 and Z-58-21-8
Date: Monday, January 10, 2022 1:12:40 PM

I am writing to oppose this request for rezoning.

The same design was presented four years ago and this committee rejected the request. This developer is basically submitting the same plan.

The design is not consistent with the neighborhood. Adds no value to the neighbors and consequently is adding more traffic than the roadways can handle, additionally, more noise and heat.

The bus stop that was added is a negation as currently there is not s bus route and this will add even more noise and traffic.

Please be aware that this developer does not own this property so he technically has no rights.

Please also note that we have offered many suggestions to make this development palatable to the neighbors but every idea we have suggested has been ignored.

Sent from my iPhone

From: [Miguel Rubio](#)
To: [Enrique A Bojorquez-Gaxiola](#)
Subject: GPA-SM-3-21-8
Date: Monday, January 10, 2022 1:57:14 PM

I oppose GPA-SM-3-21-8 (CAMPANION CASE Z-58-21-8) and want to donate my speaking time to Zach Brooks.

MIGUEL RUBIO

RB CONTRACTING LLC
8020 S 20TH AVE
PHX,AZ 85041
(602) 366 9334

From: [stephanie rubio](#)
To: [Enrique A Bojorquez-Gaxiola](#)
Subject: GPA-SM-3-21-8
Date: Monday, January 10, 2022 1:18:42 PM

I oppose GPA-SM-3-21-8 (Companion Case Z-58-21-8) and want to donate my speaking time to Zach Brooks.

Sent from my T-Mobile 4G LTE Device

From: [Dean Chiarelli](#)
To: [Enrique A Bojorquez-Gaxiola](#)
Subject: Andora revised site plan submitted January 10th, 2022
Date: Tuesday, January 11, 2022 11:36:58 AM

I am Dean Chiarelli and my address is 912 East La Mirada Drive, Phoenix AZ 85042.

I agree with the statement submitted by Jewel Clark regarding the updated Andora site plan submitted on January 10th, 2022. I advocate for the SMVPC to NOT approve an amendment to map and rezoning the area. The right developer will be able to make a profit without the need to amend the GPA and rezone. There is already a large and excessive amount of higher-density residential development under construction in the area right now.

Ms. Clark's rebuttal is cut and pasted below:

"After receiving the updated site plan submitted 1/10/22 I feel compelled to write a rebuttal and update from my original letter.

This plan appears to be an attempt to comply with SMVPC member requests and create the appearance of "working with the neighbors" and attempted the meagerest of reductions based on hearing the Vice Mayor say he wouldn't support 66 houses at our last meeting. The neighbors do not want a higher density development smack in the middle of S-1 acre+ lots with custom homes, active farmland, and horse properties.

While Mr. Gilbert may argue that K Hovnanian has now come down to the same density (in fact they've just copied the Kimura specs) the neighbors negotiated with John Poulsen across the street for the Kimura development, no one in the neighborhood wanted the density that was approved. We lacked any additional leverage to force the number lower and so agreed to the final density offer in exchange for other accommodations like the deep setback, and heat mitigation that we are still in negotiations on.

The neighborhood, as a body, wants lower density to prevail in our area because that is what we bought into this area for, and what the Rio Montana and 2015 General Plans dictate to preserve our rural character and certainty, and when we have the ability to hold a developer accountable to that lower density, we are prepared to use it, as we are here.

The property is zoned S-1. There is an R1-18 overlay that the developer could take advantage of to build to the density that the neighborhood would accept, along with other aspects like heat mitigation and building practices that would help keep our area cooler and more in line with the current rural character. As committee member Busching said at the December meeting, "There is no right to rezone." These particular cases are an excellent example with

which to practice this truth. There is nothing compelling in this site plan to warrant approving this GPA or rezoning request. There is no neighborhood support. Please vote no on both cases.

As an aside, I would like to address Dr. Brooks' eloquent words from the December meeting about a "growing inequity" between the developers and the neighborhoods who come before you. I very much appreciated hearing that and also hearing many other committee members support his statement. I would only differ in my agreement by saying the inequity is not growing but it is here. The virtual meetings, while convenient and we can agree necessary in these times, make it impossible for you to see the full quantity of opposed neighbors. A room full of people makes a certain impression that a list of attendees on Zoom can't. That and the lack of time for the neighborhood to present compared to the developer's lawyers and the lack of any rebuttal time for the neighborhood further stacks the deck in favor of the developer. I don't know if you have the power to adopt a more equitable format without turning the meeting into a 6 hour ordeal, but I do hope you can find a way".

Sincerely,
Jewel Clark
2020 West South Mountain Ave.
Phoenix, AZ 85041

--

H. Jewel Clark
hjewelclark@fastmail.com

From: [Gina Baker](#)
To: [Enrique A Bojorquez-Gaxiola](#)
Subject: Fwd: Andora opposition letter to latest plan for anyone who wants to read/sign on.
Date: Tuesday, January 11, 2022 11:06:08 AM

Hi Enrique,

I'd like to add this as my written statement to the SMVP Committee regarding my opposition to the zoning change.

I agree wholeheartedly agree with the entire statement below.

>

> -----

>

> After receiving the updated site plan submitted 1/10/22 I feel compelled to write a rebuttal and update from my original letter.

>

> This plan appears to be an attempt to comply with SMVPC member requests and create the appearance of "working with the neighbors" and attempted the meagerest of reductions based on hearing the Vice Mayor say he wouldn't support 66 houses at our last meeting. The neighbors do not want a higher density development smack in the middle of S-1 acre+ lots with custom homes, active farmland, and horse properties.

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>

> Sincerely,

> Jewel Clark

> 2020 West South Mountain Ave.

> Phoenix, Az

Gina Johnson

1816 W Magdalena Ln
Phoenix, AZ 85041
Magdalena Estates
>
>

From: [H. Jewel Clark](#)
To: [Enrique A Bojorquez-Gaxiola](#)
Subject: Opposition to GPA-SM-3-21-8 and Z-58-21-8 (agenda items 8 and 9) - latest plan
Date: Tuesday, January 11, 2022 10:01:53 AM

Hi Enrique,

After receiving the updated site plan submitted 1/10/22 I feel compelled to write a rebuttal and update from my original letter.

This plan appears to be an attempt to comply with SMVPC member requests and create the appearance of "working with the neighbors" and attempted the meagerest of reductions based on hearing the Vice Mayor say he wouldn't support 66 houses at our last meeting. The neighbors do not want a higher density development smack in the middle of S-1 acre+ lots with custom homes, active farmland, and horse properties.

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The neighborhood, as a body, wants lower density to prevail in our area because that is what we bought into this area for, and what the Rio Montana and 2015 General Plans dictate to preserve our rural character and certainty, and when we have the ability to hold a developer accountable to that lower density, we are prepared to use it, as we are here.

The property is zoned S-1. There is an R1-18 overlay that the developer could take advantage of to build to the density that the neighborhood would accept, along with other aspects like heat mitigation and building practices that would help keep our area cooler and more in line with the current rural character. As committee member Busching said at the December meeting, "There is no right to rezone." These particular cases are an excellent example with which to practice this truth. There is nothing compelling in this site plan to warrant approving this GPA or rezoning request. There is no neighborhood support. Please vote no on both cases.

As an aside, I would like to address Dr. Brooks' eloquent words from the December meeting about a "growing inequity" between the developers and the neighborhoods who come before you. I very much appreciated hearing that and also hearing many other committee members support his statement. I would only differ in my agreement by saying the inequity is not growing but it is here. The virtual meetings, while convenient and we can agree necessary in these times, make it impossible for you to see the full quantity of opposed neighbors. A room full of people makes a certain impression that a list of attendees on Zoom can't. That and the lack of time for the neighborhood to present compared to the developer's lawyers and the lack of any rebuttal time for the neighborhood further stacks the deck in favor of the developer. I don't know if you have the power to adopt a more equitable format without turning the meeting into a 6 hour ordeal, but I do hope you can find a way.

Sincerely,
Jewel Clark

2020 West South Mountain Ave.
Phoenix, AZ 85041

--

H. Jewel Clark

hjewelclark@fastmail.com

From: [Leticia Rivera](#)
To: [Enrique A Bojorquez-Gaxiola](#)
Subject: I support the following statement
Date: Tuesday, January 11, 2022 10:58:26 AM

Mr Bojórquez-Gaxiola,

This statement was not written by me but am in support of the request it makes.

“This plan appears to be an attempt to comply with SMVPC member requests and create the appearance of "working with the neighbors" and attempted the [most meager] of reductions based on hearing the Vice Mayor say he wouldn't support 66 houses at our last meeting. The neighbors do not want a higher density development smack in the middle of S-1 acre+ lots with custom homes, active farmland, and horse properties.

While Mr. Gilbert may argue that K Hovnanian has now come down to the same density (in fact they've just copied the Kimura specs) the neighbors negotiated with John Poulsen across the street for the Kimura development, no one in the neighborhood wanted the density that was approved. We lacked any additional leverage to force the number lower and so agreed to the final density offer in exchange for other accommodations like the deep setback, and heat mitigation that we are still in negotiations on.

The neighborhood, as a body, wants lower density to prevail in our area because that is what we bought into this area for, and what the Rio Montana and 2015 General Plans dictate to preserve our rural character and certainty, and when we have the ability to hold a developer accountable to that lower density, we are prepared to use it, as we are here.

The property is zoned S-1. There is an R1-18 overlay that the developer could take advantage of to build to the density that the neighborhood would accept, along with other aspects like heat mitigation and building practices that would help keep our area cooler and more in line with the current rural character. As committee member Busching said at the December meeting, "There is no right to rezone." These particular cases are an excellent example with which to practice this truth. There is nothing compelling in this site plan to warrant approving this GPA or rezoning request. There is no neighborhood support. Please vote no on both cases.

As an aside, I would like to address Dr. Brooks' eloquent words from the December meeting about a "growing inequity" between the developers and the neighborhoods who come before you. I very much appreciated hearing that and also hearing many other committee members support his statement. I would only differ in my agreement by saying the inequity is not growing but it is here. The virtual meetings, while convenient and we can agree necessary in these times, make it impossible for you to see the full quantity of opposed neighbors. A room full of people makes a certain impression that a list of attendees on Zoom can't. That and the lack of time for the neighborhood to present compared to the developer's lawyers and the lack of any rebuttal time for the neighborhood further stacks the deck in favor of the developer. I don't know if you have the power to adopt a more equitable format without turning the meeting into a 6 hour ordeal, but I do hope you can find a way. “

Leticia Rivera
1716 W. Magdalena Ln
Phoenix 85041

From: [Ravi Sharma](#)
To: [Enrique A Bojorquez-Gaxiola](#)
Cc: [Ravi Sharma](#)
Subject: City of Phoenix - Update on case GPA-SM-3-21-8
Date: Tuesday, January 11, 2022 1:59:12 PM

Hello Mr. Bojorques-gaxiola,

Upon reviewing the updated plan submitted 1/10/2022, my wife and I oppose the latest plans offered by the developer.

The neighborhood, as a body, wants lower density to prevail in our area because that is what we bought into this area for, and what the Rio Montana and 2015 General Plans dictate to preserve our rural character and certainty, and when we have the ability to hold a developer accountable to that lower density, we are prepared to use it, as we are here.

The property is zoned S-1. There is an R1-18 overlay that the developer could take advantage of to build to the density that the neighborhood would accept, along with other aspects like heat mitigation and building practices that would help keep our area cooler and more in line with the current rural character. As committee member Busching said at the December meeting, "There is no right to rezone." These particular cases are an excellent example with which to practice this truth. There is nothing compelling in this site plan to warrant approving this GPA or rezoning request. There is no neighborhood support. Please vote no on both cases.

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My wife and I support the above statements.

Dr. Ravi and Snigdha Sharma
8012 S. 20th. Avenue
Phoenix, AZ85041

From: [Rob Barnes](#)
To: [Enrique A Bojorquez-Gaxiola](#)
Subject: FW: Opposition to development
Date: Tuesday, January 11, 2022 10:57:45 AM

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Rob Barnes <rob@copperstatemetals.com>
Date: 1/11/22 10:54 AM (GMT-07:00)
To: enrique.bojorquezgaxiola@phoenix.gov
Subject: Opposition to development

I agree with the following statement from H.Jewel Clark, additionally I would like to yield my speaking time to Zach Brooks.

Respectfully,
Robert Barnes
Magdalena Estates
8312 S 18th Ln
Phoenix AZ 85041

After receiving the updated site plan submitted 1/10/22 I feel compelled to to write a rebuttal and update from my original letter.

This plan appears to be an attempt to comply with SMVPC member requests and create the appearance of "working with the neighbors" and attempted the meagerest of reductions based on hearing the Vice Mayor say he wouldn't support 66 houses at our last meeting. The neighbors do not want a higher density development smack in the middle of S-1 acre+ lots with custom homes, active farmland, and horse properties.

While Mr. Gilbert may argue that K Hovnanian has now come down to the same density (in fact they've just copied the Kimura specs) the neighbors negotiated with John Poulsen across the street for the Kimura development, no one in the neighborhood wanted the density that was approved. We lacked any additional leverage to force the number lower and so agreed to the final density offer in exchange for other accommodations like the deep setback, and heat mitigation that we are still in negotiations on.

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Sent from my Verizon, Samsung Galaxy smartphone

From: [Dean Chiarelli](#)
To: [Enrique A Bojorquez-Gaxiola](#)
Subject: SMVPC Meeting Jan 11, 2022--- Abstain from vote
Date: Tuesday, January 11, 2022 2:58:06 PM

Re: GPA-SM-3-21-8 (Companion Case Z-58-21-8)
South Mountain Village Planning Committee [SMVPC]
Meeting January 11, 2022

I request that Ms. Daniels, SMVPC Chair, abstain from voting on the items. Ms. Daniels is a Realtor in the South Mountain area, and her real-estate business activities give the appearance of a conflict of interest. During prior meetings, Ms. Daniels declared herself a Realtor in South Phoenix, and remarked publicly that perhaps she could sell some properties reviewed by the SMVPC. It is unethical if she (or any other Planning Member) votes on an item they will benefit commercially and financially. Within Ms. Daniels' position of authority as Chair, she should exercise good judgment and abstain from voting.

The **Village Planning Handbook** item 8., page 9, states that a committee member should refrain from participating when a conflict of interest exists, and it includes language for a perceived conflict of interest.

8. A committee member shall refrain from participating in the discussion of or activity on any matter in which a conflict of interest exists. A conflict of interest refers to a situation when a board member has a competing financial or ownership interest that would make it difficult to fulfill his or her duties fairly. A true conflict involves a financial or ownership interest. However, a person may also have a perceived conflict of interest, even if no financial interest is involved. The ultimate obligation for complying with the conflict of interest laws lies with the individual. A committee member convicted of violating the conflict of interest laws is subject to criminal penalties and forfeiture of office. The City Attorney's Office is available to advise any person who thinks he or she may have a conflict of interest. A complete discussion of conflict of interests can be found in the Board and Commission member Resource Guide prepared by the City Clerk's Department.

Source:

https://www.phoenix.gov/villagessite/Documents/pdd_pz_pdf_00020.pdf#search=village%20planning%20handbook

Accessed January 11, 2022

Furthermore, the **City of Phoenix Ethics Handbook- Employees & Volunteers** page 8 clearly defines an example of conflict-of-interest for a Realtor Listing Agreement. The handbook states "If a board member participated in consideration of the matter, the board member should not later enter the listing agreement."

3. Examples–Conflict of Interest

The following examples help give board members an idea how Arizona's conflict of interest laws apply. Each situation will be decided on the unique facts and circumstances involved. The goal of these examples—and indeed this entire handbook—is to help develop greater sensitivity to ethical considerations. **If a board member is in doubt of what should be done, opt not to participate.** All examples assume the matter will come before the board for consideration and apply to the board member's relative or partner as well as the board member.

- a. Owns Property In Close Proximity**
The board member owns property in close proximity to property subject to board's approval of a zoning or license application that may affect the value of the board member's property.
- b. Worked Previously for Firm**
The board member has done work in the past for a firm that seeks a City contract and the board member anticipates doing further work for the firm in the future. A potential conflict exists regardless of whether the work involves the matter that is the subject of the contract. (However, mere past association does not of itself constitute a conflict if the business relationship is not a continuing one.)
- c. Corporate Officer of Competitor**
The board member is an officer of a corporation that operates a chain of stores. An application by a competitor seeks zoning approval for a store within the service area of one of the stores owned by the board member's corporation.
- d. Developer**
The board member is a developer who files an application for approval of a project. Not only must the

board member declare a conflict and disqualify oneself from consideration of the application, the board member also may not participate in any manner.

- e. Realtor Listing Agreement**
The board member is a realtor who has had discussions concerning a listing agreement with an owner of a property that is the subject of a zoning application. If the board member wishes to pursue the agreement, the board member should declare the conflict and refrain from considering the application. **If the board member participated in consideration of the matter, the board member should not later enter the listing agreement.**
- f. Owner of Regulated Business**
A proposed amendment to the City Code seeks to regulate a specific type of business activity. The board member has an exclusive or specific right to conduct the activity in the City.
- g. Property Uniquely Affected by Land Use Plan**
The board member has an interest in property that will be uniquely affected by a proposed land use plan, and the adoption of the plan may affect the value of the property (e.g., the plan confers special benefits on the property that are not applied to other similarly situated properties).
- h. Contract of Close Relative**
The close relative of a board member is in business with a person whose application or contract is being considered by the board.
- i. Source of More Than 5% Income**
The board member receives more than 5% of the member's total annual income from a corporation that has an application or a contract pending before the board.



Source: https://www.phoenix.gov/citymanagersite/Documents/Ethics/Ethics_Handbook_Employee_Volunteers.pdf
Accessed: January 11, 2022

Ms. Daniel's appearance of a conflict of interest is based on LinkedIn™ website data regarding The Courtyards at Madison Ranch [Z-36-06], and Copper Leaf [Z-22-02]. Both were reviewed during Ms. Daniels' appointment to the SMVPC. Upon approval, Ms. Daniels had the opportunity to benefit commercially and financially as demonstrated below.

TAMALA L DANIELS

REAL ESTATE PROPERTIES ■ CREATING HOMES ■ LUXURY LIFESTYLE



Tamala L. Daniels, PLLC

New Home Developer Consultant, New Home Specialist at Surprise Estates at Trail of Light for Trail of Light Development Inc. Sales & Marketing #ONELUXE Realty One Group
Scottsdale, Arizona, United States · 500+ connections

Trail of Light Development Inc. Sales & Marketing #ONELUXE...

Ottawa University-Phoenix

Join to Connect

Source: <https://www.linkedin.com/in/tamala-l-daniels-pll-c-b3372bb> [linkedin.com]
Accessed January 7, 2022.

Ms. Daniels LinkedIn™ profile identifies her as “**Exclusive Realtor**” for The Courtyards at Madison Ranch [Z-36-06].

<https://www.linkedin.com/in/tamala-l-daniels-pll-c-b3372bb>

Show more

Realtor
The Courtyards at Madison Ranch

Mar 2014 - Feb 2016 · 2 years

NE Corner of 19th Avenue and Baseline Road

Exclusive Realtor for The Courtyards at Madison Ranch by Divinity Homes located in the Heart of South Mountain area.

Ms. Daniels' LinkedIn™ profile identifies her as “**New Home Developer Consultant, New Home Specialist**” for Copper Leaf [Z-22-02].

New Home Developer Consultant, New Home Specialist

Copper Leaf Development, Inc

May 2016 - May 2020 · 4 years 1 month

Phoenix, Arizona Area

SOLD OUT! Copper Leaf Villas community of 155 single family condominiums are the perfect location to keep you connected with all that Phoenix has to offer.

Beautifully designed condominiums are built in an amenity rich neighborhood and an ideal location make this the right choice for Phoenix home shoppers. Copper Leaf Villas is convenient to major transportation, health facilities, dining, shopping and nightlife. Minutes to Downtown Phoenix, Sky-Harbor Airport and Golf Courses. Offers...

I perceive Ms. Daniels' residential real-estate activity as a conflict of interest. I verbally stated my concern to Vice-Mayor Carlos Garcia during the community meeting on January 3rd, 2022. As Chair, Ms. Daniels has authority to facilitate meetings and alter the agenda order. In December, 2021 I observed her unfairly limit speaking time to various stakeholders, especially JoAnne Jensen who represented a community group. Other meeting attendees expressed agreement and appreciate this issue being brought to the table.

Village Planners function as volunteers, and I genuinely appreciate their devotion of time and energy to fulfilling their roles. As volunteers, Planners have an ethical obligation not to appear to have an actual or the appearance of a conflict of interest. I request that Ms. Daniels, and any other Committee Member who is a realtor or otherwise has a commercial interest, abstain from voting on GPA-SM-3-21-8 (Companion Case Z-58-21-8). There is a high-level of opposition which is well-documented within the community.

I am Pro-Development, and my position on these items is that the SMVPC should OPPOSE. The right builder will make a profit without the need to amend the map and rezone. This land is prime, and the best use is as part of PlanPHX 2015 and South Phoenix Food Plan enterprises (related to agricultural enterprise such as "agritainment") or residential, which does not increase density. A precedent is set by the City of Phoenix AZ Fresh™ initiative. I would like to see more businesses such as Grandma's Farm™, The Farm at South Mountain™, Arizona Worm Farm™ contribute to the unique, rich, historic location. Phoenix is poised to become a food innovation and agricultural hub. Prime land is lost forever when GPA map is amended and rezoned for higher-density, generic housing.

Dean Chiarelli

Enrique A Bojorquez-Gaxiola

To: Tamala Daniels
Subject: RE: DISAPPROVE Presentation Request - Z-58-21-8 and GPA-SM-3-21-8

From: Tamala Daniels <bestofphxliving@gmail.com>
Sent: Tuesday, January 11, 2022 5:14 PM
To: Enrique A Bojorquez-Gaxiola <enrique.bojorquez-gaxiola@phoenix.gov>
Subject: Re: DISAPPROVE Presentation Request - Z-58-21-8 and GPA-SM-3-21-8

Hi Enrique

Thank you for talking with me today. After reviewing the presentation attached there is no reference to any of the zoning and planning cases on the agenda today.

As the Chair, I DISAPPROVE the presentation for tonight and feel it is not the proper forum.

Zoning and Planning committees are a collective body of community residents that serve in professional careers throughout the real estate industry and other professional careers including the City Of Phx.

As per my conversation Copper Leaf was original approved by the City of Phoenix possible in 2000 with Trend Homes. My developer purchase in after 2008 out of bankruptcy. I meet the new developer in 2016 and then became the exclusive realtor for project NO new rezoning case because the project was already zone for condos and already had 5 buildings built by Trend Home and finished the project!

The Courtyard at Madison Ranch I interviewed and was hired in 2014.

I have severed on the SMVP planning committee for years and even passed on voting on 2 project in South Phoenix because I already was working for a developer on a project in North Phoenix.

I serve with integrity, honesty and full transparency. I have used my service to procure a vote for business.

I will continue to serve my community honor and respect!

Sincerely

Tamala L Daniels, PLLC | REALTOR
New Home Developer Consultant
New Home Specialist
Speaker. Advocate
Designations: GRI, ABR, CNE, CIAS, CDPE
Realty ONE Group
Direct: 602.688.6327
www.BestofPhoenixLiving.com [bestofphoenixliving.com]

On Jan 11, 2022, at 3:54 PM, Enrique A Bojorquez-Gaxiola <enrique.bojorquez-gaxiola@phoenix.gov> wrote:

My apologies Tamala,

I received a second email after my previous email below from a member of the public, Mr. Dean Chiarelli, who wants to know if you will allow him to show the following presentation (see attached)?

This is similar to the letter that makes reference to you.

I will have the presentation ready just in case you allow him to show it.

Thank you!

Enrique Bojórquez Gaxiola
Planner III
City of Phoenix
Planning & Development Department
Long Range Planning Division
200 W. Washington Street
Phoenix, AZ 85003
Office: (602) 262-6949

<image001.png>

I am currently working remotely on a rotational schedule, but will be checking voicemails multiple times per day. Please feel free to leave me a voice message or email me for a more timely response. Thank you.

From: [Enrique A Bojorquez-Gaxiola](#)
To: [Dean Chiarelli](#)
Subject: RE: SMVPC: Request for meeting minutes & voting record
Date: Monday, January 10, 2022 2:36:00 PM
Attachments: [image001.png](#)

Hello Dean,

How are you? If you do not get the case files by tomorrow 11am, email me and let me know so that I can get these documents over you on behalf of the Zoning Team.

However, I looked at the minutes for case Z-36-06 and see that Ms. Daniels was absent during that meeting on July 11, 2006:

**SOUTH MOUNTAIN VILLAGE PLANNING COMMITTEE
MEETING MINUTES**

| | |
|------------------|---|
| Date: | Tuesday, July 11, 2006 |
| Time: | 6:30 p.m. |
| Location: | South Mountain Environmental Education Center, 10409 S. Central Avenue, Phoenix Arizona |

| MEMBERS PRESENT | MEMBERS ABSENT | STAFF |
|---------------------------|-------------------------|--------------|
| George Young – Chair | Joyce Elsner, Excused | Rob Lane |
| Diana Clarke – Vice Chair | Yvonne Montiel, Excused | Leslie Lucas |
| George Brooks | Greg Tolliver, Excused | |
| Gregory Brownell | <u>Tamala Daniels</u> | |
| Andrew Cunningham | | |
| Rudy Gomez | | |
| Barbara Schneider | | |
| Willie Smith | | |
| Marcus Sorensen | | |
| William Wiess Jr. | | |

1. Call to order and roll call.

South Mountain Village Planning Committee
July 11, 2006 – Meeting minutes
Page 3 of 9

- 6. Presentation, discussion, and possible recommendation on Z-36-06-7, a rezoning of the property located at the northeast corner of 19th Avenue and Baseline Road. The proposed rezoning is from S-1 to C-2 (6.47 acres) and R-2 PRD (20.99 acres) for a proposed commercial center and single-family cluster home development on approximately 27.46 acres. Presentation by Jason Morris of Withey, Anderson, & Morris.**

The motion was approved by a vote of 11 - 1 (Harris-Morgan) – 1 (Cunningham)

South Mountain Village Planning Committee
July 11, 2006 – Meeting minutes
Page 5 of 9

The rezoning case file for Z-22-02 is larger and could not find the minutes from browsing the

electronic file. It might be difficult to get these minutes by tomorrow if the Zoning Team need to research these in the physical archives, as the electronic file does not seem to have the minutes (or at least I could not locate these).

Let me know if questions arise.

Thanks!

Enrique Bojórquez Gaxiola
Planner III
City of Phoenix
Planning & Development Department
Long Range Planning Division
200 W. Washington Street
Phoenix, AZ 85003
Office: (602) 262-6949



I am currently working remotely on a rotational schedule, but will be checking voicemails multiple times per day. Please feel free to leave me a voice message or email me for a more timely response. Thank you.

From: Dean Chiarelli <Dean.Chiarelli@asu.edu>
Sent: Monday, January 10, 2022 1:15 PM
To: Enrique A Bojorquez-Gaxiola <enrique.bojorquez-gaxiola@phoenix.gov>
Subject: Re: SMVPC: Request for meeting minutes & voting record

Hello Enrique- I submitted a request and probably won't have the items returned before the SMVPC January 11 meeting. In the meantime, can you or someone provide me with Ms. Daniel's voting record on Madison Ranch [Z-36-06] and Copper Leaf [Z-22-02]? In particular I would like to know if she abstained or if she voted "Yes" on the item(s). Thank you,

Dean Chiarelli

From: Enrique A Bojorquez-Gaxiola <enrique.bojorquez-gaxiola@phoenix.gov>
Sent: Friday, January 7, 2022 3:12 PM
To: Dean Chiarelli <Dean.Chiarelli@asu.edu>
Subject: RE: SMVPC: Request for meeting minutes & voting record

Good afternoon Dean,

How are you? Yes, the rezoning case number for Madison Ranch is Z-36-06 and Copper Leaf is Z-22-02.

If you could submit a public records request (noting that you want a copy of rezoning cases Z-36-06 and Z-22-02) using the following website, a member of the Zoning Team will be able to send you these files via email that include meeting minutes, votes, staff reports, etc.
<https://www.phoenix.gov/pio/public-records-request>

Let me know if questions arise.

Thank you,

Enrique Bojórquez Gaxiola

Planner III

City of Phoenix

Planning & Development Department

Long Range Planning Division

200 W. Washington Street

Phoenix, AZ 85003

Office: (602) 262-6949



I am currently working remotely on a rotational schedule, but will be checking voicemails multiple times per day. Please feel free to leave me a voice message or email me for a more timely response. Thank you.

From: Dean Chiarelli <Dean.Chiarelli@asu.edu>

Sent: Friday, January 7, 2022 2:59 PM

To: Enrique A Bojorquez-Gaxiola <enrique.bojorquez-gaxiola@phoenix.gov>

Subject: SMVPC: Request for meeting minutes & voting record

Hello Enrique,

I am contacting you to request your assistance to locate the public meeting minutes & voting records for two residential development projects in South Mountain.

- The Courtyards at Madison Ranch
- Located on the Northeast Corner of 19th Avenue and Baseline Road
- - Preliminary site plan attached
- Copper Leaf Villas
- Located on 22nd Terrace and Southern Avenue
 - I was unable to find reference documents for Copper Leaf Villas when I searched the City of Phoenix website.

Can you please provide the documents or steer me in the right direction? Thanks for your assistance.

Dean Chiarelli