



## Action Report

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**File #:** 16-383

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**TO:** Chair and Planning Commission

**FROM:** Eva Cutro, Community Development Director  
Paul Michaud, Senior Planner

**DATE:** November 15, 2016

**CONTACT:**

Paul Michaud, 480-348-3574

**AGENDA TITLE:**

Discussion of an amendment to a private road Conditional Use Permit (CUP 16-01)  
Portion of Nauni Valley Road adjoining 6001 N Nauni Valley Drive

**REQUEST**

Rose Law Group on behalf of BH Nauni Valley, L.L.C. is requesting an amendment to the approved Conditional Use Permit (CUP 16-01) for the private roadway adjoining 6001 N Nauni Valley Drive. This request is to amend the stipulations such that there be no curbing required. The stipulations previously approved required ribbon curb, the removal of the existing entry wall at the McDonald Drive entrance, and the removal of the existing private roadway sign with an alternate sign allowable within current Town regulations. The subject private road is located adjoining 6001 N Nauni Valley Drive (Assessor Parcels 169-44-012 and 169-44-024). The subject right-of-way is 50 feet in width and approximately 745 feet in length.

**BACKGROUND**

Prior Meetings:

In a 5 to 0 vote on April 19, 2016, with Planning Commissioners Wastchak and Wincel absent, the Planning Commission approved the private roadway for the portion of Nauni Valley Drive adjoining 6001 N Nauni Valley Drive. This approval included ten stipulations. Attached to this report are the minutes related to this CUP for further information. Should the Planning Commission approve all or part of the requested amendment, it will be necessary to amend some of the stipulations previously approved.

**DISCUSSION/FACTS**

Curb

Since the approval of the CUP in April 2016, the property owners of Nauni Valley Ranch have met several times. They believe that the ribbon curb will take away from the long-standing rural character

of their neighborhood and give a “suburban mass market feel”. This was brought up at the April 2016 hearing, but countered with the circumstance the ribbon curb protects the pavement from a maintenance standpoint and the many areas along the pavement edge of Nauni Valley Drive already have ribbon curb due to Town policy.

As described during the CUP process in April 2016, improvement of Nauni Valley Drive has several unique circumstances. These circumstances include a platted private road with clouded ownership and no separate roadway tract. Although, the majority legal opinion is that the owners of the lots in Nauni Valley Ranch have the rights to use Nauni Valley Drive through dedication or through easements by prescription. The approved CUP only applied to a portion of Nauni Valley Drive since it was a lot split application that triggered the need for a CUP to comply with current Town requirements. Access on a private road only needs to be demonstrated to either the public roadway of McDonald Drive or 56<sup>th</sup> Street in this instance. As with many older subdivisions, there is no homeowner association to manage improvements such as a private roadway. The Town’s General Plan provides three alternative local roadway cross sections, with one cross section allowing no curbs. However, the General Plan has no specific guidance on when to use the three local roadway cross-sections. Improvement along Nauni Valley Drive has occurred in a piece-meal fashion. This is due to the above-noted circumstances and Section 5-10-7.F of the Town Code that allows for street improvements as a condition of a building permit. As such, some of the lots in Nauni Valley Ranch have ribbon curb.

Including both sides of the pavement, there is approximately 4,800 lineal feet of pavement edge along the entire length of Nauni Valley Drive. Today 2,000 lineal feet of the pavement edge (~40%) has ribbon curb. The cross-section with no curbs is presently being applied for Nauni Valley Drive based on a recent shift in Town policy as described in the attached memo from the Town Manger dated May 18, 2016. As such, the property owners with existing ribbon curb intend to remove or bury the existing curb. Also, the two lots with active building permits in this subdivision, representing approximately 400 lineal feet of pavement edge, have been modified such that ribbon curbing is not required. Although, at least one of these property owners plans to voluntarily install curbing. Being that the roadway is private and the pavement edge associated with the CUP is approximately 1,275 lineal feet (~25%) of the total 4,800 lineal feet, staff supports the applicant’s request to remove the requirement for ribbon curb since most of the roadway would not have curbing. Also, the Town will not be responsible for roadway maintenance, including any accelerated maintenance issues as a result of not having curbing. Removal of the curbing requirement affects Stipulation 2 and Stipulation 4 of the approved CUP.

#### Entry Walls/ Private Roadway Sign

The applicant prefers to retain the entry walls located within the right-of-way along McDonald Drive and the private roadway sign located within the private right-of-way along Nauni Valley Drive, but have not asked to modify the approved CUP requiring their removal.

#### Corner Vision - Sight Distance

The applicant was still in the process of updating the documentation on the corner vision - sight distance at the time of the April 2016 hearing. This documentation was to substantiate the oleanders and entry walls at the intersection of McDonald Drive and Nauni Valley Drive were not a visual obstruction. Staff concern is any possible negative impact on the safe movement of vehicles and

other modes of travel. Attached is the latest sight distance analysis provided by the applicant's engineer and response from the Town Attorney. In brief, the Town Code affords the Town Engineer the ability to consider sight distance requirement other than the typical 50-foot by 50-foot clear area at an intersection when substantiated by documentation that circumstances exist to warrant application of a different standard. The proposed standard is to measure the sight distance from back of sidewalk/pavement instead of along the property lines, apply a 15-foot by 33-foot triangle for pedestrian safety, and apply a sight distance of 465 feet east of the intersection and 405 feet west of the intersection for vehicle safety. Based on this modified standard the entry walls impeded sight visibility, but the existing oleanders and walls on the adjoining properties do not fall within the sight visibility areas. The Town Engineer supports this analysis.

#### Pothole

Stipulation 10 required the pothole located in front of 6001 N Nauni Valley Drive be repaired not more than 30 days after recordation of the lot split of this lot. To date, the Town is awaiting the applicant to complete the lot split process. However, the pothole has been repaired. As such, it is suggested to delete this stipulation.

#### Public Comment & Noticing

The mailing notice of the November 15, 2016 Planning Commission was sent to all property owners within the Nauni Valley Ranch subdivision, plus those property owners within 1,500 feet of the area of this CUP. There was also a newspaper advertisement and site posting regarding this application.

To date, no persons have commented on this proposed amendment.

#### Private Roadway Conformance

There are four findings in Section 1103.4 of the Town Zoning Ordinance the applicant must meet for the Planning Commission to approve a private road. These findings were met with the approval CUP granted in April 2016. The requested amendment to the CUP remains in conformance with these findings.

- 1. The use will not cause a significant increase in vehicular or pedestrian traffic in adjacent residential areas; or emit odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions; or contribute in a measurable way to the deterioration of the neighborhood or area, or contribute to the downgrading of property values.**

The applicant notes that this CUP will result in roadway improvements to Nauni Valley Drive that otherwise may not get completed. They assert that this will improve the neighborhood and property values. Being a private road, the Town does not improve or maintain this roadway. Not installing a curb, will not impact cost to the Town.

This CUP does not alter the circumstance that Nauni Valley Drive has existed in its current location for almost 70 years. Approval included a maintenance agreement provision for at least a portion of Nauni Valley Drive. A roadway maintenance provision previously did not exist. It is the responsibility of BH Nauni Valley, L.L.C., or its successor, to maintain the subject roadway portion or provide the Town the ability to perform such maintenance at their

cost should they fail to maintain this roadway portion.

**2. The use will be in compliance with all provisions of this ordinance and the laws of the Town of Paradise Valley, Maricopa County (if applicable), State of Arizona, or the United States of America.**

The applicant states that all provisions of the CUP regulations and other applicable laws are met.

This CUP makes the lawful nonconforming roadway ownership and maintenance situation on a portion of Nauni Valley Drive conform to current Town regulations.

**3. The use will be in full conformity to any conditions, requirements or standards prescribed in the permit.**

The applicant commits to maintain conformity with all conditions, requirements or standards as prescribed and agreed to in the CUP.

The portion of Nauni Valley Drive adjacent to 6001 N Nauni Valley Drive will comply with public roadway standards for a local road. The right-of-way is 50 feet in width. The improved paved area will be 26 feet in width. There is no turn-around or vehicle stacking issues as Nauni Valley Drive is not gated and has direct access onto both McDonald Drive and 56<sup>th</sup> Street.

**4. The use will not conflict with the goals, objectives or purposes of the zoning district or Policies of the Town of Paradise Valley as set forth in the Town's General Plan.**

This CUP makes the lawful nonconforming roadway ownership and maintenance situation on a portion of Nauni Valley Drive conform to current Town regulations.

The portion of Nauni Valley Drive adjacent to 6001 N Nauni Valley Drive will be improved to comply with the pavement standards of the local roadway cross-section, Option C. This improvement of the condition of Nauni Valley Drive supports Policy LU 2.1.1.4 that encourages the maintenance and revitalization of existing neighborhoods.

**ATTACHMENTS**

1. Vicinity Map/Aerial/General Plan/Zoning
2. Application/Narrative
3. April 2016 CUP Maps
4. Draft Roadway Maintenance Agreement
5. Nauni Valley Ranch Plat 1948
6. Roadway Cross Sections
7. Noticing
8. Prior Minutes
9. Town Manager Memo
10. Town Engineer Memo
11. Corner Vision
12. MAG Detail 201-A
13. Updated Sight Distance Visual
14. Updated Paving Plan

C: - Applicant  
- Case File