



## Action Report

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**File #:** 16-076

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**TO:** Chair and Planning Commission

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

**DATE:** March 15, 2016

**CONTACT:**

Paul Michaud, 480-348-3574

**AGENDA TITLE:**

Discussion of private road for a portion of Nauni Valley Road  
Conditional Use Permit (CUP 16-01)  
Near northeast corner of 56<sup>th</sup> Street and McDonald Drive

**BACKGROUND**

Request:

BH Nauni Valley, L.L.C. is requesting approval of a private road for a portion of the existing Nauni Valley Drive adjacent to their property located at 6001 N Nauni Valley Drive (Assessor Parcels 169-44-012 and 169-44-024). The subject roadway for this application is 50 feet in width and approximately 745 feet in length.

Although this road existed prior to incorporation into the Town in 1961, the application request for the Conditional Use Permit is in response to an administrative lot split request at 6001 N Nauni Valley Road and the Town Zoning Ordinance provision that requires adequate access via a public road or a private road as defined by the Town Zoning Ordinance. Section 201 and Section 1103 of the Town Zoning Ordinance require a private road be approved by a Conditional Use Permit. It should be noted that the request does not include private access control gates or a guardhouse. These structures would require Town approval by a Special Use Permit.

Proposed Stipulations:

Draft stipulations can be discussed at the study session. Proposed stipulations will be prepared in advance of the public hearing by the Planning Commission that is tentatively scheduled for April 19, 2016.

Plat/Roadway Background:

The applicant's narrative provides background on Nauni Valley Road. The subdivision was approved under Maricopa County jurisdiction in 1948 and annexed into the Town in 1961. The plat does indicate the intent of Nauni Valley Road as a private road. However, the ownership and maintenance

of this road is not clearly recorded.

The definition of “Lot” in Section 201 of the Town Zoning Ordinance requires that a lot have “adequate frontage upon a public street” or “adequate and recorded access to a public street by a private road as defined by this ordinance.” This “ordinance” refers to the private road regulations in Section 1103 of the Town Zoning Ordinance that requires a private road be approved by a Conditional Use Permit. The Town last modified the requirements for a private road in 2005. At that time, it changed the process to eliminate the Council approval via a Special Use Permit to only Planning Commission approval via a Conditional Use Permit. No available records exist that substantiate the private roadway has a Special Use Permit or Conditional Use Permit granted by the Town. As such, Nauni Valley Road is a lawful nonconforming roadway.

The applicant notes that over the last 70 years owners of certain lots in Nauni Valley Ranch have adjusted property lines and three of the original lots were split. This is true. However, the lot line adjustments did not affect existing access or create a new lot. Specifically, Article XXIII, Nonconformance, of the Town Zoning Ordinance, defines a “Nonconforming Lot of Record” as “any validly recorded lot which at the time it was recorded fully complied with the then applicable laws and ordinances, but which does not fully comply with the lot requirements of the Paradise Valley Town code relating to minimum lot area, lot width, or access.” Section 2305 of the Town Zoning Ordinance allows construction of a home, lot combinations, and lot line adjustments on any “Lot of Record.”

The above-noted provision regarding frontage and access to a lot is an important factor when the Town reviews a lot split or subdivision. Section 6-9-3, Standards of Design, of the Town Code requires all lot splits to meet the standards of Article 6-3 of the Town Code. Section 6-3-5.E, Lots, of the Town Code states “Each lot shall have adequate vehicular access to a public street.” Since the property owner of 6001 N Nauni Valley Road is requesting a lot split, Sections 201 and 1103 now apply prior to approval of this lot split.

As noted in the applicant’s narrative, lot splits occurred on three of the original lots. The lot splits on Lots 1 and 15 created lots that both directly access and have frontage on the public roadway of 56<sup>th</sup> Street. As such, these lot splits comply with the Town Code and Zoning Ordinance. Lot 13 was split in 1983. Both of these lots access onto Nauni Valley Drive. However, the lot split case file does include an unsigned version of the lot split plat showing a one-foot non-vehicular access easement on the lot adjoining McDonald Drive. This non-vehicular access easement may have been suggested as a means to not change the number of driveways accessing Nauni Valley Road. It is unclear why this non-vehicular access easement was later removed as there are no minutes or other records to explain its removal.

#### Existing Roadway Condition

The roadway condition of Nauni Valley Drive varies in quality and type of improvement. Nauni Valley Drive varies in pavement width from 16 feet to 29 feet. There is two-foot wide ribbon curb along some of the properties.

This portion of the subject roadway also includes two existing entry walls located in the private road right-of-way and a sign that the road is a private road. The applicant will be removing these structures. These structures could negatively impact the safe movement of vehicles and other modes of travel. The existing wall on the lot proposed for the lot split is located outside the 50-foot corner

vision as required by Section 8-1-13 of the Town Code. As part of the lot split under staff review, portions of this existing perimeter wall at 6001 N Nauni Valley Drive will need to be removed or modified to comply with the Town's wall requirements.

Related to safety, the oleanders located on 6002 E Nauni Valley Drive appear to be within the 50-foot corner vision for that lot and may encroach into the land under this private roadway application. The property at 6002 E Nauni Valley Drive is not part of this application request, although access to this property is through the portion of Nauni Valley Drive subject to this Conditional Use Permit. Compliance to the 50-foot corner vision at 6002 E Nauni Valley Drive would likely need to be processed through the Town Code Compliance procedures.

## DISCUSSION/FACTS

### General Plan/Zoning

Roadways typically have no General Plan designation or Zoning District classification. The lots within Nauni Valley Ranch have a "Low Density Residential" General Plan designation and are zoned "R-43". The Town General Plan shows Nauni Valley Drive as a local roadway and McDonald Drive as a Minor Arterial. There are three local roadway cross-sections in the Town General Plan. Staff supports Option B, which has an improved paved area of 26 feet in width that includes two-foot wide ribbon curbs.

### 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.

- 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 approval of this Conditional Use Permit will result in pavement and curb 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. As noted previously, the applicant also intends to make pavement repairs on the portion of Nauni Valley Drive not adjacent to 6001 N Nauni Valley Drive.

The lot split that is dependent upon approval of this Conditional Use Permit will result in a new single-family home lot for this neighborhood. That will increase vehicular and pedestrian traffic. However, it is not expected to cause a significant increase in such traffic. The Trip Generation Manual by the Institute of Transportation Engineers estimates the typical single-family detached home averages between 8.78 to 10.09 vehicle trip ends per day.

Approval of this Conditional Use Permit does not alter the circumstance that Nauni Valley

Drive has existed in its current location for almost 70 years. Approval will include a maintenance agreement provision for at least a portion of Nauri Valley Drive. A roadway maintenance provision presently does not exist. Approval of the Conditional Use Permit would make it the responsibility of BH Nauri 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 Conditional Use Permit regulations and other applicable laws are met.

Approval of this Conditional Use Permit will make the lawful nonconforming roadway ownership and maintenance situation on a portion of Nauri Valley Drive conform to current Town regulations. Ideally, a Conditional Use Permit requiring roadway improvement to the roadway cross-section, Option B, and a roadway maintenance agreement is encouraged on the entire Nauri Valley Drive, but minimally is required for the road portion from the subject site of the requested lot split to the nearest public roadway.

**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 Conditional Use Permit.

Private roads are typically held to public roadway standards. The portion of Nauri Valley Drive adjacent to 6001 N Nauri 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 that includes two-foot wide ribbon curbs. The nonconforming roadway sign and entry walls at McDonald Drive will be removed. There is no turn-around or vehicle stacking issues as Nauri 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.**

Approval of this Conditional Use Permit will make the lawful nonconforming roadway ownership and maintenance situation on a portion of Nauri Valley Drive conform to current Town regulations.

Below are some of the policies in the Town General Plan applicable to this application request.

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

- neighborhoods.
- Removal of the nonconforming entry wall and vegetation near the entrance to Nauri Valley Drive at McDonald Drive keeps with the residential scale and character of the neighborhood while ensuring adequate access for emergency response vehicles in accordance with Policy M 4.4.2.2.

### Lot Split

The associated lot split application meets the conditions to be processed by staff approval. Drainage, utilities, fire protection, and related matters will be reviewed as part of the lot split process. However, this lot split is dependent upon the approval of the Conditional Use Permit for the subject portion of Nauri Valley Drive. As such, the lot split will not be signed by Town staff or recorded until verification of the approval of the Conditional Use Permit and completion of the 15-day appeal process.

### Landscaping

Staff requested the applicant provide an existing vegetation inventory. Staff would suggest a stipulation that any oleanders or other vegetation that is higher than two feet in height be trimmed or removed. The area of concern is within the right-of-way that is 50 feet north of the public right-of-way line of McDonald Drive.

Typically, the Town leaves it up to the adjoining property owner on residentially-zoned lots to landscape the adjoining right-of-way. Although, the Planning Commission could require landscaping within the Nauri Valley Drive right-of-way provided the stipulation to require landscaping is based on the Conditional Use Permit findings. Policy EP 6.1.1.1 promotes the preservation and protection of natural vegetation through the use of indigenous and compatible landscaping on private properties, especially along street frontages. The Town does have Landscaping Guidelines for land division approval, special use permits, and building permits that suggest a minimum number of trees and shrubs, along with suggested plant types. These are voluntary guidelines. Section 5-10-7.D of the Town Code, requires a minimum number of trees and shrubs native to the Sonoran Desert for certain application requests. This code section does not identify Conditional Use Permits and it only references lot splits that go through the Planning Commission/Town Council process. Lot splits that are under 2.5-net acres or create a new street go through the Planning Commission/Town Council process. The subject lot to be split is 3.142 net acres and Nauri Valley Drive is technically not a new street.

### **NOTICING & PUBLIC COMMENTS**

To date, there has been no notification or public comment received on this application. Advertisement in the newspaper, posting of the property, and mailing notification of property owners within 500 feet is required prior to the meeting where action will take place. During the pre-application process in November 2015, the applicant was encouraged to speak with the property owners within Nauri Valley Ranch about the proposed Conditional Use Permit and lot split.

### **NEXT STEPS**

This application is tentatively scheduled for the April 19, 2016 Planning Commission meeting.

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**ATTACHMENTS**

1. Vicinity Map/Aerial/General Plan/Zoning
2. Application/Narrative
3. CUP Maps, including lot split map for illustration purposes only
4. Draft Deed Restriction/ Roadway Maintenance Agreement
5. Nauri Valley Ranch Plat 1948
6. Lot 13 Nauri Valley Ranch Lot Split 1983
7. Roadway Cross Sections

C:       - Jordan Rose/ Nick Labadie/ Rod Cullum (Applicant)  
          - Case File: (CUP 16-01)