



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Meeting Notice and Agenda Town Council

Mayor Jerry Bien-Willner
Vice Mayor Mark Stanton
Council Member Ellen Andeen
Council Member Paul Dembow
Council Member Scott Moore
Council Member Julie Pace
Council Member Anna Thomasson

Thursday, November 18, 2021

3:00 PM

Council Chambers

**IN-PERSON ATTENDANCE AT PUBLIC MEETINGS HAS BEEN SUSPENDED UNTIL
FURTHER NOTICE. WATCH LIVE STREAMED MEETINGS AT:
<https://paradisevalleyaz.legistar.com/Calendar.aspx>**

1. CALL TO ORDER / ROLL CALL

THIS MEETING WILL BE HELD BY REMOTE PARTICIPATION ONLY

Members of the public are encouraged to participate in the meeting via the following options:

1. View the live stream at <https://paradisevalleyaz.legistar.com/Calendar.aspx>
 - (a) Click on Calendar Tab
 - (b) Look for Town Council meeting (you may have to select it from the dropdown list) and find the meeting date
 - (c) Click the "In Progress" link in the column titled Video

2. Zoom Conference

- (a) Computer: <https://zoom.us/j/6678902153>
 - (b) Telephone: 1 669 900 6833 Meeting ID 667 890 2153

For submitting comments and questions, and speaking at meetings, please note that there are designated opportunities for public speaking during the meetings, which will be specifically identified by the meeting's presiding official (for Town Council Meetings, the Mayor).

3. Submitting questions and comments:

- (a) Visit <https://paradisevalleyaz.legistar.com/Calendar.aspx>, search for the meeting date, and click "eComment". Locate the agenda item you are interested in and click "Comment" (Please submit comments at least 1 hr prior to meeting)
 - (b) Email dmiller@paradisevalleyaz.gov (Please submit comments at least 1 hr prior to meeting)

4. Speaking during Call to the Public / Public Hearings

- (a) Visit <https://paradisevalleyaz.legistar.com/Calendar.aspx>, search for the meeting date, and click "eComment". Locate the agenda item and click "Register to Speak". Join the meeting by dialing 1 669 900 6833 Meeting ID 667 890 2153

(b) If attending by Zoom Video Conference, click the chat button and enter your name and the agenda item you would like to address

(These meeting participation guidelines are pursuant to Town Council Resolution 2020-08 adopted March 17, 2020.)

Notice is hereby given pursuant to A.R.S. §38-431.02. that members of the Town Council will attend by audio/video conference call.

2. EXECUTIVE SESSION

[21-360](#) Discussion or consultation for legal advice with the Town Attorney regarding Town Code amendments related to code enforcement (special events, nuisance noise, unruly gatherings, and rental registration) as authorized by A.R.S. §38-431.03(A)(3).

[21-362](#) Discussion or consultation with the Town's attorney(s) for legal advice and to consider the Town's position and provide possible instruction regarding: i) EPCOR Water Arizona, Inc's rate case currently pending before the Arizona Corporation Commission (Docket WS-01303A-20-0177); and ii) Sun City Home Owners Association v. Arizona Corporation Commission, CV20-0047-PR, currently pending before the Arizona Supreme Court concerning issues related to consolidation of different districts, as authorized by A.R.S. §38-431.03(A)(3) and §38-431.03(A)(4).

[21-375](#) Discussion or consultation with Town Attorneys in order to consider the Town's position and instruct its representatives regarding legal services and employment, as authorized by A.R.S. §38-431.03(A)(1) and A.R.S. §38-431.03(A)(4).

Amended

[21-363](#) The Town Council may go into executive session at one or more times during the meeting as needed to confer with the Town Attorney for legal advice regarding any of the items listed on the agenda as authorized by A.R.S. §38-431.03(A)(3).

3. STUDY SESSION ITEMS - APPROXIMATE START TIME 4:00 PM

The Study Session is open to the public for viewing, and the following items are scheduled for discussion among the Council, Staff, and their designees. The Town Council will be briefed by staff and other Town representatives. There will be no votes and no final action taken on discussion items. The Council may give direction to staff and request that items be scheduled for consideration and final action at a later date. The order of discussion items and the estimated time scheduled to hear each item are subject to change.

[21-355](#) Discussion of Statement of Direction regarding a new Special Use Permit (SUP-21-02) for a private roadway gate on East Cottontail Run Road (5000 E Cottontail Run Rd & 7117 N Tatum Blvd)
30 Minutes

Staff Contact: Paul Michaud, 480-348-3574

[21-368](#) **Discussion of Ordinance No. 2021-05, Paradise Valley Community
Tree Ordinance
15 Minutes**

Staff Contact: Andrew McGuire, 480-348-3691

[21-371](#) **Paradise Valley, 2022 General Plan - Update
5 Minutes**

Staff Contact: Loras Rauch, (480) 348-3595

[21-372](#) **Discussion of Amendments to the Paradise Valley Town Code
Regarding Nuisances, Unruly Gatherings, Non-Compliant
Short-Term Rentals, and the Peace, Health, Safety, and Welfare of
the General Public
60 Minutes**

Staff Contact: Andrew McGuire, 602-257-7664

4. BREAK

5. RECONVENE FOR REGULAR MEETING 6:00 PM**6. ROLL CALL****7. PLEDGE OF ALLEGIANCE*****8. PRESENTATIONS*****21-370 Experience Scottsdale Update**

Staff Contact: Jill Keimach, 480-348-3533

9. CALL TO THE PUBLIC

Citizens may address the Council on any matter not on the action agenda or any item on the Study Session (section 3 on the agenda). In conformance with Open Meeting Laws, Council may not discuss or take action on this matter at this Council meeting, but may respond to criticism, ask that staff review a matter raised, or ask that it be placed on a future agenda. Those making comments shall limit their remarks to three (3) minutes. Please fill out a Speaker Request form prior to addressing the Council.

10. CONSENT AGENDA

All items on the Consent Agenda are considered by the Town Council to be routine and will be enacted by a single motion. There will be no separate discussion of these items. If a member of the Council or public desires discussion on any item it will be removed from the Consent Agenda and considered separately. Please fill out a Speaker Request form prior to the start of the meeting and indicate which item you would like to address.

21-358 Minutes of Town Council Meeting October 28, 2021**21-359 Minutes of Town Council Meeting November 4, 2021****21-352 Discussion and Action regarding the Purchase of Police Vehicle Radios**

Recommendation: Approve the purchase of 10 police vehicle Radios and authorize the Town Manager to sign the contract purchasing this equipment.

Staff Contact: Peter Wingert, 480 948-7410

21-366 Discussion and Action to Rescind the Temporary Suspension of Sick Leave Payout due to COVID-19 Financial Constraints

Recommendation: Rescind the temporary suspension of Section 940(J) in Resolution 2020-20 that altered the Council approved Sick Leave Payout Policy.

Staff Contact: Jill Keimach, 480-348-3533

21-367 **Discussion and Action to Approve Contract Extension with and Funding for Interim Public Management, LLC for Interim Chief Financial Officer Services**

Recommendation: Approve additional funding for the IPM contract for interim CFO services up to \$100,000 on a full-time month-to-month basis.

Staff Contact: Jill Keimach, 480-348-3533

21-373 **Discussion and Action to Approve a Contract Extension with and Funding for Trick Dog Technology, a division of My Computer Works, Inc. for IT Consulting Services of James Bailey**

Recommendation: Approve additional funding for the contract with Trick Dog Technology for up to \$80,000 on a part-time month-to-month basis.

Staff Contact: Jill Keimach, 480-348-3533

11. PUBLIC HEARINGS

The Town Council may hear public comments and take action on any of these items. Citizens may address the Council regarding any or all of these items. Those making comments are limited to three (3) minutes. Speakers may not yield their time to others. Please fill out a Speaker Request form prior to the start of the meeting and indicate which item you would like to address.

12. ACTION ITEMS

The Town Council May Take Action on This Item. Citizens may address the Council regarding any or all of these items. Those making comments are limited to three (3) minutes. Speakers may not yield their time to others. Please fill out a Speaker Request form prior to the start of the meeting and indicate which item you would like to address.

21-365 **Discussion and Action Authorizing Expenditure of Budgeted Funds for Information Technology Professional Services and Software Reseller Support with Sentinel Technologies, Inc**

Recommendation: Approval to exceed the \$100,000 per vendor limit for Sentinel Technologies, Inc. up to the amount specifically budgeted for IT improvements.

Staff Contact: James Bailey, 480-348-3671

21-369 **Discussion and Action regarding Adoption of Ordinance No. 2021-05, Paradise Valley Community Tree Ordinance**

Recommendation: Adopt Ordinance No. 2021-05

Staff Contact: Andrew McGuire, 480-348-3691

13. FUTURE AGENDA ITEMS

The Town Council May Take Action on This Item. The Mayor or Town Manager will present the long range meeting agenda schedule and announce major topics for the following meeting. Any member of the Council may move to have the Town Manager add a new agenda item to a future agenda. Upon concurrence of three more Members, which may include the Mayor, the item shall be added to the list of future agenda items and scheduled by the Town Manager as a future agenda item within 60 days.

21-364

Consideration of Requests for Future Agenda Items

Recommendation: Review the current list of pending agenda topics.

Staff Contact: Jill B. Keimach, Town Manager, 480-348-3690

14. MAYOR / COUNCIL / MANAGER COMMENTS

The Mayor, Council or Town Manager may provide a summary of current events. In conformance with Open Meeting Laws, Council may not have discussion or take action at this Council meeting on any matter discussed during the summary.

15. ADJOURN

AGENDA IS SUBJECT TO CHANGE

**Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the Town Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the Town Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the Town will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.*

The Town of Paradise Valley endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for disabled persons at public meetings. Please call 480-948-7411 (voice) or 480-483-1811 (TDD) to request accommodation to participate in the Town Council meeting.



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-360



Action Report

File #: 21-362

Discussion or consultation with the Town's attorney(s) for legal advice and to consider the Town's position and provide possible instruction regarding: i) EPCOR Water Arizona, Inc's rate case currently pending before the Arizona Corporation Commission (Docket WS-01303A-20-0177); and ii) Sun City Home Owners Association v. Arizona Corporation Commission, CV20-0047-PR, currently pending before the Arizona Supreme Court concerning issues related to consolidation of different districts, as authorized by A.R.S. §38-431.03(A)(3) and §38-431.03(A)(4).



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-375



Action Report

File #: 21-363

The Town Council may go into executive session at one or more times during the meeting as needed to confer with the Town Attorney for legal advice regarding any of the items listed on the agenda as authorized by A.R.S. §38-431.03(A)(3).



Action Report

File #: 21-355

AGENDA TITLE:

Discussion of Statement of Direction regarding a new Special Use Permit (SUP-21-02) for a private roadway gate on East Cottontail Run Road (5000 E Cottontail Run Rd & 7117 N Tatum Blvd)

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill B. Keimach, Town Manager
Lisa Collins, Community Development Director
Paul Michaud, Planning Manager

DATE: November 18, 2021

DEPARTMENT: Community Development Department – Planning Division
Paul Michaud, 480-348-3574

AGENDA TITLE: Discussion of Statement of Direction regarding a new Special Use Permit (SUP-21-02) for a private roadway gate on East Cottontail Run Road (5000 E Cottontail Run Rd & 7117 N Tatum Blvd)

SUMMARY STATEMENT:

Request

Doug Jorden of Jorden Law Firm, P.C., on behalf of Cottontail Run Road HOA, LLC, an Arizona limited liability company, and CLT 7117, LLC, an Arizona limited liability company, request a new Special Use Permit application for a private roadway gate on East Cottontail Run Road (Maricopa County Tax Parcels 169-08-044D and 169-08-044J).

This request requires a Statement of Direction by the Town Council.

Location

East Cottontail Run Road is a private roadway located immediately north of the Paradise Valley Country Club property, east of Tatum Boulevard and terminates in a small cul-du-sac as illustrated in Attachment A, Vicinity Map. The roadway is owned by the owner of 4928 East Cottontail Run Road and the other property owners identified later in this report have an ingress/egress easement over the private roadway. The private roadway serves a total of ten existing homes (includes 7117 N Tatum Boulevard to be accessed outside the proposed private roadway gate).

Private Roadway Gate Process

The application request for installing new private roadway gate(s) follows Article XI, Special Uses and Additional Use Regulations, of the Town Zoning Ordinance. The Zoning Ordinance provides no requirements for private roadway gates and only outlines the approval process. This process follows a new Special Use Permit requiring Council



STAFF REPORT

issue a Statement of Direction (SOD) to the Planning Commission, Planning Commission review and make a recommendation to Town Council, the applicant hold a Citizen Review Session (neighborhood meeting) prior to Planning Commission recommendation, and Council review and take action. The Town Special Use Permit Guidelines offer suggested design standards, along with guidelines for lighting and signage as shown in Attachment D. Guidance via the SOD provides specific direction applicable to the proposed request. Refer to the section titled "Private Roadway Gate Details" in this report for more information.

Statement of Direction and Meeting Purpose

Town Council will be reviewing the draft SOD in Attachment G for this request at its November 18th study session. The SOD is not a final decision of the Town Council and creates no vested right to the final action of this Special Use Permit. However, a SOD provides general guidance to the Planning Commission on a variety of aspects of the project itself necessary to review (e.g. height, setbacks, design, landscaping, lighting), guidance on procedural aspects (e.g. application timing), and guidance on any policy aspects that are preferred or discouraged in order to be transparent and efficient in the completion of the task (e.g. General Plan policy). The full merits of the request are reviewed in detail during the Planning Commission recommendation process, with a full review by the Town Council after Planning Commission recommendation.

Nearby Properties

There are nine existing homes and one undeveloped parcel which will have access via the private access gate on the existing private East Cottontail Run Road. These include 4820 E Cottontail Run Road (169-08-043), 4928 E Cottontail Run Road (169-08-044H), 5001 E Cottontail Run Road (169-08-053), 5022 E Cottontail Run Road (169-08-044G), 5035 E Cottontail Run Road (169-08-035), 5044 E Cottontail Run Road (169-08-041), 5045 E Cottontail Run Road (169-08-039), 5055 E Cottontail Run Road (169-08-036), and 7201 N Cottontail Run Road (169-08-044B and 169-08-044F). These parcels were annexed into the Town in 1982, and generally existed in their current form since the mid-1950s.

Maricopa County Assessor GIS maps show a North Cottontail Run Road that adjoins East Cottontail Run Road. This "road" is more of a driveway as it is on an undeveloped flag lot with the same ownership as 7201 N Cottontail Run Road.

There is an existing home at 7211 N Tatum Boulevard with its driveway on Tatum Boulevard. This property is comprised of several parcels including Maricopa County Tax Parcel 169-08-038 that adjoins the 7201 N Cottontail Run Road properties. None of the



STAFF REPORT

deeds with the parcels associated with 7211 N Tatum Boulevard show legal access over the North or East Cottontail Run Roads.

General Plan

The Town's 2012 General Plan designates this area as Low Density Residential and private road as Open Space. The 2012 General Plan and draft 2022 General Plan both discourage private roadway gates. However, the Town has over the years approved 25 gated communities as shown on Exhibit E. These gated communities tend to adjoin major and minor arterials or exhibit unique locational characteristics. The proposed private roadway gate accesses off Tatum Boulevard, a major arterial road. Also, this grouping of homesites is cutoff from nearby public streets since it is surrounded by the Paradise Hills subdivision platted in 1953 encompassing the Paradise Valley Country Club and its golf course. Some policies that may apply to this request are noted below.

- M.4.4.1.2. Private Roadway Gates. The Town shall discourage the installation of private roadway gates, but shall not require public access onto those created private roadways. [M.1.13 in 60-Day Review Draft 2022 General Plan]
- CC&H 3.1.1.1 Neighborhoods as a Basic Unit. Recognizing that the Town of Paradise Valley is home to many smaller neighborhoods that contribute to the Town's cultural fabric, the Town shall strive through community outreach to preserve and enhance their distinctiveness, identity, and livability. [CC&H 1.1 in 60-Day Review Draft 2022 General Plan]

Zoning

The Town's zoning for this area is R-43, Single-Family Residential. Except for 7117 N Tatum Boulevard, the homesites within the proposed gate are hillside pursuant to Figure 1, Hillside Development Area, map in the Zoning Ordinance.

Private Roadway Gate Details

The proposed gates are 222 feet 8 inches from the centerline of Tatum Boulevard (192 feet 7 inches from the back of curb), with a turnaround easement slightly west of North Cottontail Run Road adjoining 7117 N Tatum Boulevard at a paved radius of 40 feet, and a radius of 44 feet to a 4-foot tall retaining wall for erosion protection of the turnaround. Unlike the prior requests, the private road and 7117 N Tatum Boulevard, the lot with the proposed turnaround easement, are now owned by the same owner through different limited liability companies.

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

The criteria table in Attachment F outlines how the proposed private roadway gate application meets the Town Special Use Permit Guidelines and related provisions. The Planning Commission will review this request in greater detail.

Next Steps

This application is tentatively set for the December 2, 2021 public meeting.

BUDGETARY IMPACT:

There are no direct Town budget impacts associated with the application request.

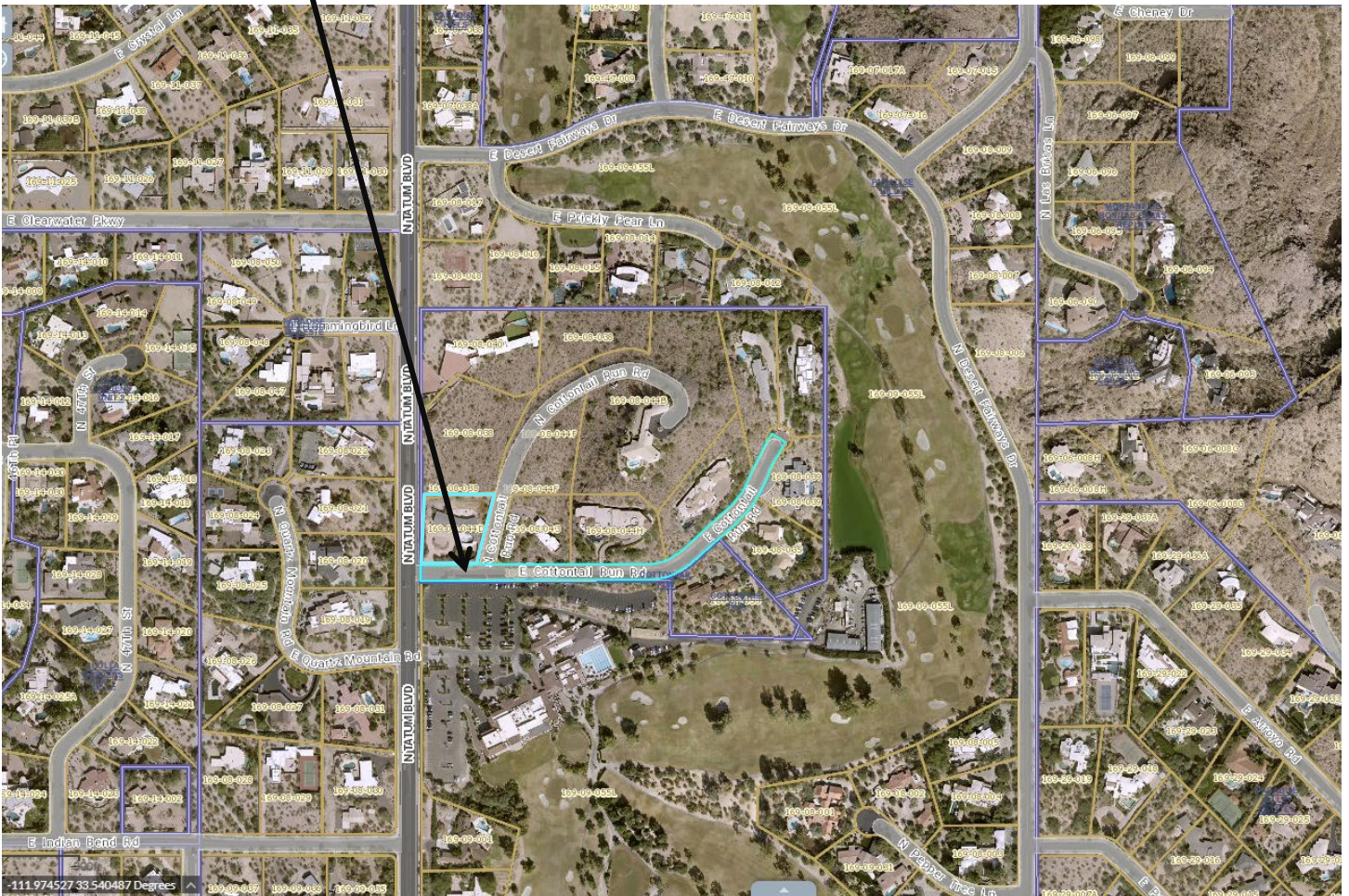
ATTACHMENT(S):

- A. Staff Report
 - B. Vicinity & Related Maps
 - C. Application Packet & Plans
 - D. Special Use Permit Guidelines Excerpt
 - E. Existing Gated Communities Map
 - F. Criteria Table
 - G. Draft Statement of Direction
 - H. Presentation
-
- C: - Applicant
 - Case File



VICINITY MAP

Subject Property



East Cottontail Run Road Private Roadway Gate SUP
5000 E Cottontail Run Rd & 7117 N Tatum Blvd



GENERAL PLAN

Subject Property



Legend

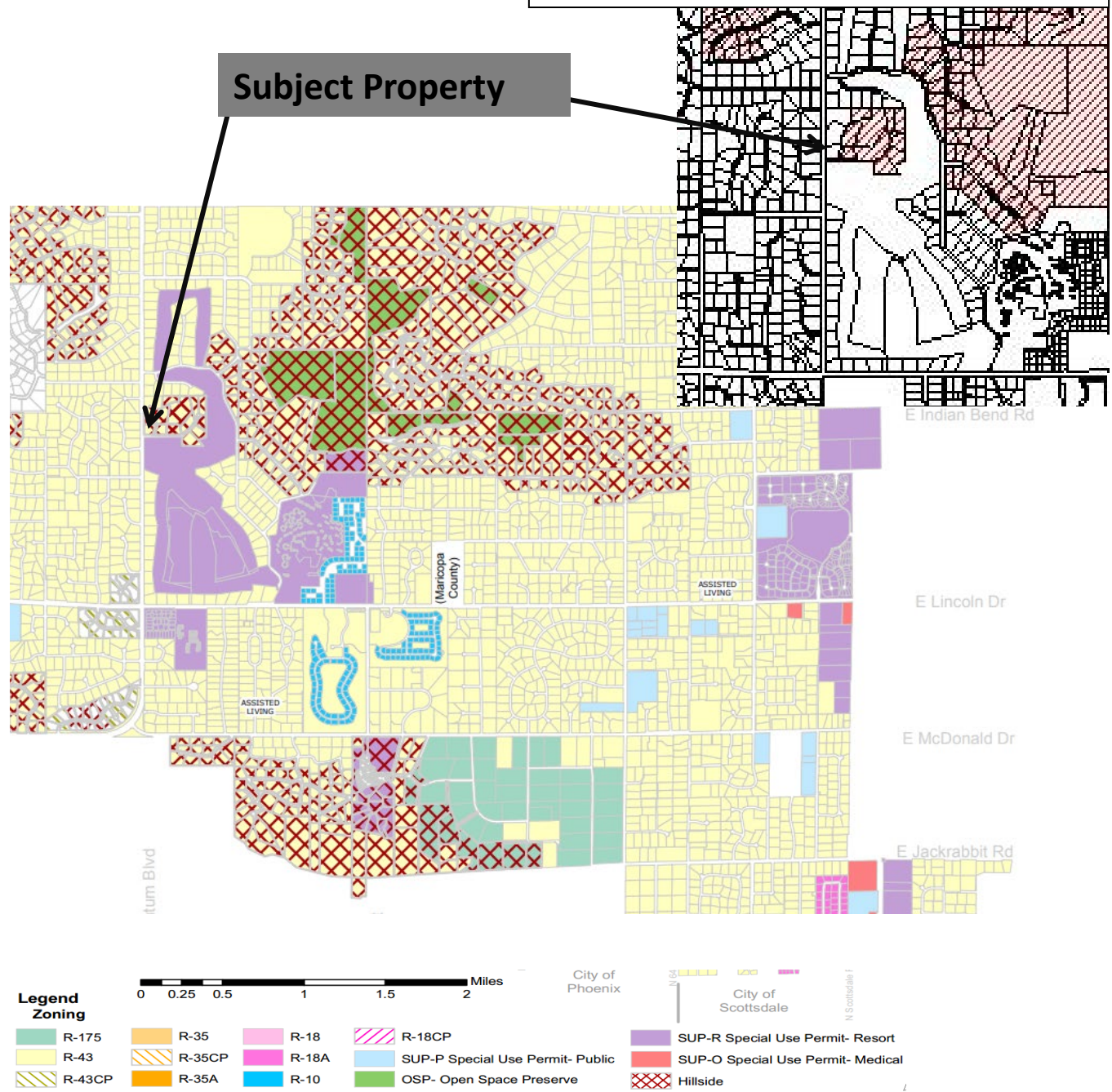
| | |
|--|---------------------|
| Low Density Residential OR Resort/Country Club | Private Open Space |
| Private Open Space OR Resort/Country Club | Public Open Space |
| Very Low Density Residential | Medical Office |
| Low Density Residential | Public/Quasi Public |
| Medium Density Residential | Resort/Country Club |

East Cottontail Run Road Private Roadway Gate SUP
5000 E Cottontail Run Rd & 7117 N Tatum Blvd



ZONING & HILLSIDE

Figure 1 - Hillside Development Area Excerpt



East Cottontail Run Road Private Roadway Gate SUP
5000 E Cottontail Run Rd & 7117 N Tatum Blvd



COMMUNITY DEVELOPMENT DEPARTMENT SPECIAL USE PERMIT APPLICATION GUIDE

Town of Paradise Valley • 6401 East Lincoln Drive • Paradise Valley, Arizona 85253 • Phone: (480) 348-3693

APPLICANT & CONTACT INFORMATION

Please check the appropriate box for the Type(s) of Application(s) you are requesting

Special Use Permit

- | | |
|---|---|
| <input type="checkbox"/> Managerial Amendment | <input type="checkbox"/> Intermediate Amendment |
| <input type="checkbox"/> Minor Amendment | <input checked="" type="checkbox"/> Major Amendment/New SUP |

Project Name: Cottontail Run Road Gate

Date: 10/5/2021 Existing Zoning: R-43 Proposed Zoning: SUP Net Acres: _____

Property Address: 5000 East Cottontail Run Rd. / 7117 North Tatum Blvd., Paradise Valley, AZ

Assessor's Parcel Number: 169-08-044J, 169-08-044D

Owner: Cottontail Run Road HOA, LLC / CLT 7117, LLC

Address: 5800 East Cottontail Run Rd. / 7117 North Tatum Blvd., Paradise Valley, AZ

Phone number: N/A

E-mail address: N/A

Signature: See attached authorization letter.

(Or provide a separate letter of authorization)


Applicant/Representative: Doug Jorden

Company Name (if Applicable): Jorden Law Firm, P.C.

Address: 6122 East Quartz Mountain Road, Paradise Valley, AZ 85253

Phone number: (480) 505-3909

E-mail address: Doug@JordenLaw.com

Signature: 

THE ABOVE APPLICANT HEREBY APPLIES FOR AN APPLICATION AS INDICATED IN THE SUBMITTED NARRATIVE, PLANS, AND DOCUMENTS IN ACCORDANCE WITH THE TOWN CODE AND TOWN POLICIES.

FOR DEPARTMENTAL USE ONLY

App.#: _____ Submittal Date: _____ Expiration Date: _____



COMMUNITY DEVELOPMENT DEPARTMENT SPECIAL USE PERMIT APPLICATION GUIDE

Town of Paradise Valley • 6401 East Lincoln Drive • Paradise Valley, Arizona 85253 • Phone: (480) 348-3692

SUBMITTAL REQUIREMENTS

Submittal requirements will vary based upon the project/scope of the request. Unless otherwise approved by Planning staff; plan size is 24" x 36", **provide 2 paper copies of submittal items (upon staff request) and provide 1 electronic copy of all material in PDF format** on a USB flash drive/memory stick. Additional copies may be required for scheduled meetings. The following documents are required for **all four SUP application types**:

- ☐ Filing Fee: \$4,800 for Private Road, Guardgate, Guardhouse, or Observation Booth

| Application Type | | Application Fee (schools/government or places of worship) | | Application Fee (other uses) |
|------------------|--------------------------|---|--------------------------|--------------------------------------|
| Managerial | <input type="checkbox"/> | \$950 | <input type="checkbox"/> | \$1,900 |
| Minor | <input type="checkbox"/> | \$2,625 | <input type="checkbox"/> | \$5,250 |
| Intermediate | <input type="checkbox"/> | \$4,150 | <input type="checkbox"/> | \$8,330 + \$110 per acre or portion |
| Major/New | <input type="checkbox"/> | \$7,750 | <input type="checkbox"/> | \$20,000 + \$110 per acre or portion |

- ☐ Narrative description of the request (2 paper upon staff request and 1 electronic). The narrative shall identify the following:

- ☐ Scope of request, including uses, ownership/management, phasing and/or design philosophy
- ☐ How request meets the SUP criteria outlined in [Section 1102.7](#) of the Town Zoning Ordinance
- ☐ How request meets and/or deviates from the Town development standards and guidelines, that might include compatibility with adjoining properties; environmental impacts; water flow and pressure impacts, site access, parking and circulation
- ☐ How request meets the Town's long-range plans (such as the [General Plan](#) and/or [Visually Significant Corridor Plan](#))

- ☒ Applicable plans and documents for staff review (2 paper upon staff request and 1 electronic), including but not limited to:

- ☒ Site Plan depicting location and type of all improvements and any additional information as needed (e.g. setbacks, parking, internal circulation, access points, site data, etc.)
- ☒ Legal Description
- ☒ Aerial Photo
- ☐ ALTA Survey and/or Title Report
- ☐ Building Plans including, schematic floor plans, building elevations and heights, an analysis of the Open Space Criteria, architectural style and details, and exterior building materials and colors
- ☐ Site Data (e.g., square footages, floor area ratio, lot coverage, site gross/net acreage)
- ☒ Grading & Drainage Plan, with the Illustration of all washes including 5 equally spaced cross sections
- ☒ Parking/Traffic Study to address impact on adjacent properties and roadway system, internal circulation and parking analysis, and any necessary roadway dedication and improvement
- ☒ Landscape Plan including hardscape and plant names, quantity, sizes, and locations
- ☒ Lighting Plan, which may require photometric study, including fixture type, quantity, lumens, watt, kelvins and cut sheets
- ☐ Signage Plan including sign elevations, lighting and dimensions for each sign type

- ☐ Noise study to evaluate the compatibility of the proposed project with surrounding areas
- ☐ Other items

Town Code/Zoning Ordinance Sections and long-range documents that may apply to your request

| Zoning Ordinance | Town Code |
|---|--|
| Article XI, Special Uses & Additional Regulations | Chapter 5, Section 5-10, Development |
| Article XXV, Signs | Chapter 6, Subdivisions |
| Other | |
| Special Use Permit Guidelines | |
| General Plan | |
| Visually Significant Corridors Master Plan | |
| Storm Drainage Design Manual | |

General notes

- 1 *An application is not complete until all required information is submitted in an approved form. No application will be reviewed until complete. No agenda date will be set until the completed application has been reviewed and accepted by staff*
- 2 *In considering a SUP application, not only shall the nature of the use be considered, but also the special conditions influencing its location, design and operation, the proposed location and design of buildings, parking and other facilities within the site, the amount of traffic likely to be generated and how it will be accommodated, compatibility with the residential character and zoning of the Town, and the influence that such factors and development are likely to exert on adjoining properties*
- 3 *Final approval may be granted upon such conditions reasonably related to the use of the subject property*
- 4 *In the exercise of its legislative discretion on Intermediate, Major and New SUP applications, the Town Council may modify the development standards or permit additional related uses in order to promote the goals and policies of the General Plan, in exchange for site enhancements that improve overall site design, or to promote the best interests of the Town or its residents*
- 5 *No variance from the terms, provisions, or conditions of a SUP shall be granted by the Board of Adjustment; Applications to modify the terms, provisions, or conditions of a SUP must be filed as part of an amendment to the SUP*
- 6 *Refer to [Article XI](#), Special Uses and Additional Use Regulations, of the Town Zoning Ordinance for additional information*

**COTTONTAIL RUN ROAD HOA, LLC
CLT 7117, LLC**

September 22, 2021

Doug Jorden
Jorden Law Firm, P.C.
6122 East Quartz Mountain Road
Paradise Valley, AZ 85243

Re: Cottontail Run Road HOA, LLC / CLT 7117, LLC
Special Use Permit Application – Private Gate

Dear Mr. Jorden:

The purpose of this letter is to authorize you and your firm to act as our representative with respect to all matters necessary to request approval from the Town of Paradise Valley for a special use permit for the property located at 5000 East Cottontail Run Road, Paradise Valley, Arizona (Maricopa County Assessor Parcel No. 169-08-044J) and 7117 North Tatum Boulevard, Paradise Valley, Arizona (Maricopa County Assessor Parcel No. 169-08-044D).

COTTONTAIL RUN ROAD HOA, LLC

By: Mary Beth Stern
Mary Beth Stern, Property Manager

CLT 7117, LLC

By: Mary Beth Stern
Mary Beth Stern, Property Manager

COTTONTAIL RUN ROAD PRIVATE GATE NARRATIVE

East Cottontail Run Road is a private road that currently provides access to 10 houses. The road is owned by Richard J. Stephenson, who also owns the property at 5000 East Cottontail Run Road and the property at the northeast corner of Tatum Boulevard and East Cottontail Run Road (7117 North Tatum Boulevard). A private gate is proposed just west of the intersection of East Cottontail Run Road and the private driveway known as North Cottontail Run Road; the private gate would restrict access to 9 of the 10 existing houses, but not to the property at 7117 North Tatum Boulevard. Based on current conditions, 9 houses would be “behind” the proposed gate. It is possible that an additional house might be built on a vacant lot, so the traffic study assumes that there are 10 houses behind the proposed private gate.

Currently 7117 North Tatum Boulevard is not a “hillside” lot. In the future and depending on the nature of development that may occur, 7117 North Tatum may be deemed to be hillside.

The private gate would provide a more secure neighborhood for the lots that use East Cottontail Run Road. A new cul-de-sac with a 40-foot radius would be added, improving traffic circulation. This cul-de-sac, which would be an easement and not a dedicated right-of-way, would use a portion of the property at 7117 North Tatum Boulevard. Even after subtracting the area of the cul-de-sac from the 7117 lot, the lot still exceeds the Town’s one-acre minimum and meets all Town setbacks.

The plan shows two lanes approaching the gate—one for residents who would not need to stop at the call box and a second lane for those needing to use the call box. The call box would be available for use 24/7. The two lanes and the unrestricted call box will address concerns about traffic backing up to the west of the gate

The Town’s Zoning Ordinance sets forth criteria for various types of Special Use Permits. The current application is for a new Special Use Permit, which requires a Statement of Direction, consideration by the Planning Commission, and a final decision by the Town Council. Gates such as the one proposed (aka an access control gate) are allowed by Zoning Ordinance Section 1102.2.F. The requested gate meets the criteria set forth in the Special Use Permit Guidelines—Section 8 Guardhouse, Gatehouse, and Access Control Gates—except for some minor changes to the turnaround and gate height requirements. As to the turnaround, the improved/paved roadway is 40 feet, which is consistent with Section 6-3-2.B of the Town Code. While the radius of the roadway easement is not 45 feet as contemplated by Town Code, there is an additional landscape easement that provides more room for a fire truck using the 40-foot paved surface. Moreover, there is an additional location on the east side of the gate where fire trucks can turn around. The height of the gate is 8 feet, with a small amount of ornamental ironwork up to 10 feet as shown on the plans. Since the gate itself is ornamental iron and not opaque, we believe the overall design is consistent with the intent of the Guidelines. There will be no signage

associated with this private gate other than signage on the call box and one small directional sign for the two lanes of traffic approaching the gate. All new lighting will meet Town Code requirements.

Section 5-10-7. B of the Town Code generally contemplates dedication of public rights-of-way in conjunction with new development activity, but also acknowledges that easements are appropriate in certain situations. This is such a case. The easement will be for a cul-de-sac that will expand an existing private road. The private road has been in existence for many years and is a separate tract. Adding the cul-de sac to the private road tract would (1) leave 7117 North Tatum as an odd-shaped lot and not consistent with current Town codes—see Town Code Sec 6-3-5, and (2) might prevent 7117 North Tatum from meeting lot size requirements if it is later determined to be “hillside”—see Hillside Regulations Sec 2209.

A traffic study establishes that the proposed private gate, with the new cul-de-sac, is appropriate from a traffic standpoint. The private gate is compatible with the neighborhood that will be using it and will not have any detrimental environmental or water flow impacts on adjoining properties.

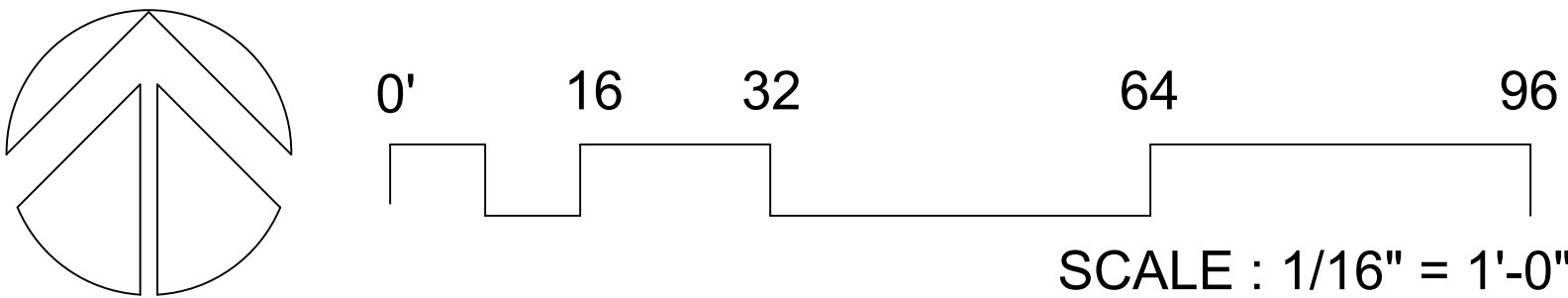


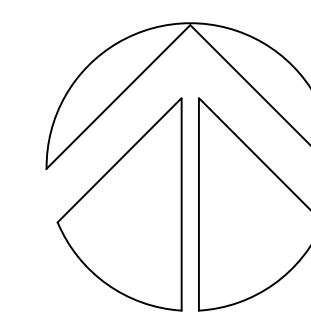
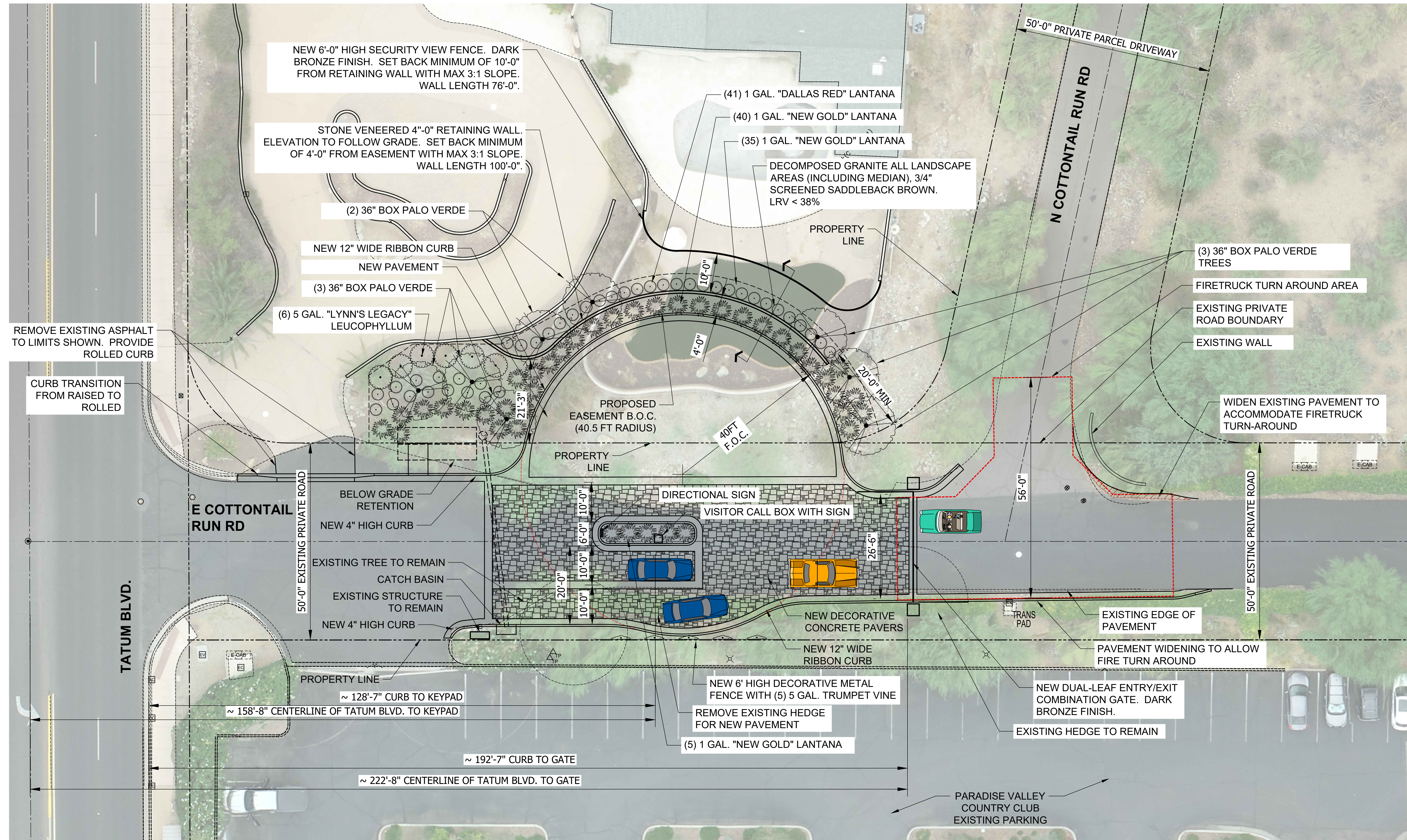
7117 TATUM LOT DATA

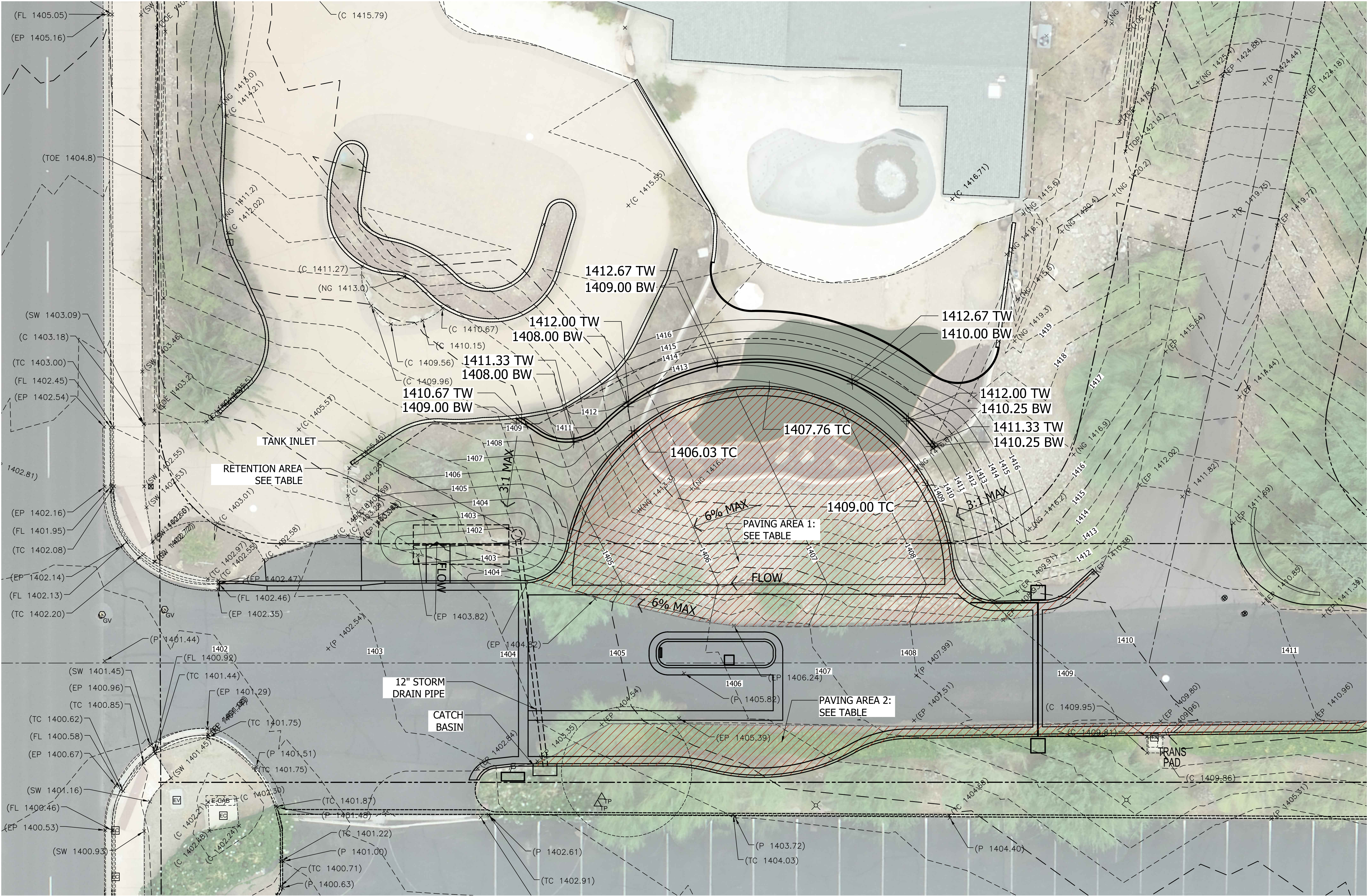
| | | |
|-------------------|--------------|--------|
| EXISTING | | |
| LOT AREA: | 46,159.15 SF | 100.0% |
| DISTURBED AREA: | 44,987.46 SF | 97.5% |
| UNDISTURBED AREA: | 1,179.69 SF | 2.5% |

| | | |
|-----------------|-------------|--|
| PROPOSED | | |
| TURNAROUND | | |
| EASEMENT AREA: | 1,993.36 SF | |

| | | |
|--------------------|-------------|--|
| LANDSCAPE AND | | |
| RETENTION EASEMENT | | |
| AREA: | 2,108.06 SF | |







NOTE:
GRADING DESIGN IS CONCEPTUAL ONLY, AND ELEVATIONS SHOWN ARE ONLY ESTIMATES

RETENTION CALCULATIONS

AREA 1

INCREASE PAVEMENT AREA: 3,387 SF
RUN OFF COEFFICIENT: 0.95
RETENTION REQUIRED: 621 CF

AREA 2

INCREASE PAVEMENT AREA: 580 SF
RUN OFF COEFFICIENT: 0.95
RETENTION REQUIRED: 107 CF

RETENTION PROVIDED

TOTAL REQUIRED: 728 CF

SURFACE: 181 CF
BELOW GRADE: 552 CF
TOTAL PROVIDED: 733 CF

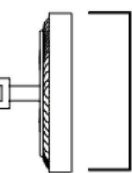
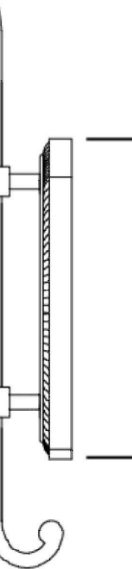


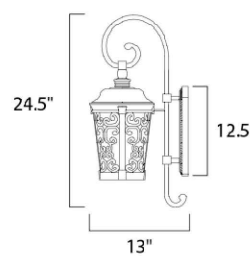




BELOW GRADE RETENTION
(2) 22FT LONG 4FT DIA. PIPE OR EQUIVELANT
STORAGE USING STORMTECH SYSTEM (OR EQUAL)

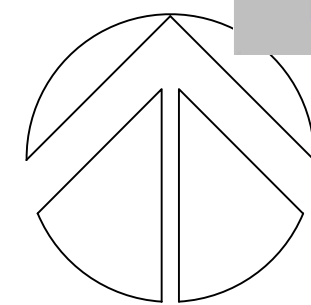
ON LOT RETENTION
REDUCTION

PAVEMENT AREA ON LOT: 1967 SF
RUN OFF COEFFICIENT: 0.95
RETENTION REQUIRED: 360 CF
(THIS QTY CONTAINED IN RETENTION PROVIDED AS
PART OF THESE IMPROVEMENTS.)



N:\01\0214601\CADD\2021 gate SUP\LB.ENTRY.dwg

| Whisper Dark Sky LED 553948Z | | Job Name: | Job Type: | Quantity: | Comments: |
|--|--|---|-----------|-----------|-----------|
| <div>  <div>5.5"</div> </div> <div>  <div>12.5"</div> </div> | |  | | | |
| <div>  </div> <div>  </div> | | <div> PRODUCT DESCRIPTION </div> <div> MEASUREMENTS DIMENSION : 10" W x 24.5" H x 13" Ext BACK PLATE : 5.5" W x 12.5" H x 12.5" HCO HANGING WBGHT : 7.48 lb LAMPING INPUT VOLTAGE : 120V LUMENS : 560 Rated BULB : 1 x 8W LED A/C Integrated , 8W total BULB INCLUDED : (Integrated) COLOR_TEMP : 3000K </div> | | | |
| | | <div> FINISHES OPTION <div>  Bronze </div> </div> <div> MATERIAL Die Cast Aluminum </div> <div> RATINGS cETLus Wet Location For Outdoor DARKSKY </div> <div>    </div> <div> ADDITIONAL RATED LIFE 50000 Hours OPERATING TEMPERATURE: -20°C (-4°F), 40°C (104°F) PHOTOMETRIC: Report Found Online </div> | | | |
| <div>560 LUMEN</div> <div>3000K</div> | | | | | |



0' 10' 20' 40' 60'

SCALE : 1" = 10'-0"



VINE TRELLIS
(6' TALL MAX)



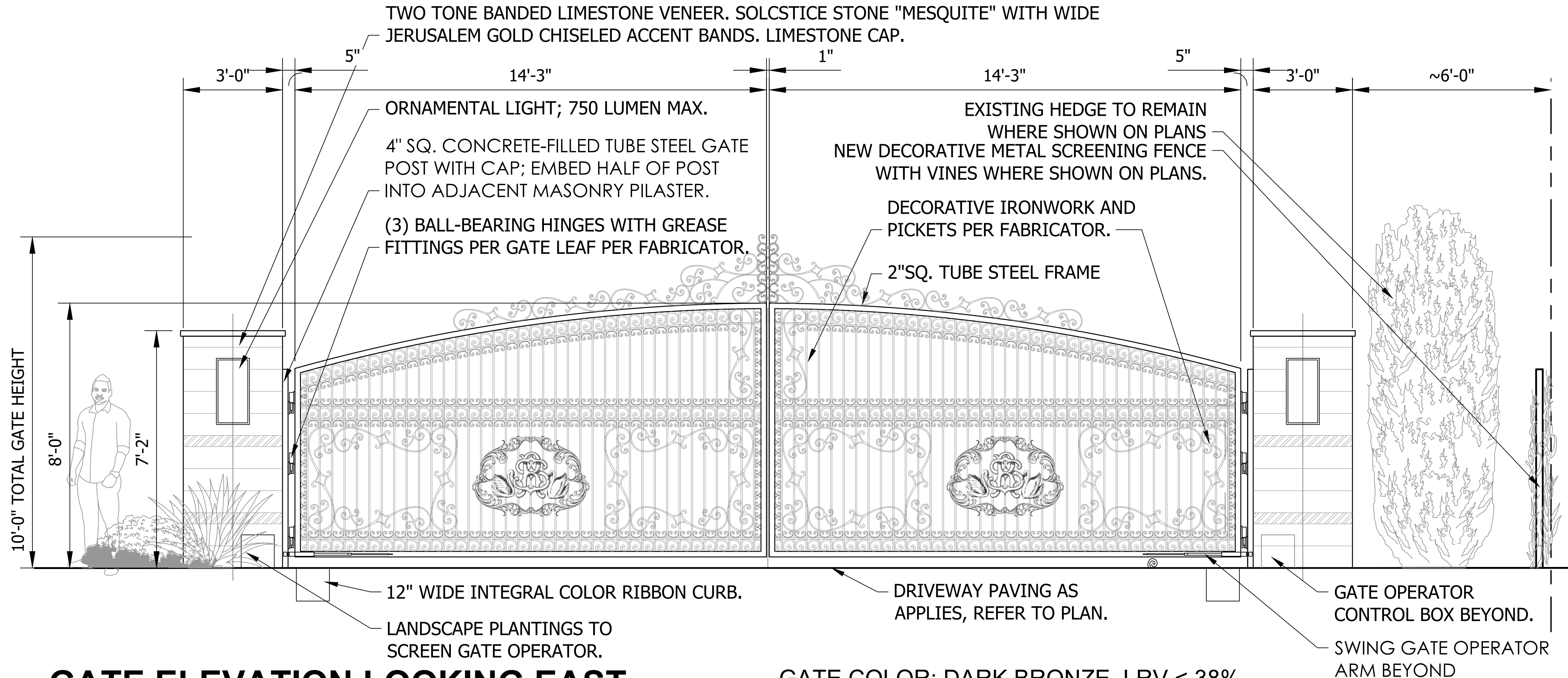
LIGHTS AT GATE
LIGHT SOURCE
HIDDEN IN TOP



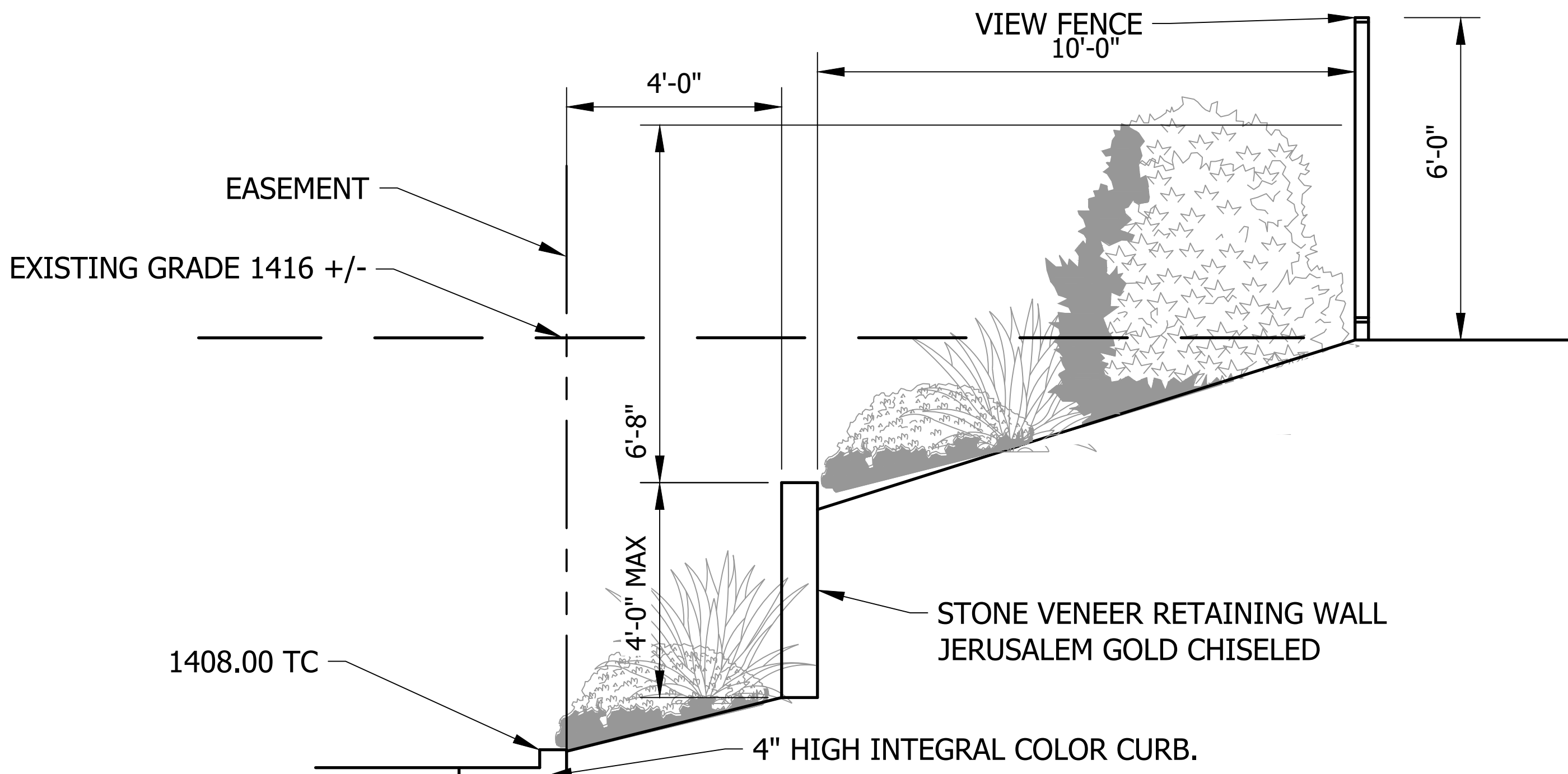
STONE VENEER ON COLUMNS AND CALL BOX PEDESTAL
SOLSTICE STONE (LIMESTONE), MESQUITE BRUSHED (LEFT)
AND JERUSALEM GOLD LINE CHISELED (CENTER). PAVERS:
BELGARD MEGA-BERGERAC (RIGHT), TOSCANA COLOR BLEND.
LRV VALUES LESS THAN 38%

PROPOSED MATERIALS

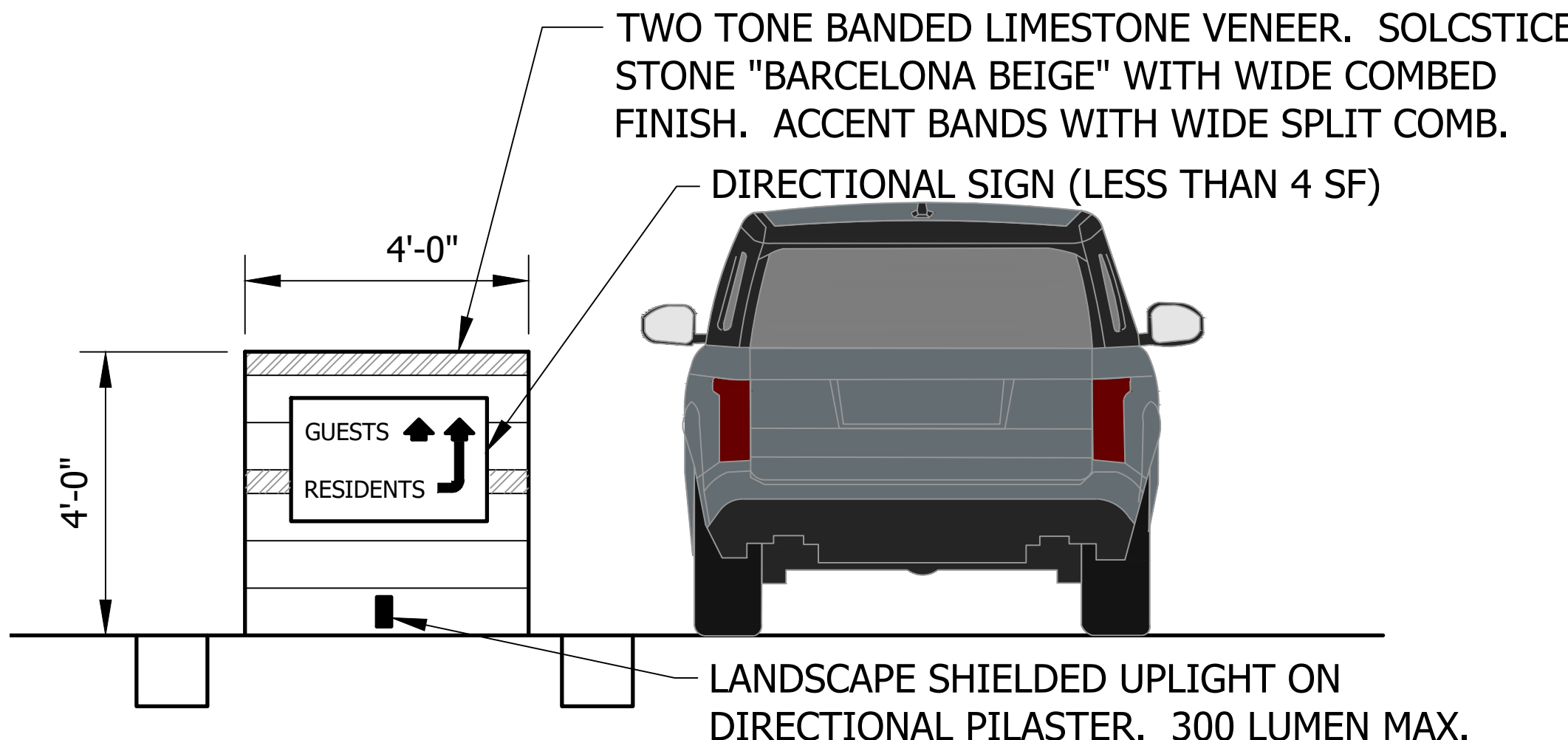
FINAL MATERIALS, COLORS, AND SELECTION MAY VARY FROM IMAGES
SHOWN BUT WILL BE OF SIMILAR QUALITY AND CHARACTER



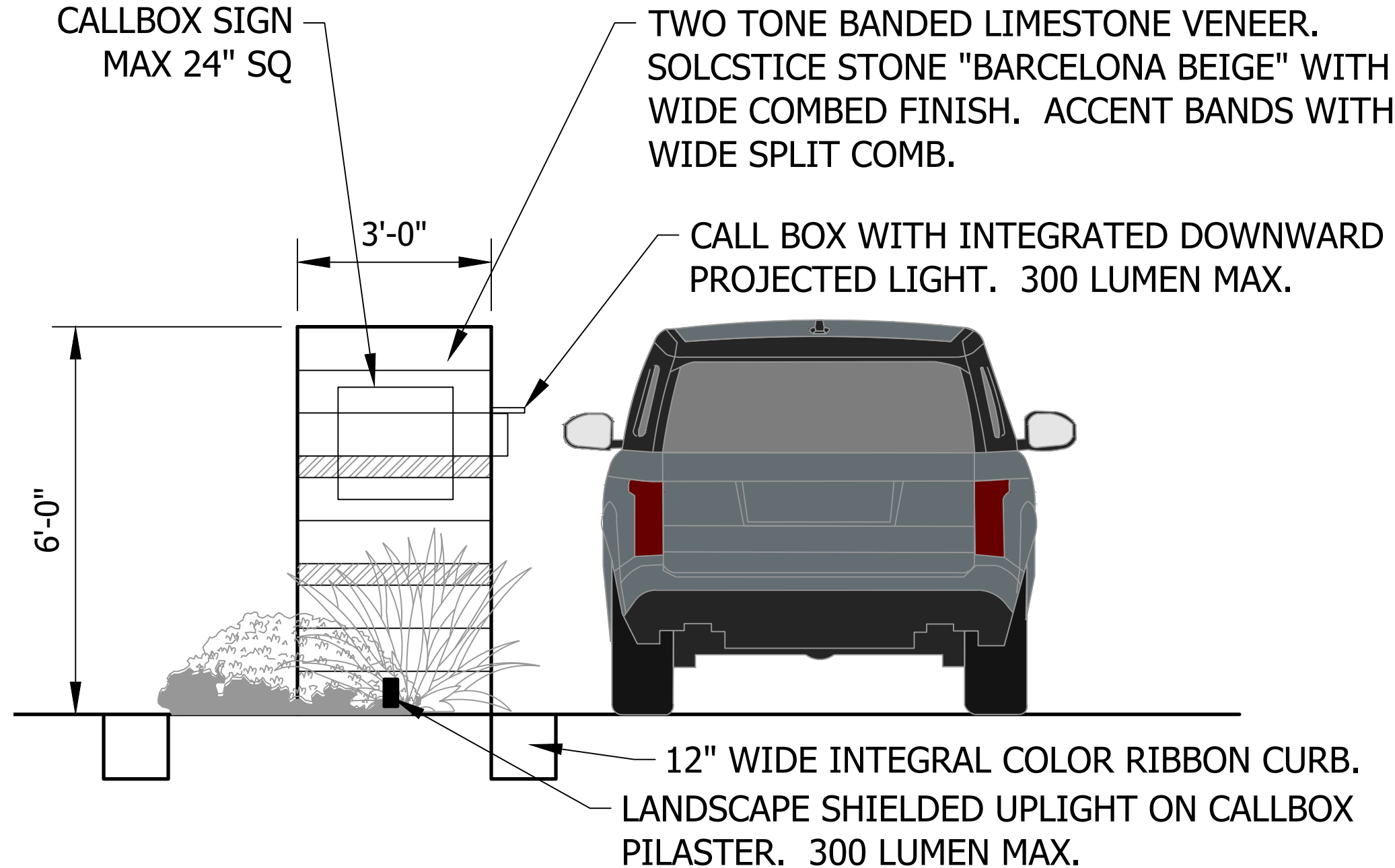
GATE ELEVATION LOOKING EAST



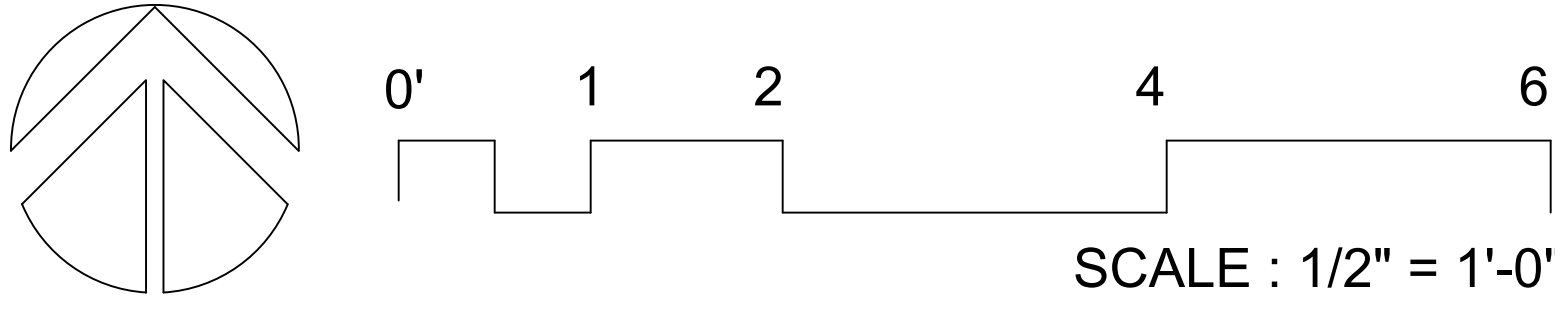
RETAINING WALL SECTION



DIRECTIONAL SIGN ELEVATION



CALL BOX ELEVATION LOOKING EAST



NOVEMBER 4, 2021



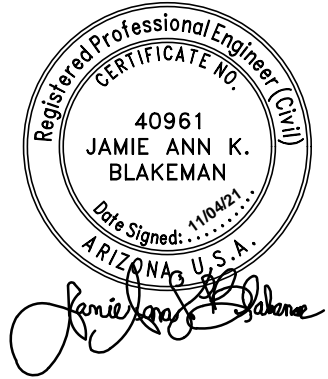
To: Doug Jorden
Jorden Hiser & Joy, PLC

From: Jamie Blakeman, PE, PTOE

Job Number: 20.5141.001

RE: Cottontail Run Road Vehicular Entry Gate
Traffic Study

Date: November 4, 2021



INTRODUCTION

Lōkahi, LLC (Lōkahi) has prepared a Traffic Study analyzing the traffic impacts of installing a vehicular gate on East Cottontail Run Road, approximately 220 feet east of Tatum Boulevard, just west of North Cottontail Run Road, in the Town of Paradise Valley, Arizona. See **Figure 1** for the vicinity map.

East Cottontail Run Road is a private roadway that is located immediately north of the Paradise Valley Country Club. The roadway is owned by the owner of the property located at 5000 E. Cottontail Run Road. East Cottontail Run Road provides access to ten (10) single family residential units.

The objective of this Traffic Study is to analyze the traffic impacts associated with the installation of the proposed vehicular gate, including the proposed geometrics, emergency vehicle accommodation, and queuing.

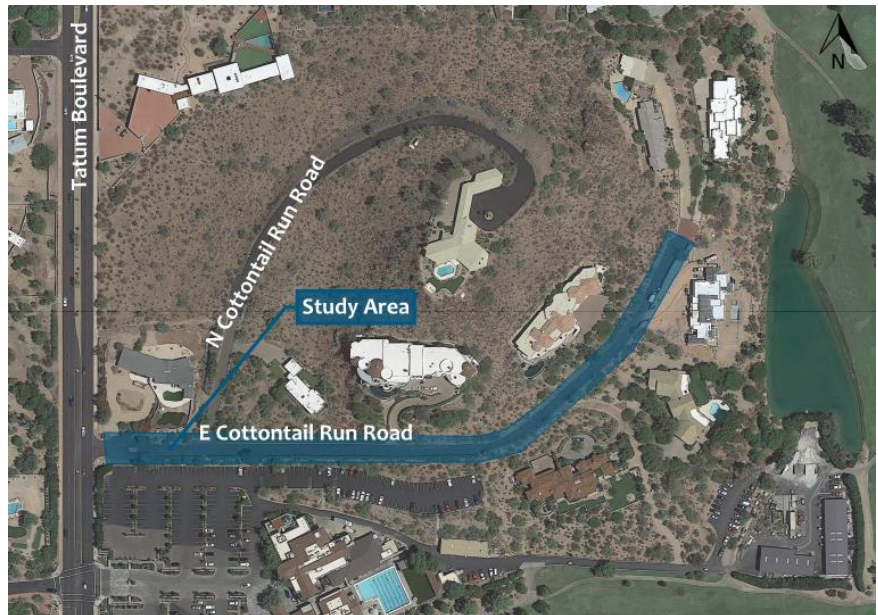


Figure 1 - Vicinity Map





BACKGROUND

East Cottontail Run Road, within the study area, terminates approximately one-quarter mile north-east of Tatum Boulevard, at an existing cul-de-sac. The proposed gate located just west of North Cottontail Run Road will serve nine (9) existing single family residential units along East Cottontail Run Road.

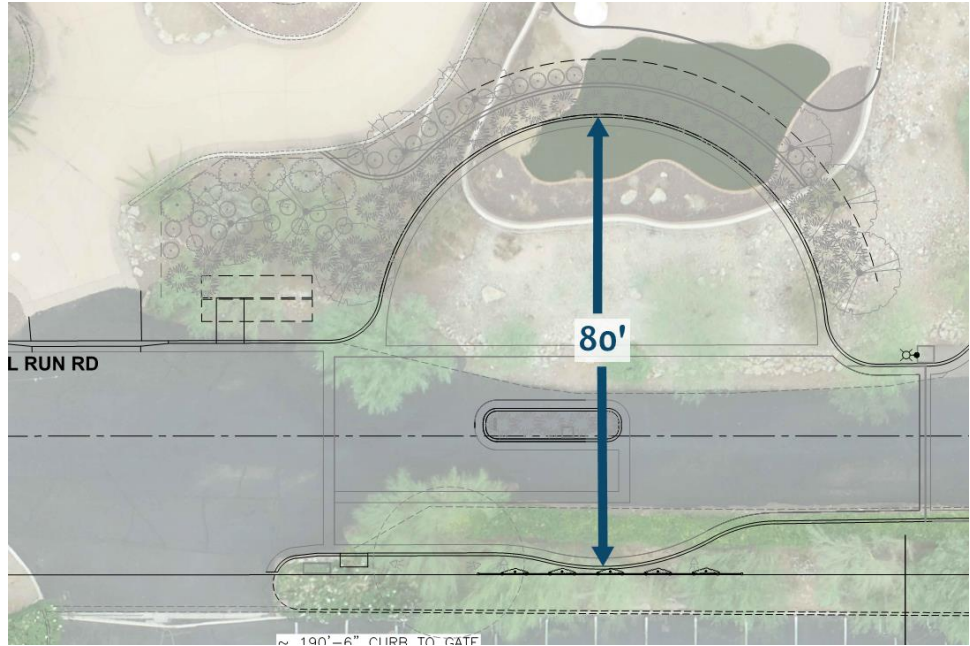


Figure 2 – Schematic Layout with a 40’ Turnaround

The gated entry will provide a median island where a transmitter and/or keypad will be installed to allow residents and guests access. Additionally, residents will have a wireless remote that will open the gate. Therefore, residents will be able to activate the opening of the gate as they approach and will not be using the keypad or queue at the gate. For emergency vehicle access, a knox box will be installed.

The Town of Paradise Valley suggests this turnaround be designed with a 40-foot radius, resulting in a maximum dimension of 80-feet. See **Attachment A** for the Town of Paradise Valley’s standards. In addition to the 40-foot radius cul-de-sac standard, the Town of Paradise Valley standards shown in **Attachment A** also provides standards for a “Hammer-Head Turn-Around” and an “Intermediate Turn-Around” driveway entrance for emergency vehicles.

See **Attachment B** and **Figure 2** for a schematic of a potential layout following these design guidelines using the 40-foot radius.

Gated driveway standards for agencies located within the Phoenix Metropolitan Area were researched, including: City of Scottsdale, Town of Gilbert, City of Chandler, City of Mesa, and the City of Phoenix. The proposed gate on Cottontail Run Road would be allowed in all of these municipalities. These standards are shown in **Attachment C**. The minimum approach width for all of these agencies, with the exception of the City of Mesa, is 20-feet, which meets the fire access standards.



EMERGENCY VEHICLE TURNAROUND

Maintaining fire access is critical, including the ability to turnaround. As mentioned previously, a knox box will be installed at the gated entrance for emergency vehicle access. Should a fire truck require an immediate turn around, the existing intersection of East Cottontail Run Road and North Cottontail Run Road should provide adequate space in order of an emergency vehicle to turnaround.

As previously mentioned, the Town of Paradise Valley's standards shown in

Attachment A also provide a standard for an "Intermediate Turn-Around." **Figure 3** shows this standard superimposed on the existing intersection of East Cottontail Run Road and North Cottontail Run Road. See **Figure 3**.

Additionally, a fire truck vehicular turning analysis was performed. A fire truck may perform a three-point turn within the turnaround area or may opt to enter the gate through the knox box, then perform a three-point turn at North Cottontail Run Road. See **Figure 4** and **Figure 5**, respectively.

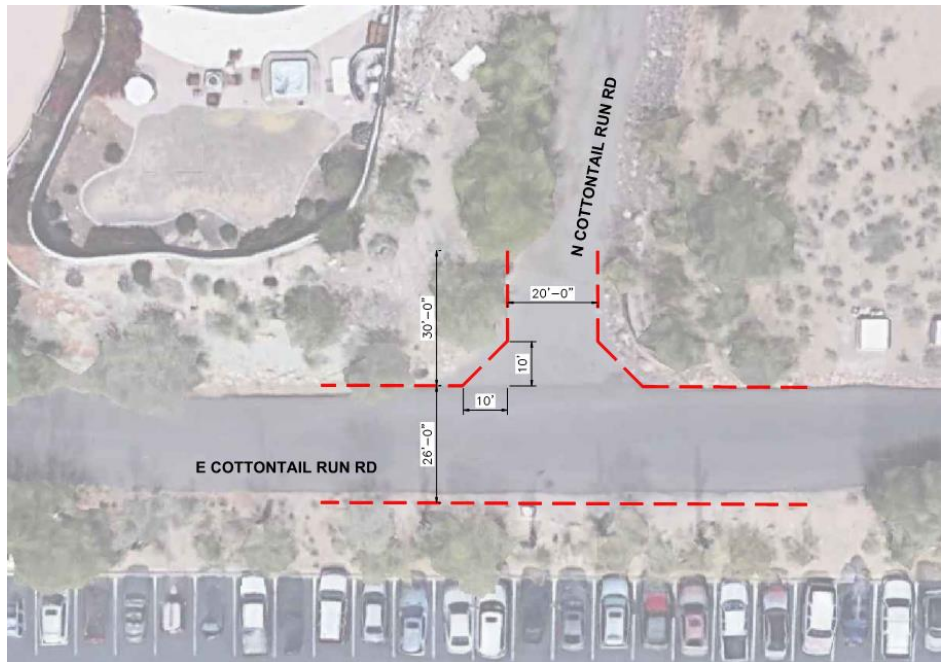


Figure 3 – Intermediate Turnaround

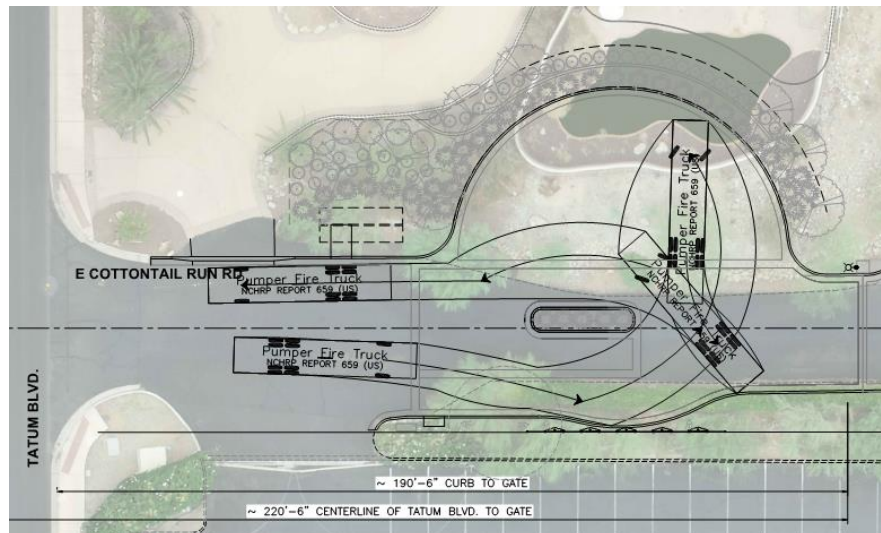


Figure 4 – Emergency Vehicle Turnaround – Template 1



An analysis of the turnaround for a truck with a trailer (landscape vehicle) was also completed. Using the Town of Paradise Valley's 40-foot radial turnaround, a truck with a trailer is able to successfully perform a u-turn. See **Figure 6**.





VEHICLE QUEUING

Nine (9) existing single family homes would be located behind the proposed gate. However, there is potential for an additional home to be developed behind the proposed gate. Therefore, as a conservative approach, the trips generated by the ten (10) single-family residential units was calculated utilizing the Institute of Transportation Engineers (ITE) publication entitled *Trip Generation*, 10th Edition. The ITE rates are based on studies that measure the trip generation characteristics for various types of land uses. The rates are expressed in terms of trips per unit of land use type. This publication is the standard for estimating trips in the transportation engineering profession.

The trip generation for the existing ten (10) single-family homes, located behind the gate, was calculated utilizing the ITE Land Use 210 – Single-Family Detached Housing. The total trip generation is shown in **Table 1**. See **Attachment D** for the detailed trip generation calculations.

Table 1 – Trip Generation

| Land Use | ITE Code | Qty | Unit | Weekday | AM Peak Hour | | | PM Peak Hour | | |
|--------------------------------|----------|-----|----------------|---------|--------------|----|-----|--------------|----|-----|
| | | | | Total | Total | In | Out | Total | In | Out |
| Single-Family Detached Housing | 210 | 10 | Dwelling Units | 125 | 12 | 3 | 9 | 11 | 7 | 4 |

On a typical weekday, the ten (10) single-family residential units are anticipated to generate 125 weekday trips, with 12 trips occurring during the AM peak hour and 11 occurring during the PM peak hour. Of the peak hour trips, three (3) and seven (7) inbound trips are anticipated to occur during the AM and PM peak hours, respectively. The seven (7) inbound trips during the typical PM peak hour represents an average arrival rate of one (1) vehicle every eight to nine minutes.

Normally, there will be one (1) vehicle in queue.

As previously mentioned, residents will have a remote that will open the gate upon approach. Therefore, guests will be the primary user of the keypad. Residents can opt to pass-by to the right of vehicles in queue and enter the gate. Residents should not be contributing to the queue at the keypad, further reducing vehicle queue.

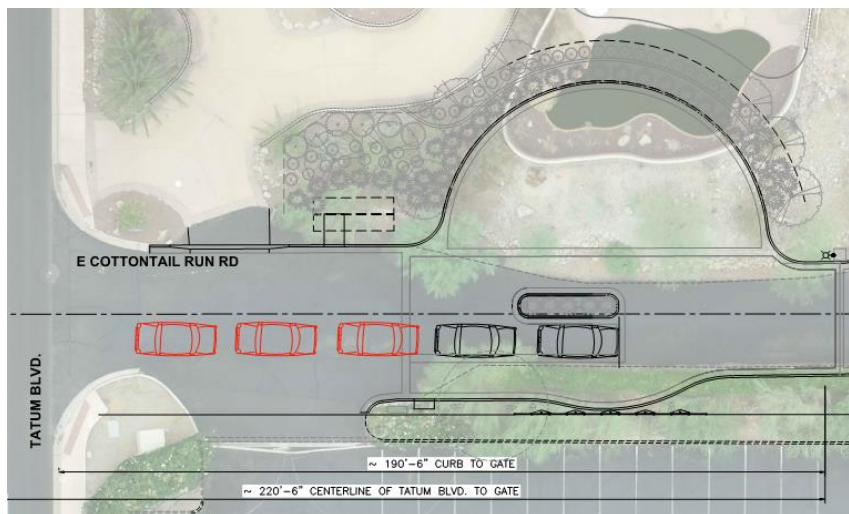


Figure 7 – Passenger Vehicle Queuing



Figure 7 shows two (2) passenger vehicles queued in black.

Assuming 20 feet for a vehicle and 5 feet for a gap, which is a considered typical spacing for queuing, there is adequate storage for five (5) passenger vehicles. These additional vehicles are shown in red.

In the event that two (2) landscape vehicles arrive, the queuing of these vehicles is shown in Figure 8. Assuming a vehicle and trailer length of 50 feet, and 5 feet for the gap, two (2) landscape vehicles can sufficiently queue. Additionally, this area provides space for an additional passenger vehicle.

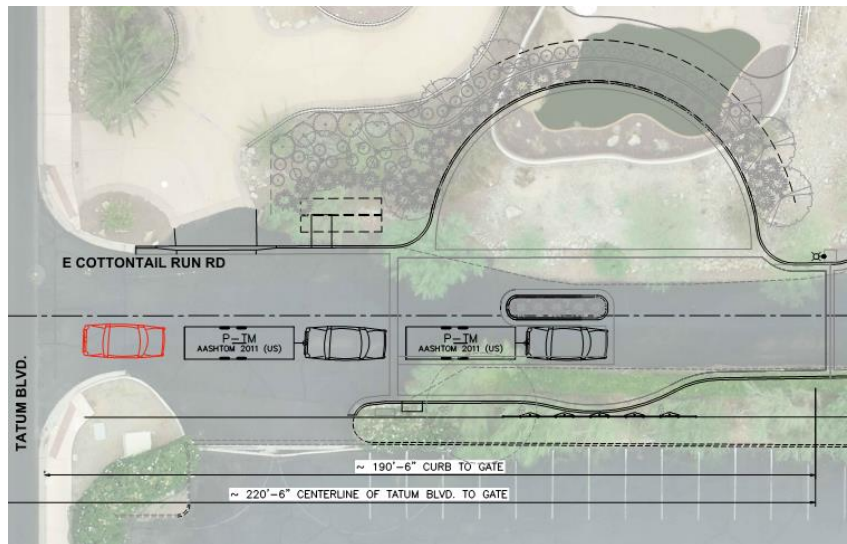


Figure 8 – Vehicle Queuing



SUMMARY

The objective of this Traffic Study is to analyze the traffic impacts associated with the installation of a proposed vehicular gate along East Cottontail Run Road, approximately 220 feet east of Tatum Boulevard, just west of North Cottontail Run Road in the Town of Paradise Valley, Arizona.

Emergency vehicle access is a key item to consider with any gated access. A knox box will be installed for emergency vehicle access at the gated entrance. Town of Paradise Valley standard “Intermediate Turn-Around” driveway entrance for emergency vehicles was superimposed on the existing intersection of East Cottontail Run Road and North Cottontail Run Road, indicating that the existing intersection resembles the Town’s standard driveway entrance for emergency vehicles. In addition, a truck with a trailer is able to successfully perform a u-turn in the turnaround area.

Finally, vehicle queuing at the gate was analyzed based on trip generation calculations. Normally, there will be one (1) vehicle in queue. The storage along East Cottontail Run Road provides up to five (5) passenger vehicles of queuing. Additionally, two landscape vehicles and one passenger vehicle could queue simultaneously. Therefore, there is more than sufficient length of vehicle queuing.

In conclusion, the vehicular gate along East Cottontail Run Road will have no major impacts to traffic operations.



ATTACHMENT A – TOWN OF PARADISE VALLEY STANDARDS



COUNTY OF LOS ANGELES FIRE DEPARTMENT FIRE PREVENTION DIVISION

The dimensions of E91 & E92 - H 11' 2", W 8' 7" & L 34' 1"
T92 - H 10' 3", W 8' 4" & L 31' 9"

FIRE APPARATUS TURNAROUND STANDARD PUMPER

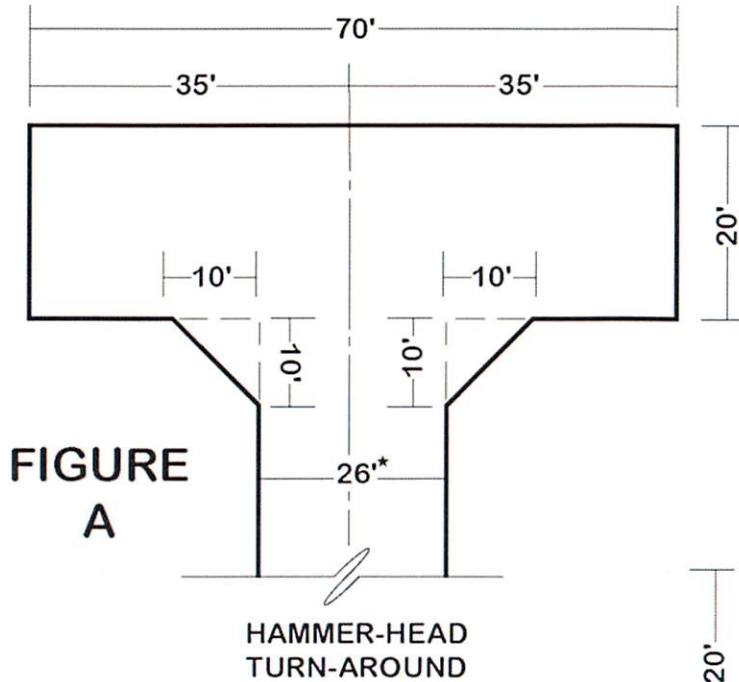


FIGURE
A

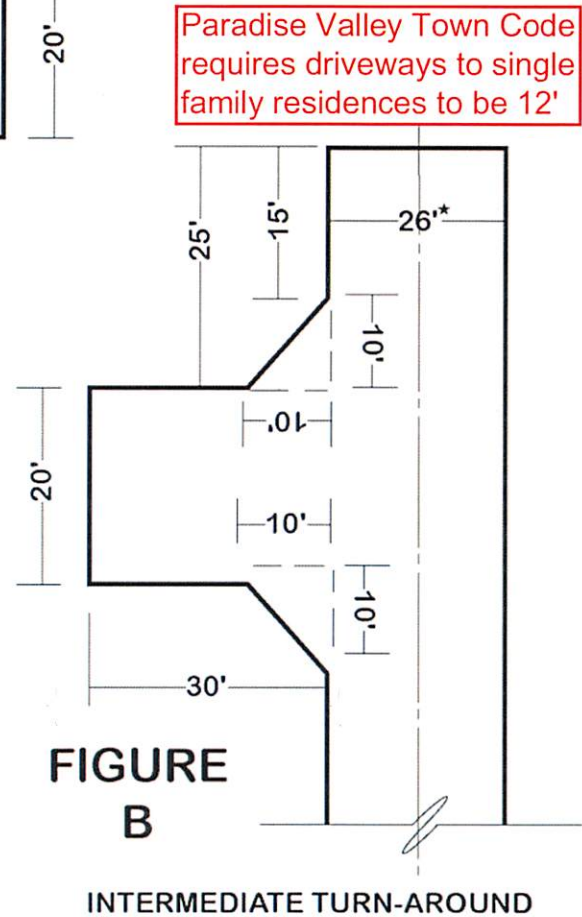


FIGURE
B

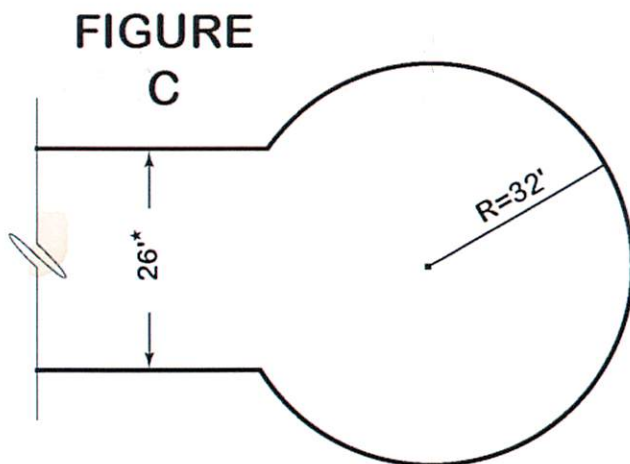


FIGURE
C

PRIVATE ST. (CUL-DE-SAC)

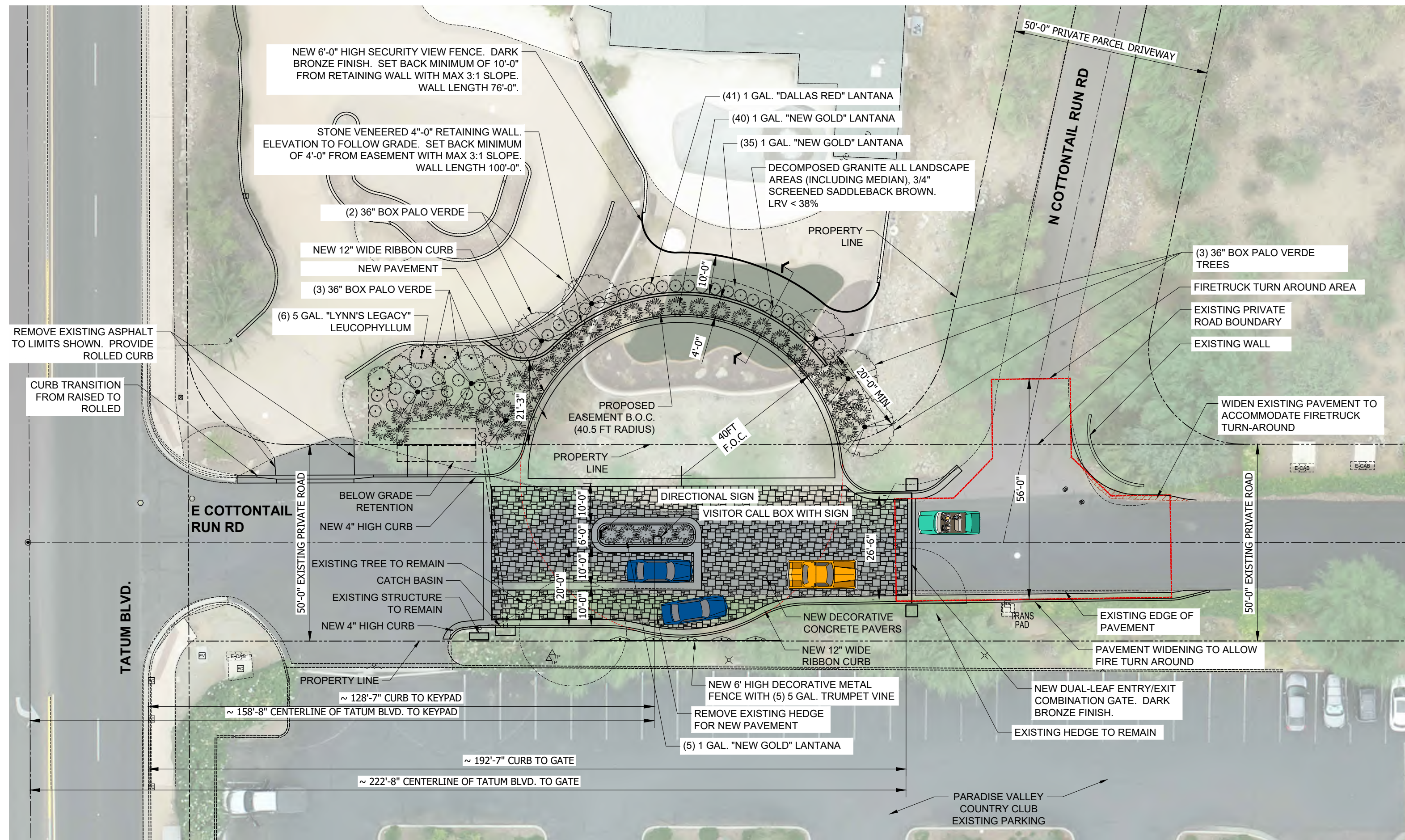
Paradise Valley Town Code Section 6-3-2 B
requires cul-de-sac Right of Way radius of
45' and improvements of 40'.

★ MAY BE REDUCED TO 20' FOR SINGLE FAMILY RESIDENCES

Paradise Valley Town Code
requires driveways to single
family residences to be 12'



ATTACHMENT B – GATED ENTRANCE DESIGN





VINE TRELLIS
(6' TALL MAX)



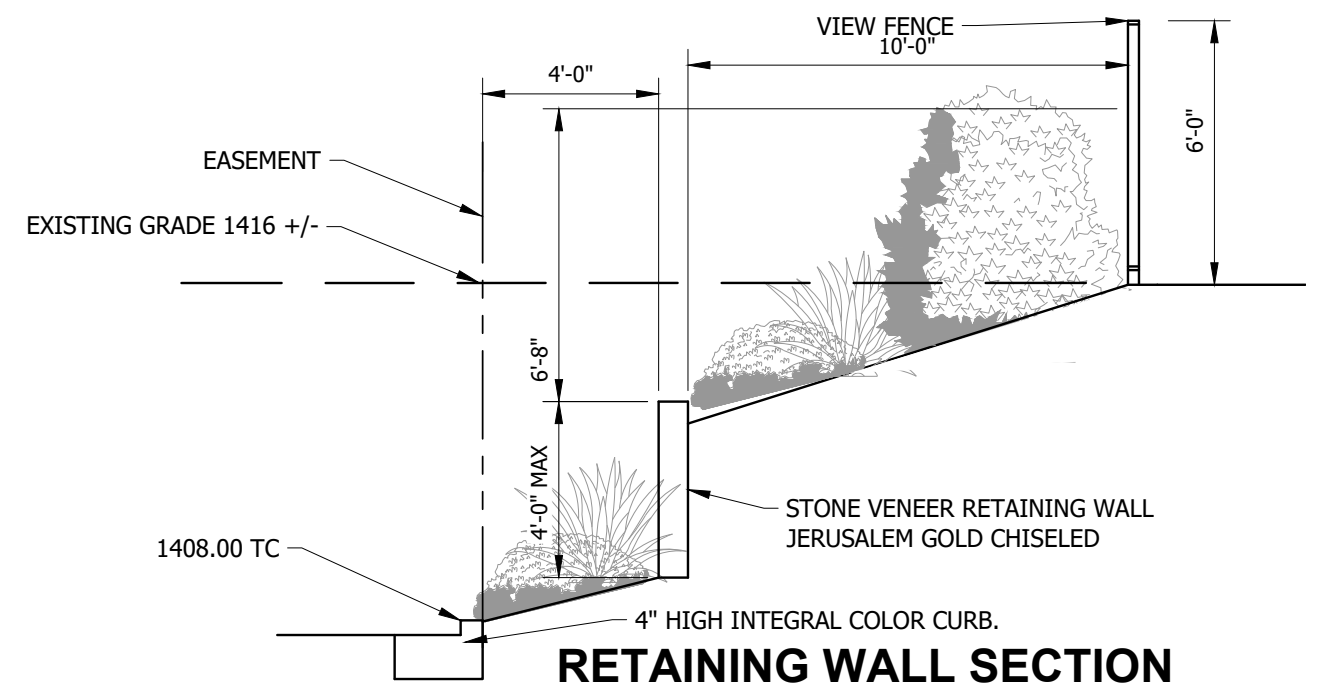
LIGHTS AT GATE
LIGHT SOURCE
HIDDEN IN TOP



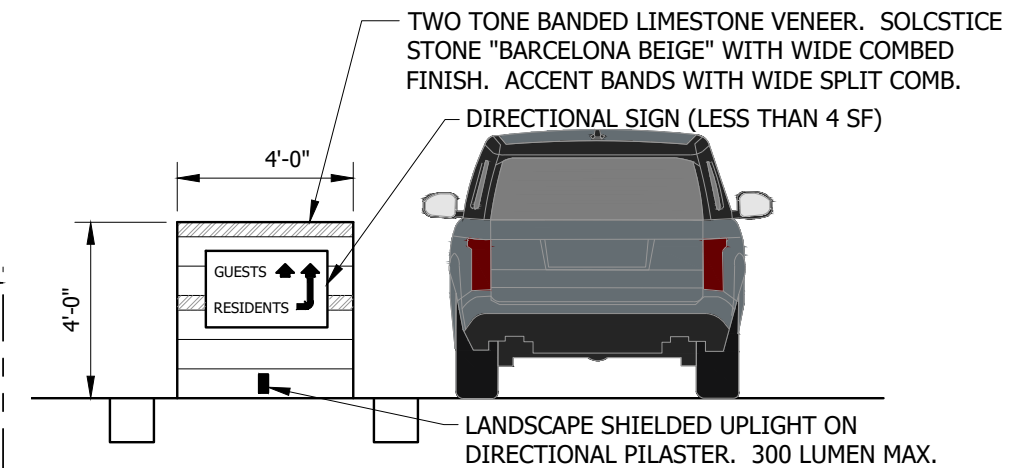
STONE VENEER ON COLUMNS AND CALL BOX PEDESTAL
SOLSTICE STONE (LIMESTONE), MESQUITE BRUSHED (LEFT)
AND JERUSALEM GOLD LINE CHISELED (CENTER). PAVERS:
BELGARD MEGA-BERGERAC (RIGHT), TOSCANA COLOR BLEND.
LRV VALUES LESS THAN 38%

PROPOSED MATERIALS

FINAL MATERIALS, COLORS, AND SELECTION MAY VARY FROM IMAGES
SHOWN BUT WILL BE OF SIMILAR QUALITY AND CHARACTER



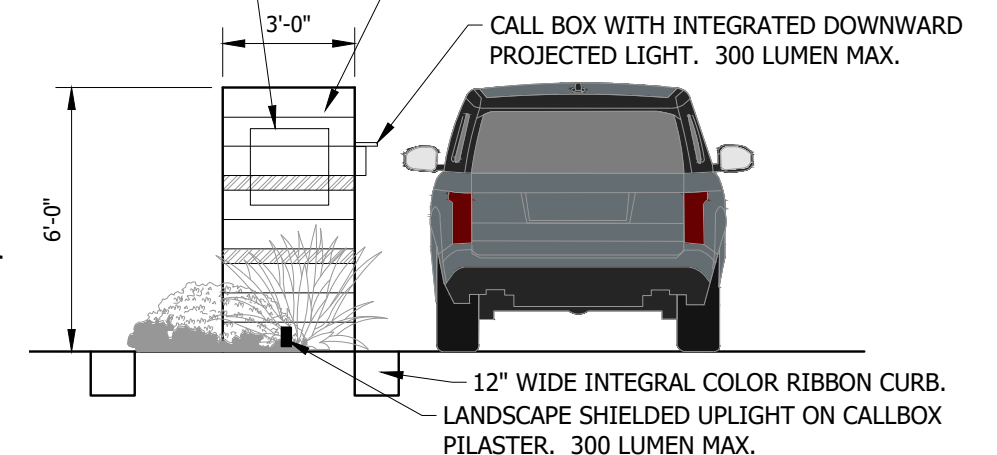
RETAINING WALL SECTION



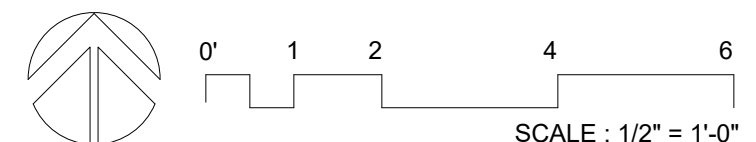
DIRECTIONAL SIGN ELEVATION

CALLBOX SIGN
MAX 24\"/>

TWO TONE BANDED LIMESTONE VENEER,
SOLCSTICE STONE \"BARCELONA BEIGE\" WITH
WIDE COMBED FINISH. ACCENT BANDS WITH
WIDE SPLIT COMB.



CALL BOX ELEVATION LOOKING EAST



NOVEMBER 4, 2021

SCALE : 1/2\"/>

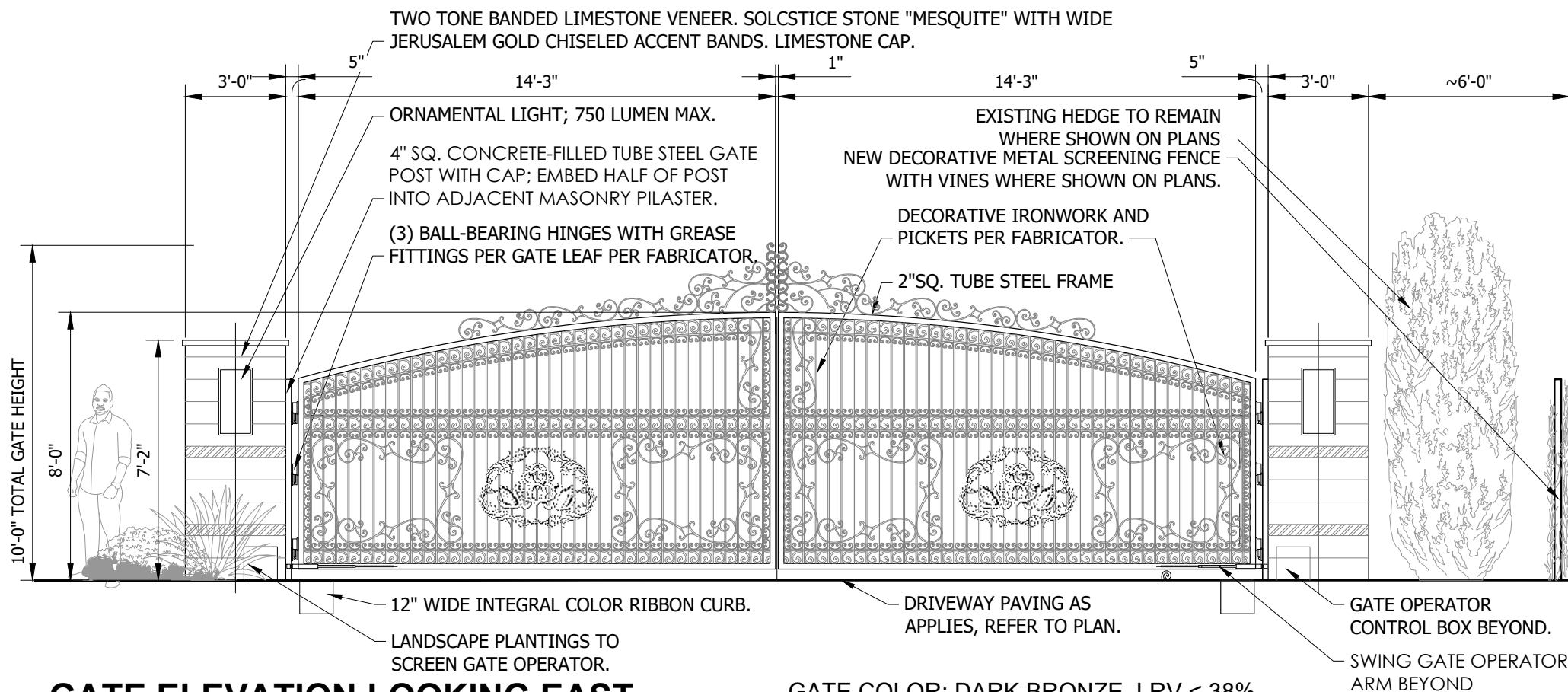


East Cottontail Run Road SUP Gated Entry Conceptual Elevations

N:\01\0214601\CADD\2021 gate SUP\LB.DETAILS.dwg

GATE ELEVATION LOOKING EAST

GATE COLOR: DARK BRONZE, LRV < 38%





ATTACHMENT C – LOCAL AGENCY GATED ENTRANCE STANDARDS



RESIDENTIAL GATED ENTRANCE STANDARDS

Gated driveway standards for agencies located within the Phoenix Metropolitan Area were researched, including: City of Scottsdale, Town of Gilbert, City of Chandler, City of Mesa, and the City of Phoenix.

City of Scottsdale

The City of Scottsdale standards are shown in **Figure 1**. Two 20-foot approach lanes are provided with a varying median island and a 25-foot turn around area, which overlaps the egress lane by 5-feet. Assuming a 4-foot median island, this driveway configuration results in a maximum driveway width of 64 feet, occurring at the peak of the bulb-out. **This is 16-feet less than the Town of Paradise Valley's requirements.**

Town of Gilbert

The Town of Gilbert standards are shown in **Figure 2**. Two 20-foot approach lanes are provided with a 4-foot median island and a 25-foot turn around area, which overlaps the egress lane by 5-feet. This driveway configuration results in a maximum driveway width of 64 feet, occurring at the peak of the bulb-out. **This is 16-feet less than the Town of Paradise Valley's requirements.**

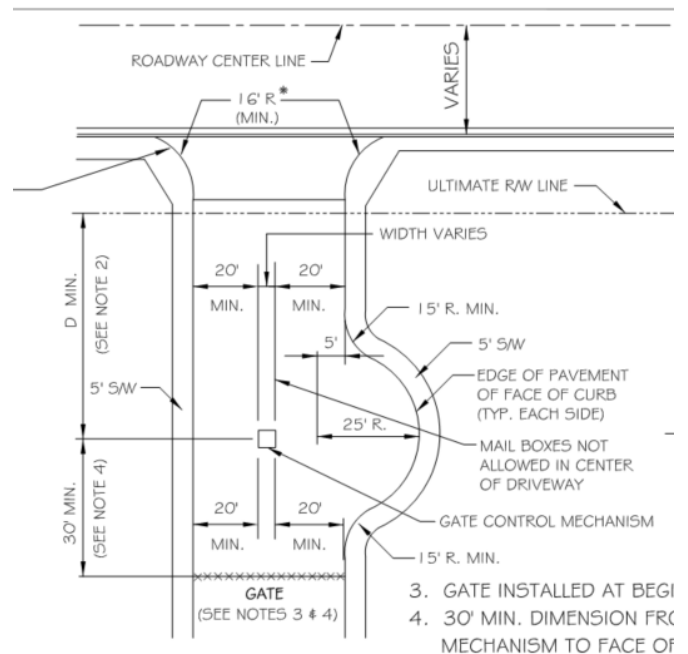


Figure 1 - City of Scottsdale

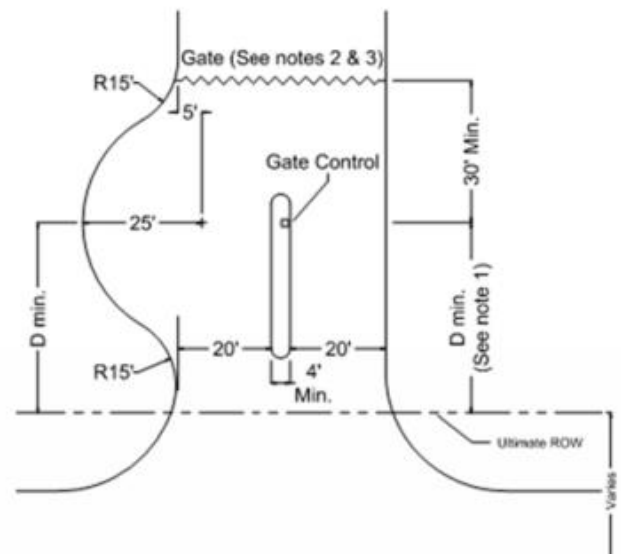


Figure 2 - Town of Gilbert Gated Entrance
Standard Detail



City of Chandler

The City of Chandler standards are shown in **Figure 3**. Two 20-foot approach lanes are provided with a median island of varied width and a 25-foot turn around area, which overlaps the egress lane by 5-feet. Assuming a 4-foot median island, the driveway configuration results in a maximum driveway width of 64 feet, occurring at the peak of the bulb-out. **This also is 16-feet less than the Town of Paradise Valley's requirements.**

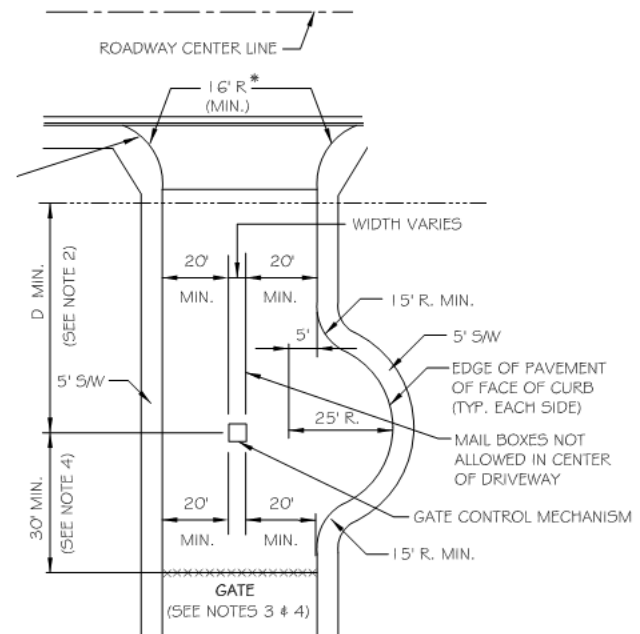


Figure 3 – City of Chandler Gated Entrance Standard Detail

City of Mesa

The City of Mesa standards are shown in **Figure 4**. Similar to the City of Chandler, two 20-foot approach lanes are provided with a median island of varied width and a 25-foot turn around area, which overlaps the egress lane by 5-feet. Assuming a 4-foot median island, the driveway configuration results in a maximum driveway width of 64 feet, occurring at the peak of the bulb-out. **This is also 16-feet less than the Town of Paradise Valley's requirements.**

See **Figure 4** for additional details.

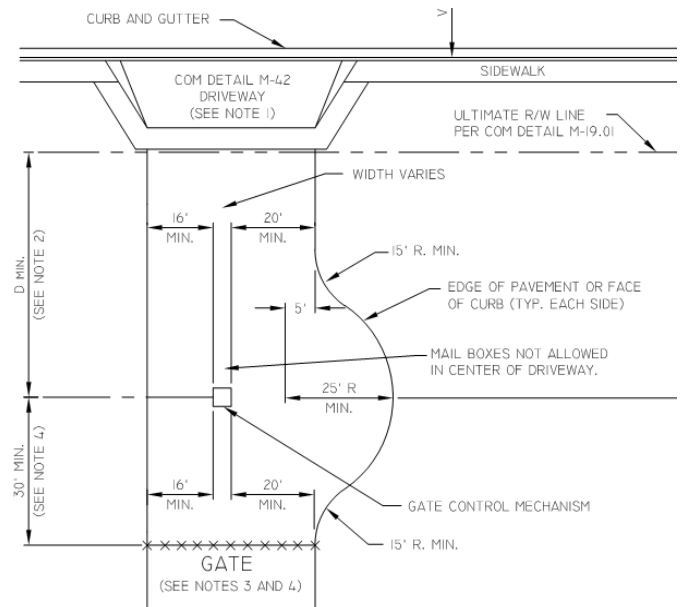


Figure 4 – City of Mesa Gated Entrance Standard Detail



City of Phoenix

The City of Phoenix takes a different approach than these other four municipalities. A standard detail is not provided, rather design guidance is provided. See below:

- Passenger vehicles denied access to the site for any reason shall be enabled to exit the Site with a single forward turning movement. This movement is not to conflict with other vehicles entering the site.
- Service vehicles denied access to the site for any reason shall be enabled to exit the site by

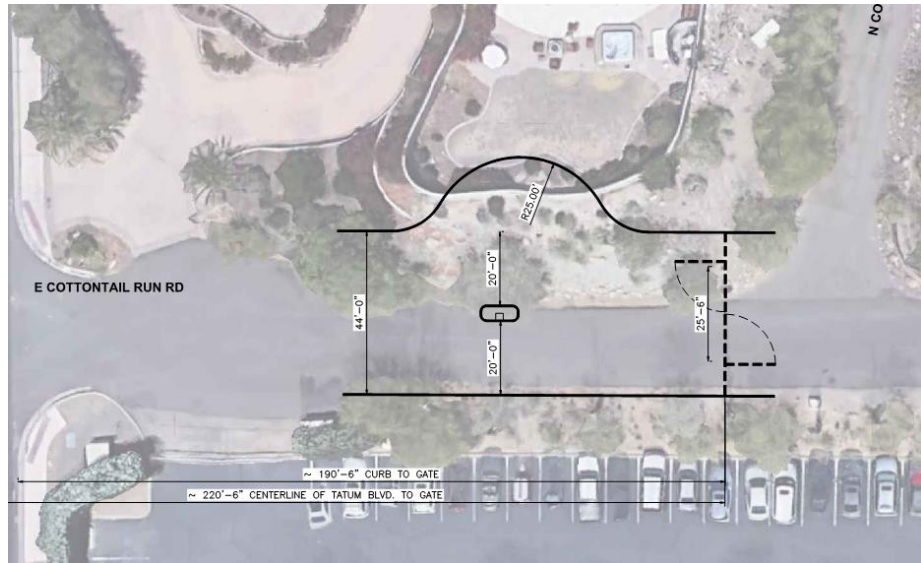
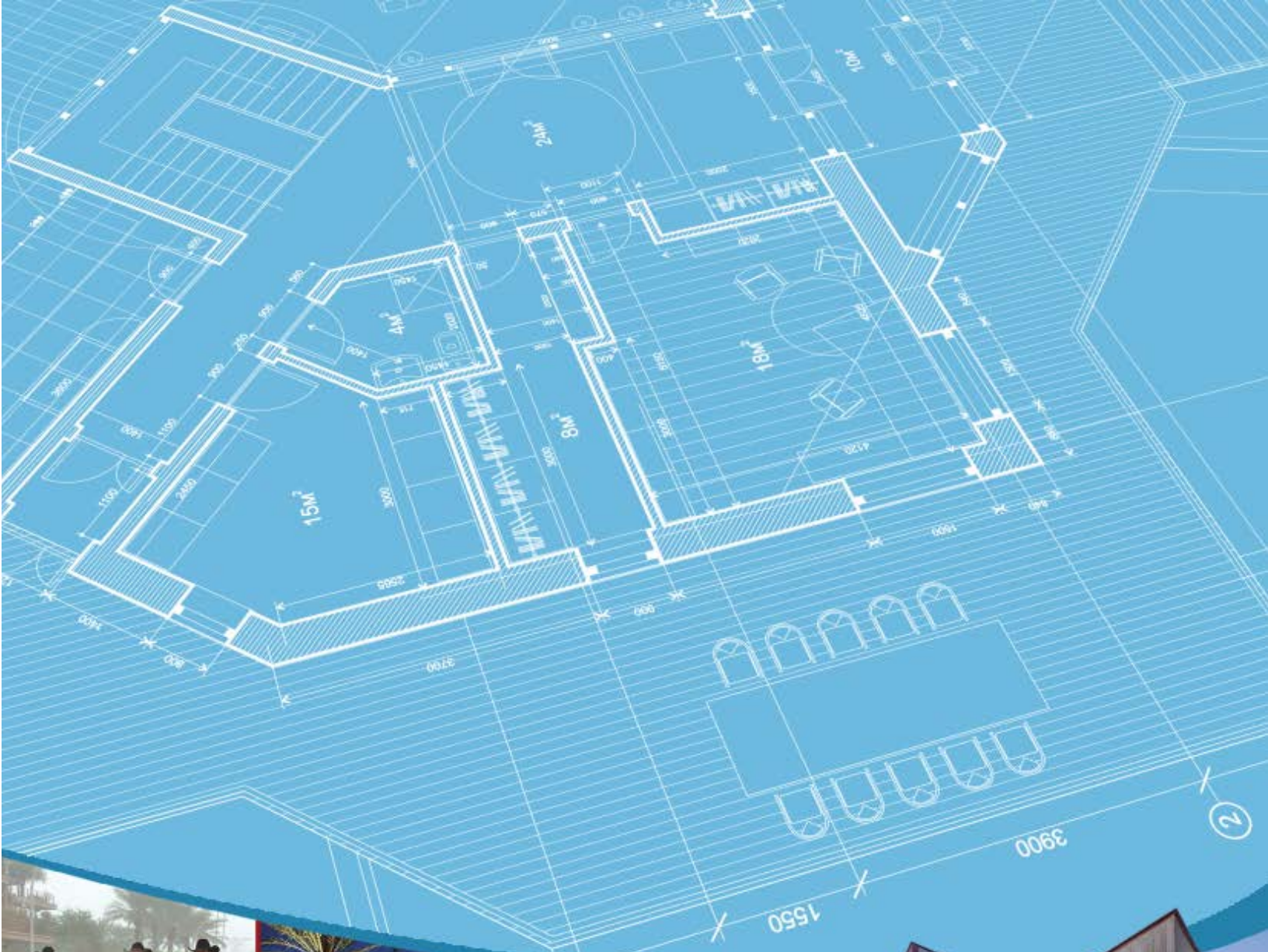


Figure 5 - City of Phoenix

means of a multiple forward and backward turning movement. The first forward motion is to move the vehicle out of the path of any vehicle that may have queued behind it and allow the vehicle to pass, unhindered, into the site.

According to the City of Phoenix Gate Controlled Access Requirements, the City allows site developers to suggest driveway designs that meet the City's requirements.

See **Figure 6** using the guidance of the City of Phoenix, and applying a similar geometric layout as the City of Scottsdale, Town of Gilbert, City of Chandler and City of Mesa. There is significantly less impact to the adjacent properties.



DESIGN STANDARDS & POLICIES MANUAL

ON-SITE CIRCULATION & PARKING AREA DESIGN

2-1.300

In addition to the requirements of the Zoning Ordinance, the following guidelines focus on general and specific techniques to assure safe access, emergency access, and community benefits.

MAJOR DRIVEWAYS

2-1.301

Major driveways provide direct access from the street and into a parking lot with more than 50 spaces, and/or provide the driveway access across the front of a retail center.

Design major driveways:

- A. To have a minimum width of thirty (30) feet from face-of-curb to face-of-curb, and conform to the City of Scottsdale (COS) Maricopa Association of Governments (MAG) details;
- B. Without designated customer and business activity loading areas, and direct parking aisle access near the street intersection;
- C. With adequate vehicle stacking distances where they access public streets;
- D. With adequate site area that will allow fire equipment vehicles to turn-around. Refer to Section 2-1.303 + 2-1.304;
- E. In coordination with adjacent bus stop locations.

GATED PRIVATE STREET AND DRIVEWAY ENTRANCES

2-1.302

Unless otherwise approved by the Transportation Director, or designee, and the Fire Chief, or designee, gated private streets and driveways shall comply with the following:

- A. Private streets and residential developments
Gated private streets and residential driveways entrances (excluding development in the Downtown Area) shall comply with Figure 2-1.2.



- Design Standards & Policies Manual**
City of Scottsdale - 2018

STREETS
C-200 TO C-261

**PUBLIC WORKS
AND
ENGINEERING
STANDARDS**

2020



September 10, 2020

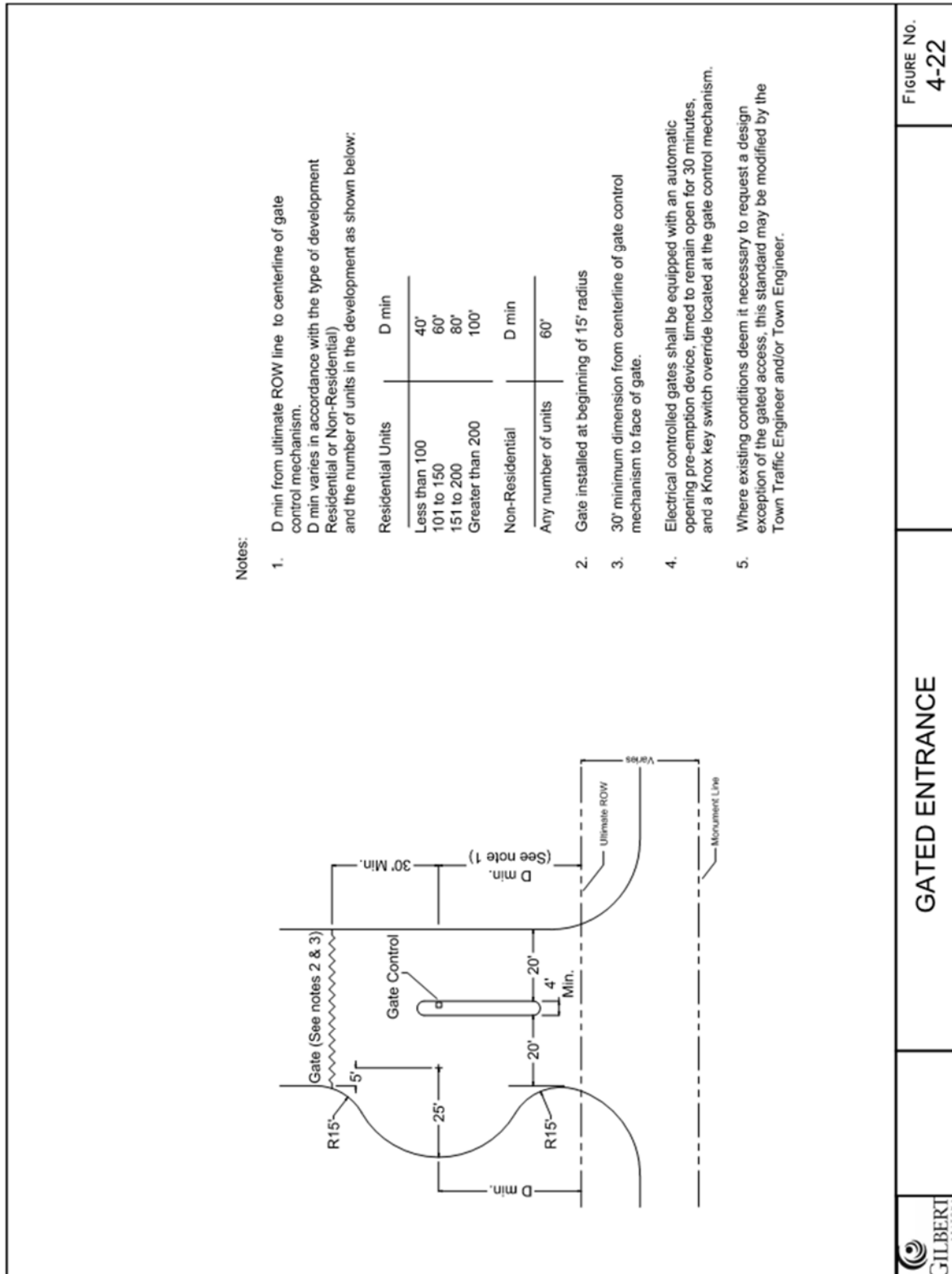


FIGURE 4-22 GATED ENTRANCE

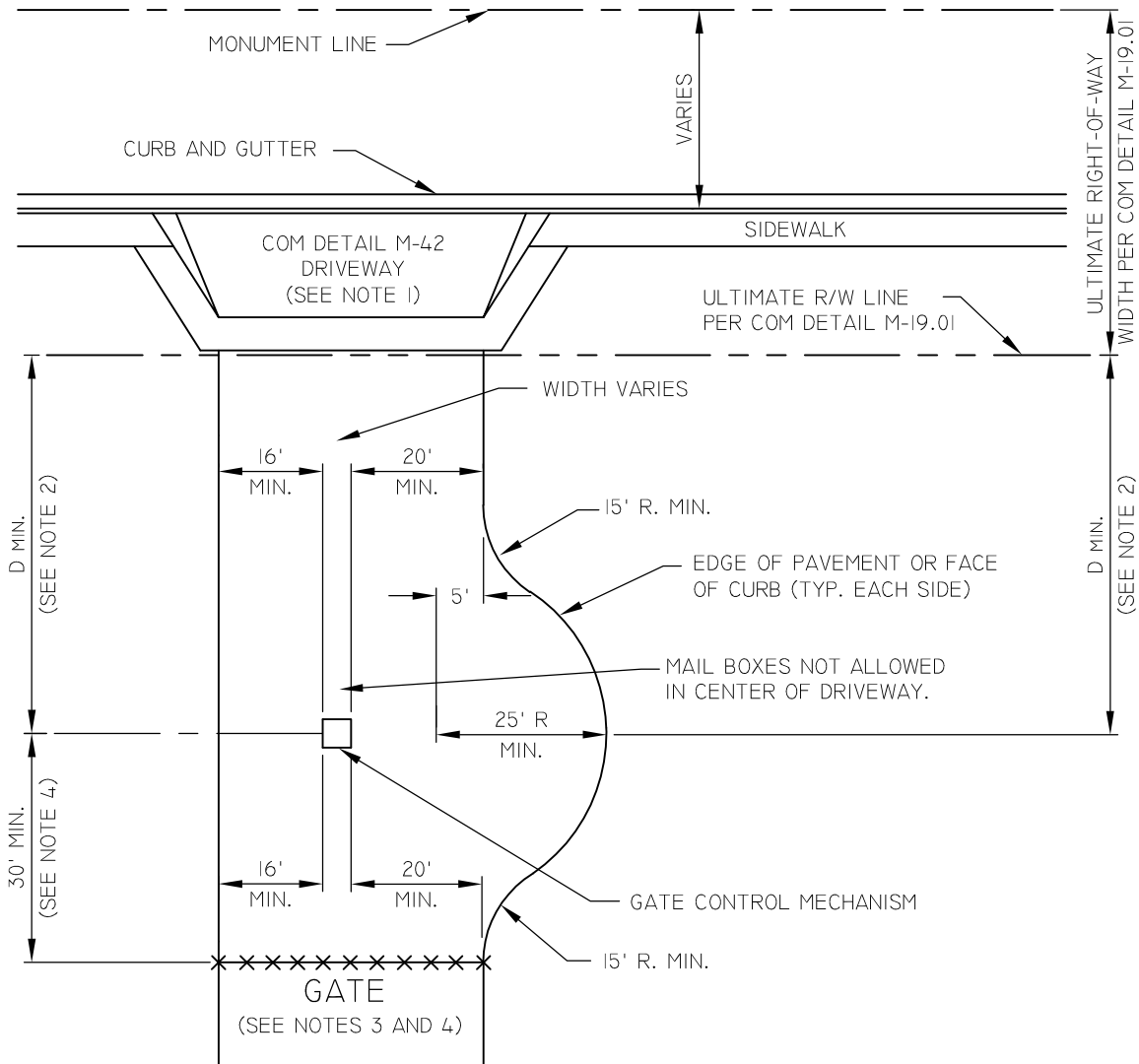
Mesa Standard Details & Specifications

Amendments to MAG Uniform Standard
Details & Specifications for
Public Works Construction



MESA STANDARD DETAILS
AVAILABLE ON-LINE
WWW.MESAAZ.GOV/ENGINEERING

EFFECTIVE DATE April 15, 2019

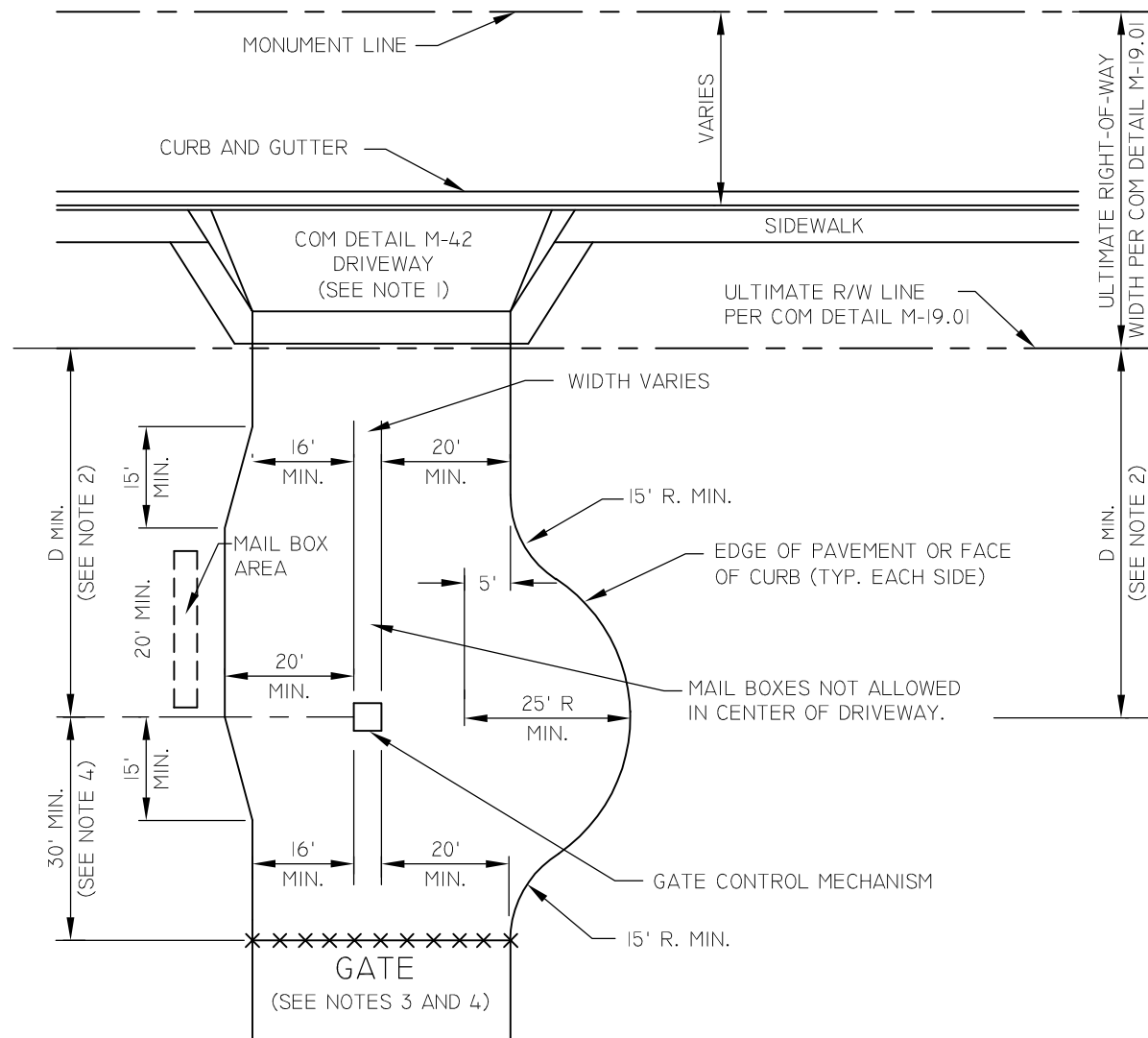


NOTES

1. DRIVEWAY PER COM DETAIL M-42. DOUBLE DRIVEWAY MAX. WIDTH = 60'.
2. D MIN. FROM ULTIMATE R/W LINE PER COM DETAIL M-19.01 TO CENTERLINE OF GATE CONTROL MECHANISM. D MIN. VARIES IN ACCORDANCE WITH THE TYPE OF DEVELOPMENT (RESIDENTIAL OR NON- RESIDENTIAL) AND THE NUMBER OF UNITS IN THE DEVELOPMENT AS SHOWN BELOW:

| RESIDENTIAL UNITS | D MIN. |
|-----------------------|--------|
| LESS THAN 25 | 20' |
| 25 TO 100 | 40' |
| 101 TO 150 | 60' |
| 151 TO 200 | 80' |
| GREATER THAN 200 | 100' |
| NON-RESIDENTIAL UNITS | D MIN. |
| ANY NUMBER OF UNITS | 60' |
3. GATE INSTALLED AT BEGINNING OF 15' RADIUS.
4. 30' MIN. DIMENSION FROM CENTERLINE OF GATE CONTROL MECHANISM TO FACE OF GATE.
5. WHERE EXISTING CONDITIONS DEEM IT NECESSARY TO REQUEST A DESIGN EXCEPTION OF THE GATED ACCESS, THIS STANDARD MAY BE MODIFIED BY THE TRAFFIC ENGINEER AND/OR CITY ENGINEER.

NOT TO SCALE



NOTES

1. DRIVEWAY PER COM DETAIL M-42. DOUBLE DRIVEWAY MAX. WIDTH = 60'.
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NOT TO SCALE



Background

The popularity of gated entrances for subdivisions, multi-family projects and parking lots is growing due to the perceived need for security. When gate-controlled access is used, turnarounds must be provided to ensure safe and efficient travel on adjacent streets.

Definition

Gate-controlled access is defined as any entrance to a site that is designed to regulate vehicular access. Ingress and egress may be regulated by an operational guard station, with or without gates, or through a gate that is operated by an electronically controlled device activated by a card reader, keypad, home owner remote, a security service or any other means.

Requirements

1. The centerline of the controller device in the private street or driveway shall be 50' (minimum) from the extension of the face of curb of the public street. This will allow a two (2) car queue without obstructing adjacent street traffic.
2. Passenger vehicles denied access to the site for any reason shall be enabled to exit the Site with a single forward turning movement. This movement is not to conflict with other vehicles entering the site.
3. Service vehicles denied access to the site for any reason shall be enabled to exit the site by means of a multiple forward and backward turning movement. The first forward motion is to move the vehicle out of the path of any vehicle that may have queued behind it and allow the vehicle to pass, unhindered, into the site.
4. All turning movements shall be accomplished in front of the gate and beyond the keypad.
5. The mounting of 8 square feet of reflectors or reflective material shall be required on both faces of the vehicular gates. Lighting may be substituted for the reflective material if the lighting illuminates the entire gate area and is in full operation from dusk until dawn. It is important that the gate be visible from the adjacent public street at all times.
6. Gates may not be placed on public streets.
7. Fire Department approval will also be required for evaluation of emergency access.
8. While designing the entrance other issues to consider include:
 - a. Access required by vehicles and staff of the Solid Waste Division of Public Works
 - b. Mail delivery
 - c. Utility (meter reader) access
 - d. Effects on internal circulation
 - e. Effect on any existing Planning & Development Department stipulations
 - f. Impact on adjacent driveways
 - g. Other potentially detrimental effects in or around the site

Exceptions

1. If the entrance is a secondary access point or a primary access point located on a local street or a minor collector, the requirements for long wheelbase vehicles may be relaxed. However, the turnaround requirements for passenger vehicles will still apply. (See Figure 2).
2. If the entrance is a secondary access point and is designated as “residents only” or as exit only, the turnaround requirements may be waived. The “residents only” gates must be operated via remote access exclusively. If this entrance is located off of an arterial or collector, the gates shall be set back a minimum of 25’ from the extension of the curb face on the intersecting street. “Resident Only” or “Exit Only – Do Not Enter” signs shall be posted on the exterior face of the gate.
3. If the gates are to remain open from 6:00 am to 7:00 pm for residential projects, the turnaround requirements for entrances located on local streets and minor collectors only may be waived.
4. If the gates are to remain open during business hours for commercial projects, the turnaround requirements may be waived.
5. Access points with manned guard stations may have the turnaround requirements waived, if the guard allows unauthorized vehicles to enter the site in order to turn around.
6. If the keypad is located at least 200’ from the intersecting public street the requirements for long wheelbase vehicles may be waived provided there is some type of maneuvering area.
7. Secondary entrances to parking garages located on local streets may have the turnaround requirements waived.
8. Gates that are activated by any and all vehicles entering the site will not be required to provide turnarounds.
9. Other conditions or technology that allow smooth access operation and does not affect traffic flow may allow the turnaround requirements to be waived.

Exhibits

The following figures are examples of gate-controlled entrances that meet all of the previously described requirements. Figure 1 shows the standard arterial street access point. Figure 2 shows an entrance with the long wheelbase vehicle requirements relaxed. Applicants may suggest creative alternatives to these examples provided they meet all of the requirements outlined herein.

WISCONSIN ON THE MOVE PROJECT

[illegible]

W024-D1 BUL/DE/CHY b6 P086

| | | | | |
|------------|--|---|--|------------------|
| DETAIL NO. |  City of Phoenix STANDARD DETAIL | FIGURE 2 - LOCAL STREET GATE CONTROLLED ACCESS | APPROVED _____ AND EXPIRES _____ | DETAIL NO. _____ |
|------------|--|---|--|------------------|



ATTACHMENT D – TRIP GENERATION



Cottontail Run Road

Completed: GT 10/2/2020
Checked: TG 10/6/2020

Trip Generation Calculations

| 210 Single-Family Detached Housing | | | | | | | | | | | | | | | | | | | | | |
|------------------------------------|----------|-----|----------------|--------------------------|------|-------|------------------|------|-------|--------------------------|------|-------|---------|----|-----|--------------|----|-----|--------------|----|-----|
| Land Use | ITE Code | Qty | Unit | Weekday | | | AM Peak Hour | | | PM Peak Hour | | | Weekday | | | AM Peak Hour | | | PM Peak Hour | | |
| | | | | Rate | % In | % Out | Rate | % In | % Out | Rate | % In | % Out | Total | In | Out | Total | In | Out | Total | In | Out |
| Single-Family Detached Housing | 210 | 10 | Dwelling Units | 9.44 | 50% | 50% | 0.74 | 25% | 75% | 0.99 | 63% | 37% | 94 | 47 | 47 | 7 | 2 | 5 | 10 | 6 | 4 |
| Single-Family Detached Housing | 210 | 10 | Dwelling Units | 4.81 | 50% | 50% | 0.33 | 25% | 75% | 0.44 | 63% | 37% | 48 | 24 | 24 | 3 | 1 | 2 | 4 | 3 | 1 |
| Single-Family Detached Housing | 210 | 10 | Dwelling Units | 19.39 | 50% | 50% | 2.27 | 25% | 75% | 2.98 | 63% | 37% | 194 | 97 | 97 | 23 | 6 | 17 | 30 | 19 | 11 |
| Land Use | ITE Code | Qty | Unit | Weekday | | | AM Peak Hour | | | PM Peak Hour | | | Weekday | | | AM Peak Hour | | | PM Peak Hour | | |
| | | | | Equation | % In | % Out | Equation | % In | % Out | Equation | % In | % Out | Total | In | Out | Total | In | Out | Total | In | Out |
| Single-Family Detached Housing | 210 | 10 | Dwelling Units | $\ln(T)=0.92\ln(X)+2.71$ | 50% | 50% | $T=0.71(X)+4.80$ | 25% | 75% | $\ln(T)=0.96\ln(X)+0.20$ | 63% | 37% | 125 | 63 | 62 | 12 | 3 | 9 | 11 | 7 | 4 |
| | | | | | | | | | | | | | | | | | | | | | |
| Single-Family Detached Housing | | | | Standard Deviation | 2.10 | | 0.27 | | | 0.31 | | | | | | | | | | | |
| | | | | Number of Studies | 159 | | 173 | | | 190 | | | | | | | | | | | |
| | | | | Average Size | 264 | | 219 | | | 242 | | | | | | | | | | | |
| | | | | R ² | 0.95 | | 0.89 | | | 0.92 | | | | | | | | | | | |

Average

Minimum

Maximum

Equation

SPECIAL USE PERMIT GUIDELINES

TABLE OF CONTENTS

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| Country Club and Golf Course..... | 10 |
| Guardhouse, Gatehouse, and Access Control Gates..... | 12 |

Section 1 General Purpose

The following guidelines should not be construed as an ordinance. These guidelines are a result of joint discussions between the Town Planning Commission and Town Council to provide a generally-accepted vision of appropriate site, bulk, density, perimeter, parking, sign, lighting, and other related standards during the review of a new or amended Special Use Permit for a non-residential development in the Town of Paradise Valley. The nature of the request, the architecture of the development, the unique characteristics of the site, among other factors; may merit less or more restrictive standards as determined during a complete review of each individual request. It should be noted that meeting all the guidelines listed below does not obligate the Town to grant a Special Use Permit or amendment thereto. These guidelines supplement the regulations as set forth in Article XI, Additional Use Regulations and Special Uses, of the Town Zoning Ordinance.

Section 2 Lighting

The following lighting guidelines shall apply to all non-residential properties requiring a Special Use Permit.

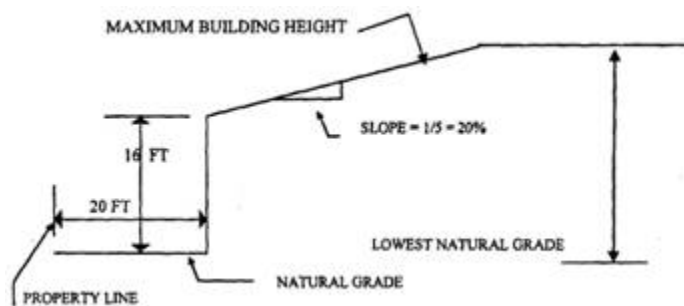
- a. Outdoor lighting shall be permitted so long as:
 - i. the light emitting element is shielded so that no beam of light extends above a horizontal plane placed at the lowest level of any exposed portion of the light emitting element; and
 - ii. the light emitting element and reflecting device of all lighting or illumination units is hooded or shielded so that it is not visible from any adjacent lot or real property; and
 - iii. such outdoor lighting or illuminating units do not direct light, either directly or through a reflecting device, upon any adjacent real property.
 - iv. uplighting shall be permitted so long as no Luminaire is greater than 300 Lumens.
- b. Outdoor pole lighting shall be permitted subject to the provisions of subsection A.8.a of this section so long as:
 1. the height of such lights or illumination does not exceed 16 feet measured from the natural ground level; and
 2. Each lighting or illuminating device shall be set back from the nearest property line a distance equal to or greater than the height of the device above natural ground level.

- c. Outdoor light levels, measured in foot candles or equivalent Lux in accordance with Illuminating Engineering Society of North America (IESNA) standards, shall not exceed the following levels in the locations specified:
 - i. parking lots – 1.6.
 - ii. entrance roadways, interior driveways and drop off areas – 5.0.
 - iii. adjacent to service buildings and loading docks – 5.0.
 - iv. in conjunction with architectural lighting adjacent to all other structures – 3.0.
 - v. outdoor pool decks and function areas – 5.0.
 - vi. outdoor dining areas – 10.0.
- d. No outdoor lighting shall be permitted within any setback area adjacent to a residential property unless:
 - i. the lighting measured at the property line does not exceed 0.5 foot candles; and
 - ii. all light emitting elements are less than three (3) feet in height.

Section 3 Open Space Criteria

The following Open Space Criteria shall apply to all non-residential properties requiring a Special Use Permit. To maintain view corridors around the perimeter of a property, building heights shall be limited around property lines. No building shall penetrate an imaginary plane beginning at 16 feet above the natural grade and 20 feet from exterior property lines, which plane slopes upward at a ratio of one foot vertically for each five feet horizontally measured perpendicular to the nearest property line, as illustrated in Figure 3-1. This limitation shall apply until the maximum allowable height is reached. All height measurements shall commence at the ground elevation at the 20-foot beginning line. Building height measurements shall be taken from the high points of the structure to the closest point on the 20-foot beginning line perpendicular to that portion of the structure. Notwithstanding the foregoing, no structure shall be located closer to an exterior property line than as otherwise permitted for that use.

Figure 3-1



Section 7 Country Club and Golf Course

1. Bulk and Density Standards

- a. Uses may be conducted indoors or outdoors.
- b. Structures associated with the facility shall not exceed one story or 24 feet in height
- c. Lot coverage of all structures on a site shall not exceed 20% excluding outdoor game courts and swimming pools, and shall not exceed 30% including outdoor game courts and swimming pools.
- d. Minimum site area - 5 acres
- e. To maintain view corridors around the perimeter of a property, building heights shall be limited around property lines in accordance with the Open Space Criteria per Section 3 of the Special Use Permit Guidelines.

2. Perimeter Standards

- a. No tee or hole within any golf course or driving range shall be closer than 100 feet from the principal structure on any residentially zoned land.
- b. No portion of any outdoor game court or swimming pool and decking shall be closer than 150 feet from the property line of any residential zoned land.
- c. Building setback when property is adjoining residentially zoned property – 40 feet.
- d. Building setback when property is adjoining a public street – 40 feet.
- e. Parking lots and internal driveways shall be set back a minimum of 60 feet from adjacent residentially zoned property.
- f. Parking lots shall be shielded with a minimum 3 foot high wall or a landscaped berm providing equivalent screening or a combination of both so that no vehicle lights shall shine onto adjacent residentially zoned property.
- g. Parking lots adjoining public streets shall be shielded by a minimum 3 foot high wall or landscaped berm providing equivalent screening or a combination of both.
- h. There shall be a 40 foot wide landscaped area adjacent to an exterior property line where it abuts residentially zoned property.
- i. There shall be a minimum 30 foot wide landscaped area where an exterior property line abuts a public or private local or collector street and a 50 foot wide landscaped area where an exterior property line abuts a Major or Minor Arterial.

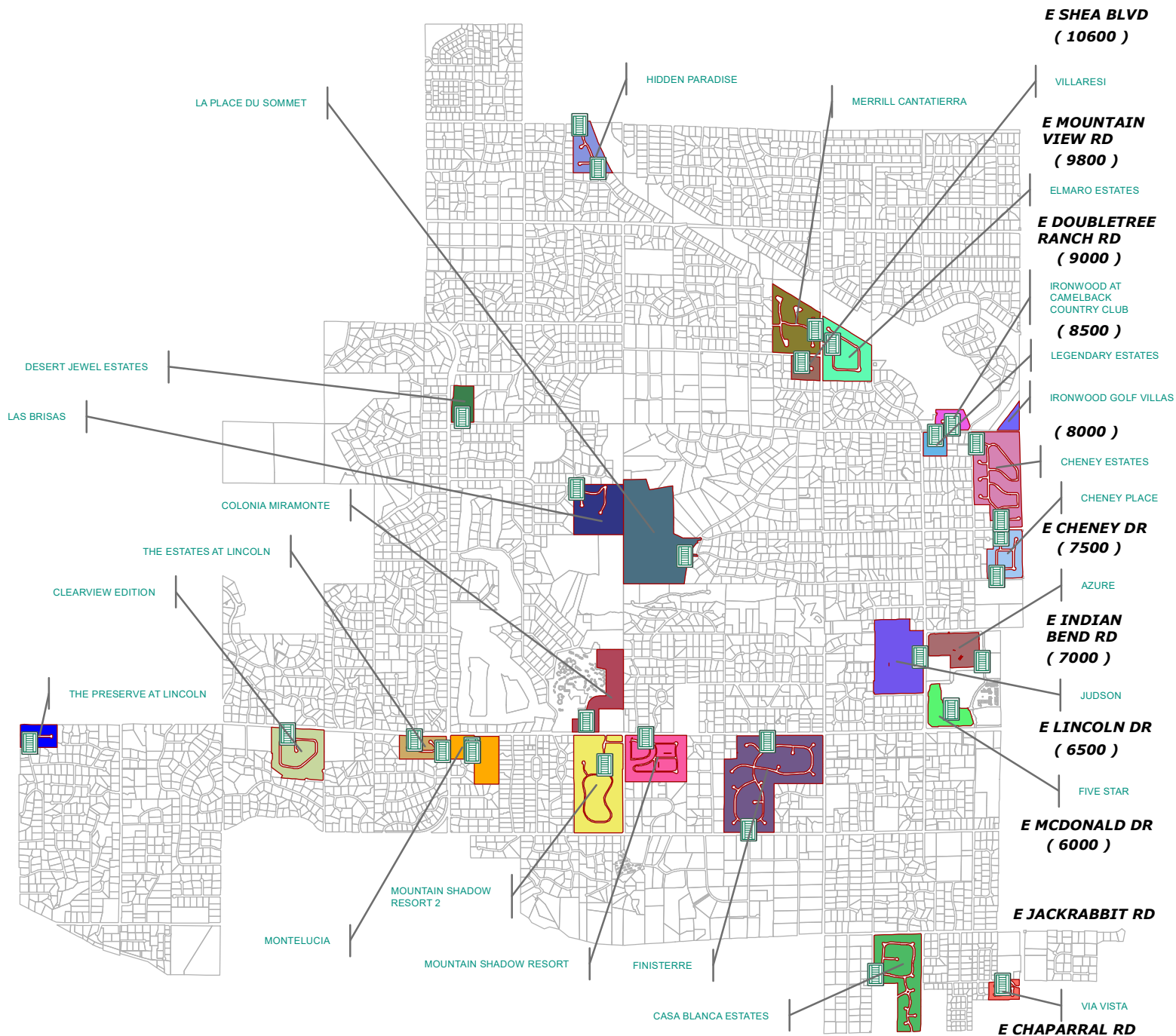
3. Parking

- a. On-site parking shall be provided as follows:
 - i. employees - 1 space per employee.
 - ii. per golf course hole - 2 spaces.

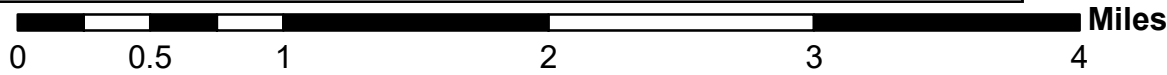


Town of Paradise Valley, AZ

Gated Communities Map



| | | | |
|--------------------------|----------------------|------------------------------------|--------------------------|
| Gated Communities | | | |
| AZURE | DESERT JEWEL ESTATES | IRONWOOD AT CAMELBACK COUNTRY CLUB | MERRILL CANTATIERRA |
| CASA BLANCA ESTATES | ELMARO ESTATES | IRONWOOD GOLF VILLAS | MONTELUCCIA |
| CHENEY ESTATES | ESTATES AT LINCOLN | JUDSON | MOUNTAIN SHADOW RESORT |
| CHENEY PLACE | FINISTERRE | LA PLACE DU SOMMET | MOUNTAIN SHADOW RESORT 2 |
| CLEARVIEW EDITION | FIVE STAR | LAS BRISAS | THE PRESERVE AT LINCOLN |
| COLONIA MIRAMONTE | HIDDEN PARADISE | LEGENDARY ESTATES | VIA VISTA |
| | | | VILLARES! |
| | | | Subdivision Gates |



CRITERIA TABLE
Cottontail Run Road Private Roadway Gate (SUP-21-02)

| CRITERIA | PROPOSED PRIVATE ROADWAY GATE |
|--|--|
| Bulk, Density & Design Standards (SUP Guidelines) | |
| Appearance architecturally and aesthetically compatible with adjacent buildings, structures, and landscaping | Complies. Subjective, but proposed materials have a Light Reflective Value (LRV) less than 38% to match the requirement of the hillside homes that will access the private roadway gate. The stone, landscaping, and architectural style is compatible to the adjoining Paradise Valley Country Club entry improvements. |
| Turnaround outside gate meeting Town standards for cul-de-sacs | Generally Complies. The paved area meets the cul-de-sac standard (Section 6-3-2.B of the Town Code) having a paved radius of 40 feet. However, this proposed 40-foot radius is less than the 45-foot right-of-way radius in the Town Code (but there is an additional 4 feet of turnaround in front of the proposed retaining wall for an emergency vehicle to safely turnaround in front of the gate). Secondary emergency turnaround access is provided after the gate. All gates require a key box for emergency access. Cul-de-sacs and other private roadway elements are typically in a private tract and not in an easement. However, the private roadway gate criteria are guidelines dependent on the specific request and Section 5-10-7.B of the Town Code allows easements when dedication renders the property in violation of Town zoning laws. |
| Gate setback minimum of 150 feet from centerline of nearest intersecting street | Complies. The proposed gate is 222 feet 8 inches from the centerline of Tatum Boulevard. In past private roadway gate requests, the preferred minimum standard is 150 feet from the back of curb to the gate. However, each request varies based on the number of homes accessing the gate, the traffic and design of the adjoining public road, and location of the call box which is 128 feet 7 inches from the back of curb along Tatum Boulevard. The submittal includes a traffic study. |
| Guardhouse/Gatehouse no higher than 16 feet and 250 square feet | Not applicable. There is no proposed guardhouse or gatehouse. This will be an unmanned access gate via keypad access. |
| Gate no higher than 8 feet | Generally Complies. The entry gate consists of two columns that are 7 feet 2 inches tall and two gates that are 8 feet tall to the structural support. However, the proposed gates include metal decorative scroll that makes the gate 10-foot tall. Gate height is measured from grade to the top of the finished portion of the gate. |
| Pedestrian and non-motorized vehicle access provided adjacent to the roadway access | Complies. The area north of the gate will remain open whereby someone can access as illustrated on the Conceptual Elevations. |

CRITERIA TABLE
Cottontail Run Road Private Roadway Gate (SUP-21-02)

| | |
|---|---|
| Signs (SUP Guidelines) | |
| One wall sign not to exceed 6 feet in height or 6 square feet | Not applicable. No signage is proposed |
| Ground signs not to exceed 4 feet in height or 2 square feet each | Generally Complies. 4 square-foot directional sign as shown on the conceptual elevation under 4-foot tall and a 1 square-foot informational sign on the call box mounted at approximately 5 feet for driver visibility. |
| Lighting (SUP Guidelines) | |
| Light emitting element must be shielded so that no light extends above a horizontal plane; be hooded and shielded, not direct light on adjacent property | Complies. There are 18 up lights proposed that will meet all Town lighting provisions in accordance with the applicant submittal. There are also two ornamental lights proposed on each gate column. Additional documentation is needed to verify full compliance with Town light standards. |
| Up lights 300 lumens or less | Complies. Proposed up lights at 200 to 300 lumens. |
| Outdoor pole lights maximum 16-foot tall and setback height of device | Not applicable. No pole fixtures proposed. |
| Lighting within residential setbacks limited to 0.5 foot candles at the property line and 3-foot maximum height | Complies. Lighting associated with the private roadway gate located on 7117 N Tatum Boulevard (area of the turnaround easement) is at ground level, directed away from the residential property line, less than 300 lumens, and under 3-foot tall. This criteria is not applicable to the up lights and two ornamental lights on the gate columns, being these are in the private roadway tract (but these lights comply with the lumen, height, and other Town requirements). |
| Retaining Walls (Section 2407, Zoning Ordinance) | |
| Only for containing fill material or for minimizing cut or fill slopes | Complies. Necessary to prevent erosion and contain fill to accommodate turnaround. |
| 6-foot maximum height | Complies. 4-foot maximum proposed |
| Finished materials such as stucco, brick, stone, metal, rails, wood, or tile | Complies. Stone-veneered with a color LRV similar to hillside since adjoining hillside. |
| Meet setback requirements of Section 2404, unless deemed necessary to prevent erosion | Complies. 20-foot setback for walls up to 6-foot tall for side yard along a right-of-way (at 4-foot tall, minimum 20-foot setback) and any setback when needed for erosion control. |
| Fence walls may be located on top of the retaining material provided view fences have a 5-foot separation (10-foot other wall types) & combined walls 8-foot tall (unless pool barrier) | Complies. The proposed turnaround requires that 76 lineal feet of the existing pool barrier be removed and replaced. The owner will replace the pool barrier with a 6-foot tall view fence separated 10 feet from the turnaround retaining wall. |

SUP-21-02
East Cottontail Run Road Private Roadway Gate

-Statement of Direction-
December 2, 2021 (November 18, 2021 Draft)

On October 11, 2021, the Jorden Law Firm, P.C., on behalf of Cottontail Run Road HOA, LLC, an Arizona limited liability company, and CLT 7117, LLC, an Arizona limited liability company, submitted a new Special Use Permit application for a private roadway gate on East Cottontail Run Road.

East Cottontail Run Road is a private roadway located immediately north of the Paradise Valley Country Club property, east of Tatum Boulevard and terminates in a small cul-du-sac. The roadway is owned by the owner of 4928 E. Cottontail Run Road and the other property owners with gate access have an ingress/egress easement over the private roadway. The private roadway serves a total of nine existing homes (10 potential).

Section 1102.3 of the Town's Zoning Ordinance states the Town Council must issue a Statement of Direction for the Special Use Permit application within 45 days of the first staff presentation (being the November 18, 2021 study session). In this case, the Statement of Direction must be issued on or before January 2, 2022.

The Statement of Direction is not a final decision of the Town Council and does not create any vested rights to the approval of a Special Use Permit. Any applicant for a Special Use Permit shall not rely upon the matters addressed in the Statement of Direction being the same as those that may be part of an approved Special Use Permit.

Therefore, the Town Council issues the following Statement of Direction for SUP-21-02:

- The General Plan discourages the installation of private roadway gates (General Plan Mobility Policy 4.4.1.2). Cottontail Run Road has existed without a private roadway gate for decades without much incidence. A private roadway gate may be justified to prevent wayward traffic from utilizing the private roadway in that East Cottontail Run Road adjoins Tatum Boulevard and it is a 20-foot wide paved road that provides access to several hillside homes with no access to other public streets.
- To ensure the improvements are compatible with the character of the Town and the Special Use Permit Guidelines, the Planning Commission should focus attention on the following:
 - Safe conditions related to vehicle stacking (particularly preventing impact onto Tatum Boulevard).
 - Ample turnaround area for emergency access and other vehicles.
 - Height, location, and design of all structures (i.e., retaining wall and gates) such that these are compatible with the surrounding area and nearby hillside properties.

- Landscaping that is drought tolerant, provides seasonal color, and will not negatively impact views from neighboring properties.
- Lighting that is the minimum needed for safety and security.
- The Planning Commission is expected to complete its review and hearing process within the 90 days from the approval of the Statement of Direction provided in Section 2-5-2.D.1 of the Town Code. The 90 day review period expires on **March 2, 2022**.

As per Section 1102.3.C.3.c of the Zoning Ordinance, at any time during the review process, the Planning Commission may request clarification and/or expansion of this Statement of Direction based on additional information that has evolved.

TOWN OF PARADISE VALLEY

5000 E Cottontail Run Rd

7117 N Tatum Blvd

**Private Roadway Gate Statement of Direction
Study Session**



Town Council
November 18, 2021

TODAY'S GOAL

2

**Discussion of Statement of Direction regarding a new
Special Use Permit (SUP-21-02) for a private roadway gate
on East Cottontail Run Road**



11/18/2021

STATEMENT OF DIRECTION PURPOSE

3

- Not a final decision of the Council
- Creates no vested right to the final action
- Provides general guidance to the Commission
 - Design (e.g. height, setbacks)
 - Procedural aspects (e.g. application timing)
 - Policy aspects preferred or discouraged (e.g. General Plan policy)
- Full merits reviewed in detail during the Commission
- Full review by the Council after Commission recommendation



11/18/2021



VICINITY MAP

4



PROCESS

5

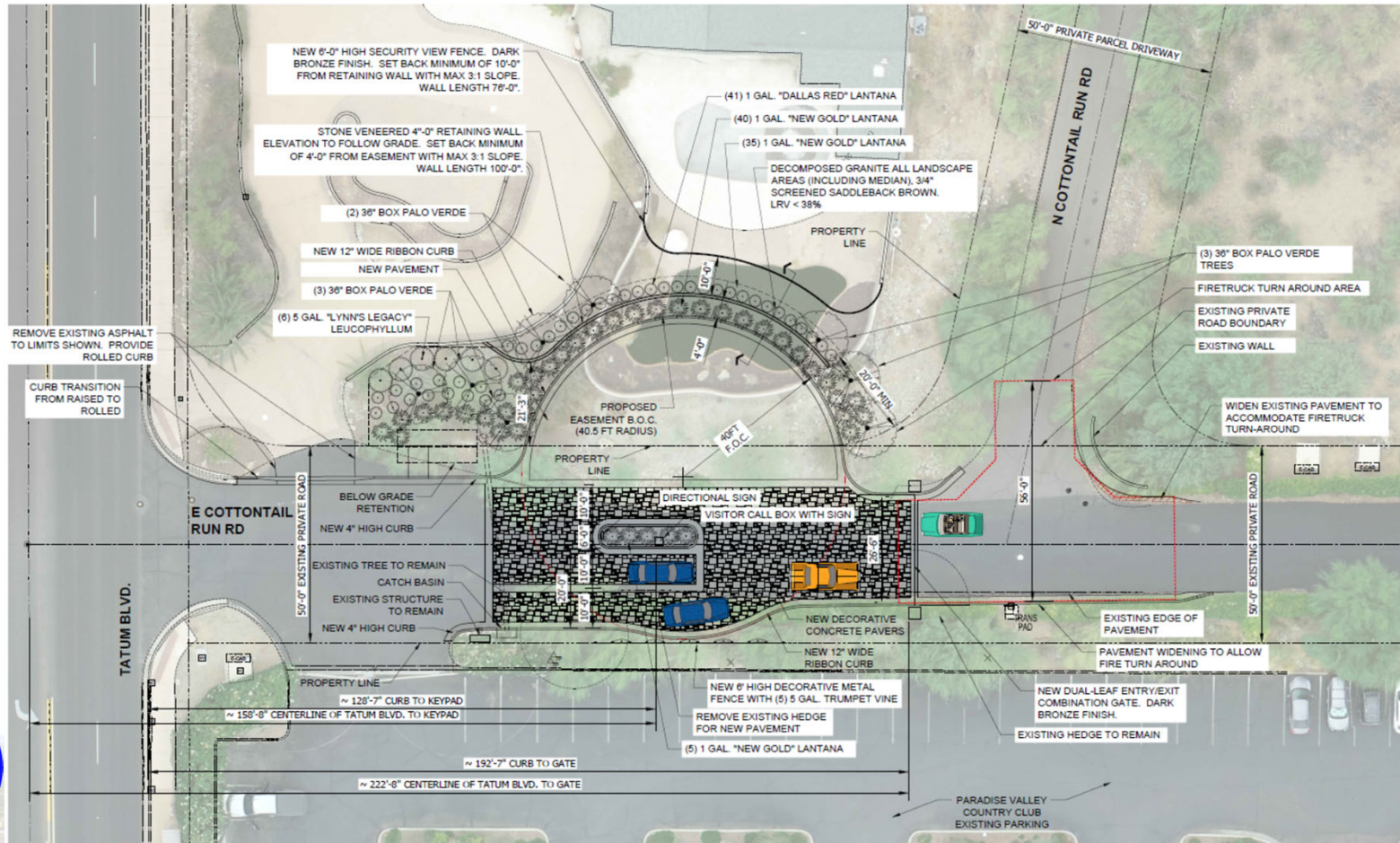
| Process Steps | Meetings | Timeline |
|---------------------------|--|---|
| Statement of Direction | Council study session(s) & action <i>[45 days from study session]</i> | November 18, 2021 December 2, 2021 [January 2, 2022 deadline] |
| Commission Review | Commission work session(s) | December – January (TBD) |
| Citizen Review Session | Applicant neighborhood meeting | January-February (TBD) |
| Commission Recommendation | Commission public hearing <i>Lesser 90 days from SOD or 150 days from filing]</i> | February (TBD) [March 2, 2022 deadline] |
| Council Review | Council work session(s) | March (TBD) |
| Council Action | Council public hearing | April (TBD) |



11/18/2021

CONCEPTUAL SITE PLAN

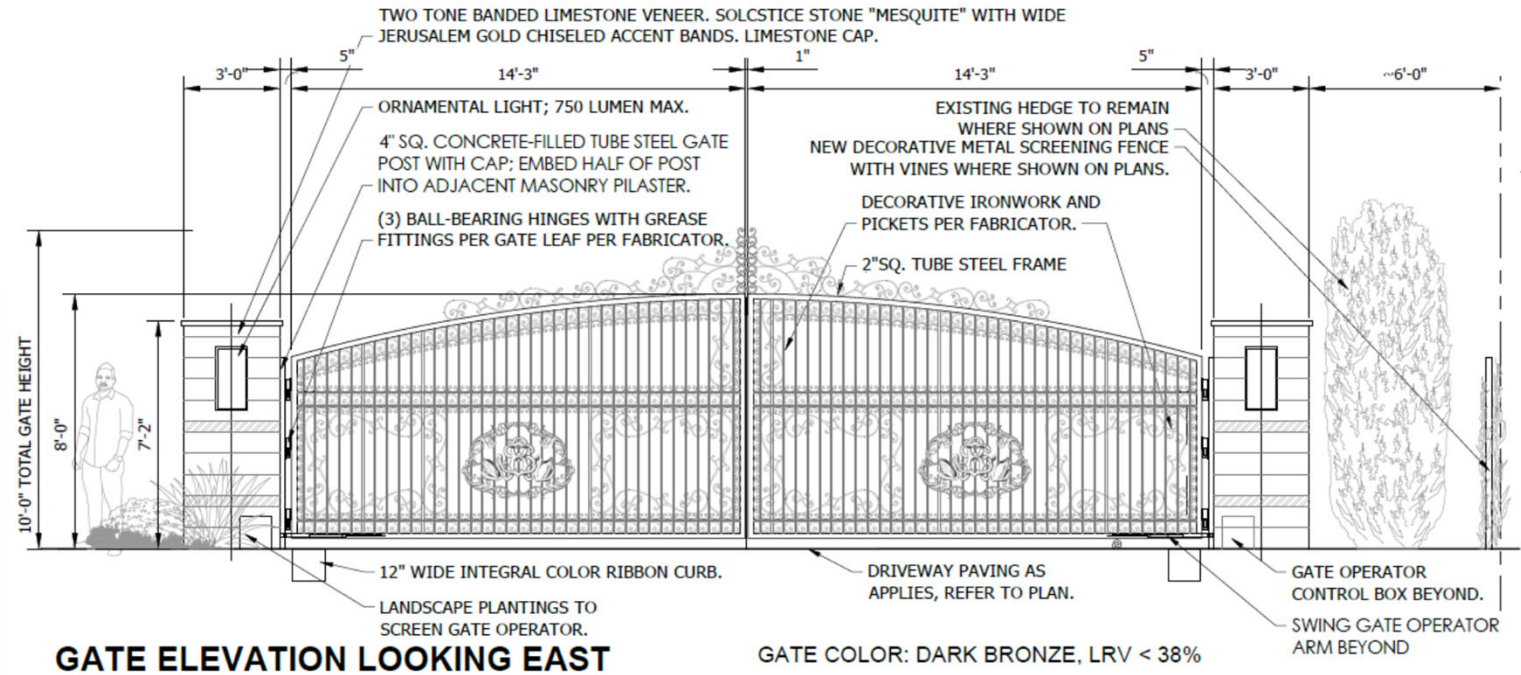
6



11/18/2021

CONCEPTUAL ELEVATIONS

7



11/18/2021

GATE DETAIL SUMMARY

8

*Planning Commission will review request in detail after Statement of Direction
Council will review details after Planning Commission
Refer to Criteria Table attachment*

Criteria Guidelines

- Turnaround 45' radius (right-of-way)*
- Turnaround 40' radius (paved area)
- Gate setback 150' to street centerline*
- Gate height 8' maximum
- Ground signs 2 square feet, 4' tall
- Up lights 300 lumens, shielded
- Retaining wall
 - 20' street side setback
 - 6' maximum height

Request

- 40' via an easement, 44' to wall
- 40'
- 222'8" (192'7" to Tatum curb)
- 8' to main support, 10' to scroll design
- Directional (4 sf, 3.5' tall), Call box (1 sf, 5' tall)
- Max 300 lumens
- 20' minimum
- 4'



* Traffic study to analysis vehicle stacking and other safety measures

11/18/2021

SITE PHOTOS

9

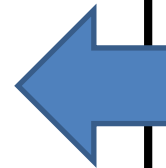


11/18/2021

DRAFT STATEMENT OF DIRECTION

10

- The General Plan discourages the installation of private roadway gates (General Plan Mobility Policy 4.4.1.2). Cottontail Run Road has existed without a private roadway gate for decades without much incidence. A private roadway gate may be justified to prevent wayward traffic from utilizing the private roadway in that East Cottontail Run Road adjoins Tatum Boulevard and it is a 20-foot wide paved road that provides access to several hillside homes with no access to other public streets.



SUP-21-02 East Cottontail Run Road Private Roadway Gate

-Statement of Direction- December 2, 2021 (November 18, 2021 Draft)

On October 11, 2021, the Jorden Law Firm, P.C., on behalf of Cottontail Run Road HOA, LLC, an Arizona limited liability company, and CLT 7117, LLC, an Arizona limited liability company, submitted a new Special Use Permit application for a private roadway gate on East Cottontail Run Road.

East Cottontail Run Road is a private roadway located immediately north of the Paradise Valley Country Club property, east of Tatum Boulevard and terminates in a small cul-de-sac. The roadway is owned by the owner of 4928 E. Cottontail Run Road and the other property owners with gate access have an ingress/egress easement over the private roadway. The private roadway serves a total of nine existing homes (10 potential).

Section 1102.3 of the Town's Zoning Ordinance states the Town Council must issue a Statement of Direction for the Special Use Permit application within 45 days of the first staff presentation (being the November 18, 2021 study session). In this case, the Statement of Direction must be issued on or before January 2, 2022.

The Statement of Direction is not a final decision of the Town Council and does not create any vested rights to the approval of a Special Use Permit. Any applicant for a Special Use Permit shall not rely upon the matters addressed in the Statement of Direction being the same as those that may be part of an approved Special Use Permit.

Therefore, the Town Council issues the following Statement of Direction for SUP-21-02:

- The General Plan discourages the installation of private roadway gates (General Plan Mobility Policy 4.4.1.2). Cottontail Run Road has existed without a private roadway gate for decades without much incidence. A private roadway gate may be justified to prevent wayward traffic from utilizing the private roadway in that East Cottontail Run Road adjoins Tatum Boulevard and it is a 20-foot wide paved road that provides access to several hillside homes with no access to other public streets.
- To ensure the improvements are compatible with the character of the Town and the Special Use Permit Guidelines, the Planning Commission should focus attention on the following:
 - Safe conditions related to vehicle stacking (particularly preventing impact onto Tatum Boulevard).
 - Ample turnaround area for emergency access and other vehicles.
 - Height, location, and design of all structures (i.e., retaining wall and gates) such that these are compatible with the surrounding area and nearby hillside properties.



11/18/2021

DRAFT STATEMENT OF DIRECTION

11

- To ensure the improvements are compatible with the character of the Town and the Special Use Permit Guidelines, the Planning Commission should focus attention on the following:
 - Safe conditions related to vehicle stacking (particularly preventing impact onto Tatum Boulevard).
 - Amble turnaround area for emergency access and other vehicles.
 - Height, location, and design of all structures (i.e., retaining wall and gates) such that these are compatible with the surrounding area and nearby hillside properties.



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Therefore, the Town Council issues the following Statement of Direction for SUP-21-02:

- The General Plan discourages the installation of private roadway gates (General Plan Mobility Policy 4.4.1.2). Cottontail Run Road has existed without a private roadway gate for decades without much incidence. A private roadway gate may be justified to prevent wayward traffic from utilizing the private roadway in that East Cottontail Run Road adjoins Tatum Boulevard and it is a 20-foot wide paved road that provides access to several hillside homes with no access to other public streets.
- To ensure the improvements are compatible with the character of the Town and the Special Use Permit Guidelines, the Planning Commission should focus attention on the following:
 - Safe conditions related to vehicle stacking (particularly preventing impact onto Tatum Boulevard).
 - Amble turnaround area for emergency access and other vehicles.
 - Height, location, and design of all structures (i.e., retaining wall and gates) such that these are compatible with the surrounding area and nearby hillside properties.

11/18/2021

DRAFT STATEMENT OF DIRECTION

12

- Landscaping that is drought tolerant, provides seasonal color, and will not negatively impact views from neighboring properties.
- Lighting that is the minimum needed for safety and security.
- The Planning Commission is expected to complete its review and hearing process within the 90 days from the approval of the Statement of Direction provided in Section 2-5-2.D.1 of the Town Code. The 90-day review period expires on **March 2, 2022**.

Statement of Direction
SUP-21-02
December 2, 2021 (November 18, 2021 Draft)
Page 2 of 2

- Landscaping that is drought tolerant, provides seasonal color, and will not negatively impact views from neighboring properties.
- Lighting that is the minimum needed for safety and security.

- The Planning Commission is expected to complete its review and hearing process within the 90 days from the approval of the Statement of Direction provided in Section 2-5-2.D.1 of the Town Code. The 90 day review period expires on **March 2, 2022**.

As per Section 1102.3.C.3.c of the Zoning Ordinance, at any time during the review process, the Planning Commission may request clarification and/or expansion of this Statement of Direction based on additional information that has evolved.

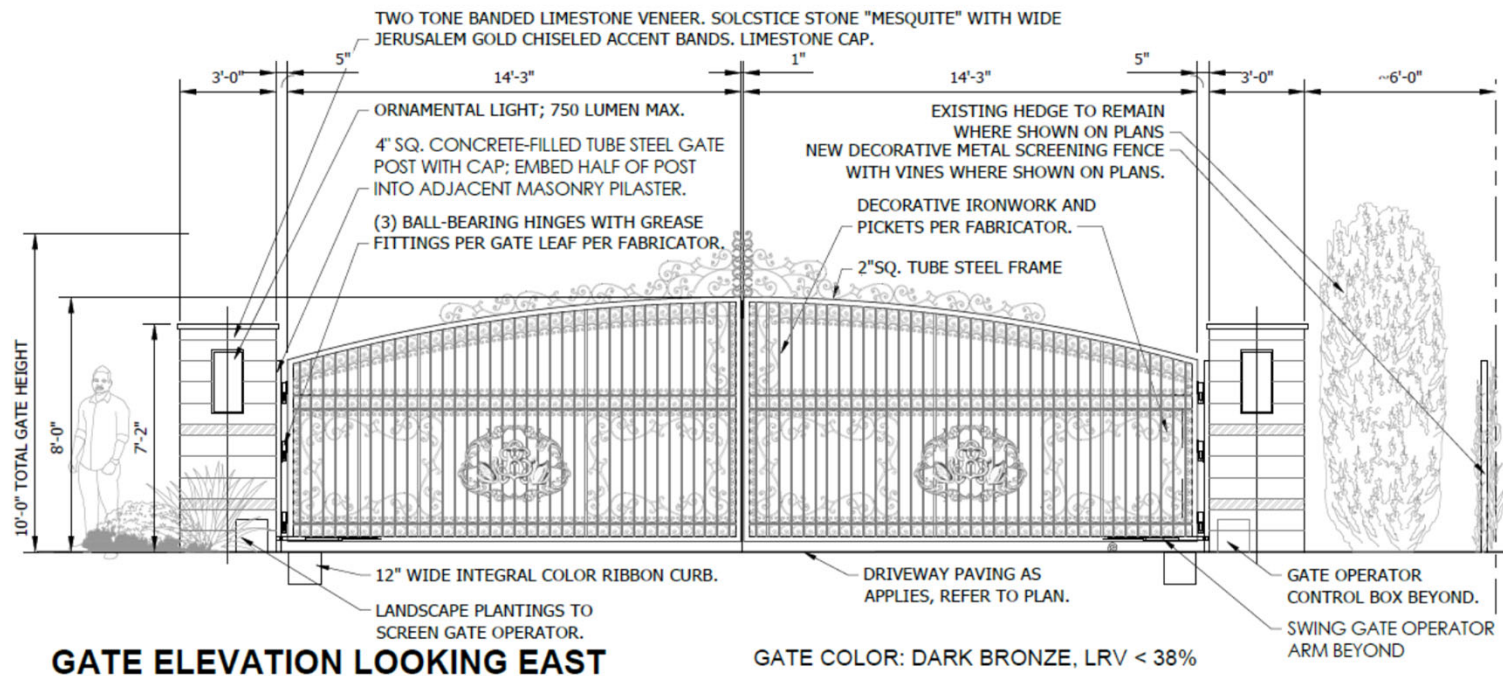


11/18/2021

NEXT STEPS

13

❑ Council SOD Action Dec 2nd



11/18/2021

14



11/18/2021

TODAY'S GOAL

15

Discussion of Statement of Direction regarding a new Special Use Permit (SUP-21-02) for a private roadway gate on East Cottontail Run Road



11/18/2021



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-368

AGENDA TITLE:

Discussion of Ordinance No. 2021-05, Paradise Valley Community Tree Ordinance

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager
Lisa Collins, Community Development Director
Brent Skoglund, Public Works Director
Andrew J. McGuire, Town Attorney

DATE: November 18, 2021

DEPARTMENT: Town Manager's Office
Jill Keimach, 480-348-3690

AGENDA TITLE:

Study Session regarding proposed Ordinance No. 2021-05, the Paradise Valley Community Tree Ordinance.

RECOMMENDATION:

Adopt Ordinance No. 2021-05, the Paradise Valley Community Tree Ordinance.

SUMMARY STATEMENT:

Staff has worked with the Arbor Day Foundation to pursue recognition of the Town as a "Tree City USA Community." The Tree City USA program recognizes cities and towns that have demonstrated a strong commitment to urban forestry and its benefits. According to the Arbor Day Foundation, trees absorb traffic noise, bring down neighborhood temperatures, reduce energy costs, increase property values, improve health outcomes, and absorb carbon dioxide. For these reasons, recognition as a "Tree City USA Community" could serve as a point of pride for Paradise Valley and further strengthen the comfortable residential character of the Town.

Previous Town actions to pursue Tree City USA recognition have included the adoption of Resolution Number 924 in 1997, which established a Landscaping and Beautification Special Revenue Fund. Resolution 924 does not satisfy the current qualification criteria for Tree City USA recognition, which include four standards:

1. Establish a Tree Board or designate a responsible Department;
2. Adopt a Tree Care Ordinance;
3. Document at least \$2 per capita on annual tree care expenditures; and
4. Observe Arbor Day.

The proposed Paradise Valley Community Tree Ordinance is adapted from a Model Ordinance provided by the Arbor Day Foundation, and would satisfy standards 1 and 2. Standard 1 is satisfied by the designation of the Public Works Director as the Town official responsible for public trees, and Standard 2 is satisfied by the Ordinance itself.

The proposed Ordinance also addresses Standard 3 by instructing the Public Works Director to document annual expenditures on tree care activities. Staff has determined that the Town already spends more than \$2 per capita on annual tree care. The calculation of 2020 tree care expenditures is attached to this report as an example.

Standard 4 is not addressed by the Ordinance, but is being addressed by Town Staff separately. Staff has developed a plan to observe Arbor Day without significant expenditure, through an Arbor Day observance that can coincide with another Town event. This is consistent with established Town practice.

Following the Study Session held on November 4, 2021, Public Works Director Skoglund provided written comments on the proposal, focusing on the current practices of his department. Director Skoglund reports that the Ordinance will not impose any additional responsibilities, duties, practices, or costs on the Public Works Department. He recommends continued participation in the Tree City USA program, and believes it is a point of pride for Public Works. He confirms that the proposed Ordinance will have the general effect of codifying existing practices at Public Works, rather than necessitating new practices.

BUDGETARY IMPACT:

1. The Community Tree Ordinance does not require additional spending.
2. The Community Tree Ordinance is not the only requirement for Tree City USA recognition. In addition to adoption of the Ordinance, the Town will have to show that it spends a minimum of \$2 per capita on “the planting, care, and removal of city trees – and the planning efforts to make those things happen.” Existing Town practices satisfy this requirement.

ATTACHMENTS:

- A. Staff Report
- B. Proposed Ordinance 2021-05
- C. 2020 Tree Care Expenditures
- D. November 4 Study Session Presentation
- E. Written Comments from Public Works

ORDINANCE NUMBER 2021-05

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA, AMENDING THE TOWN CODE TO ESTABLISH TREE PLANTING AND MAINTENANCE STANDARDS, AND TO EMPOWER THE PUBLIC WORKS DIRECTOR TO MANAGE TREE PLANTING AND MAINTENANCE ON PUBLIC PROPERTY, BY ADOPTING BY REFERENCE THE “PARADISE VALLEY COMMUNITY TREE ORDINANCE;” PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the proper planting and care of trees on public property is known to enhance the quality of life, as well as the present and future health, safety, and welfare of all citizens; and

WHEREAS, trees on public property require the attention of a knowledgeable Town official, who should also be empowered to respond when trees on private property create a risk to health, safety, or other trees; and

WHEREAS, it is appropriate for the Town to adopt official standards for tree planting and care to govern all public or community trees within the Town.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Paradise Valley, Arizona, as follows:

Section 1. The recitals above are hereby incorporated as if fully set forth herein.

Section 2. That certain document known as the “Town of Paradise Valley Community Tree Ordinance,” of which one paper copy and one electronic copy are maintained, in compliance with A.R.S. § 44-7041, on file in the office of the Town Clerk as required by A.R.S. § 9-802, and available for public use and inspection during normal business hours, is hereby declared to be a public record, which is hereby referred to, adopted, and made a part hereof as if fully set forth herein, and said copies thereof are hereby ordered to remain on file with the Town Clerk.

Section 3. A violation of this ordinance shall be punishable as a misdemeanor, and shall also constitute a civil offense, pursuant to Sections 1-9-1 and 1-9-2 of the Town Code.

Section 4. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this ordinance.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this ordinance or any part of the amendments to the Town Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Town Council of the Town of Paradise Valley this _____ day of _____ 2021.

Jerry Bien-Willner, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew McGuire, Town Attorney

Town of Paradise Valley Community Tree Ordinance

Section 1. Chapter 8, Safety, Health, Sanitation and Nuisance is hereby amended to include a new Article 8-12, Community Trees, to read as follows:

Article 8-12 Community Trees

| | |
|--------|---|
| 8-12-1 | Purpose |
| 8-12-1 | Definitions |
| 8-12-3 | Responsibility and Authority for Public Trees |
| 8-12-4 | Tree Planting and Care Standards |
| 8-12-5 | Prohibition Against Harming Public Trees |
| 8-12-6 | Adjacent Owner Responsibility |
| 8-12-7 | Certain Trees Declared a Nuisance |
| 8-12-8 | Violations and Penalty |

Section 8-12-1 Purpose

The purposes of this Article are to enhance the quality of life and the present and future health, safety, and welfare of all citizens, to enhance property values, and to ensure proper planting and care of trees on public property, by delegating the authority and responsibility for managing trees on public property, establishing practices governing the planting and care of trees on public property, and making provision for the emergency removal of trees on private property under certain conditions.

Section 8-12-2 Definitions

The following definitions shall apply to this Article:

“Damage” means any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

“Director” means the Public Works Director and/or his/her designee.

“Nuisance Tree” means any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety or welfare.

“Public Property” means all grounds and rights-of-way owned or maintained by the Town.

“Public Tree” means any tree or woody vegetation on Town-owned or Town-maintained property or rights-of-way.

“Top” or “Topping” means the non-standard practice of cutting back limbs to stubs within a tree’s crown to such a degree as to remove the normal canopy and disfigure the tree.

Section 8-12-3 Authority and Responsibility for Public Trees

- A. The Director shall have full authority and responsibility to cause the planting, pruning, maintaining and removing of trees and woody plants growing in or upon all municipal streets, rights-of-way, Town parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease. The Director shall develop and implement an appropriate procedure to document annual tree care activities by the Town.
- B. All Town departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Article as it relates to streets, alleys, rights-of-way, drainage, easements and any public properties not under direct jurisdiction of the Director.
- C. No person shall hinder, prevent, delay, or interfere with the Director or his/her agents while engaged in carrying out the execution or enforcement of this Article.

Section 8-12-4 Tree Planting and Care Standards

- A. All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 “Standards for Tree Care Operations” and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- B. The Director shall develop and maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Only trees from this list may be planted on public property without written approval from the Director.
- C. The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards. Only trees listed as Ornamental trees on the official Town tree species list may be planted under or within fifteen (15) lateral feet of any overhead utility wire.
- D. The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within ten (10) feet of a fire hydrant.
- E. Any person, firm, corporation, or Town department performing construction near any

public tree must employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent damage.

Section 8-12-5 Prohibition against harming public trees

- A. It shall be unlawful for any person, firm or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.
- B. It shall be unlawful for any person, firm or corporation to attach any cable, wire or signs or any other object to any public tree.
- C. It shall be unlawful for any person, firm or corporation to “top” any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical, may be exempted from this provision at the determination of the Director.

Section 8-12-6 Adjacent Owner Responsibility

- A. The owner of land adjacent to any Town street or highway, when acting within the provisions of this Article and subject to the prior approval of the Director, may plant and maintain trees in the area between the property line and the curb, and to the pavement where no curb exists, in compliance with standards and restrictions established pursuant to Section 8-12-4 of the Town Code. Property owners are responsible for the reasonable and routine maintenance of trees and other landscaping in the area between the property line and the curb, and to the pavement where no curb exists.
- B. Pursuant to Section 8-1-13 of the Town Code no property owner shall allow a tree, or other plant growing on his or her property or in the area between the property line and the curb, and to the pavement where no curb exists, to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the Town may undertake the necessary work and charge the cost to the property owner, pursuant to the provisions of Sections 8-5-2 or 8-6-12 of the Town Code, at the discretion of the Town.

Section 8-12-7 Certain Trees Declared a Nuisance

- A. Any tree, or limb thereof, on public or private property, which is determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or to threaten public health, safety, or welfare is declared a nuisance and the Town may require its treatment or removal pursuant to the provisions of Section 8-5-2 of the Town Code.
- B. Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The Town may remove such trees at the owner’s expense if the

owner does not comply with treatment and/or removal, pursuant to the provisions of Section 8-5-2 of the Town Code.

Section 8-12-8 Violations and Penalty

A violation of any provision of this Article shall be punishable as a misdemeanor, and shall also constitute a civil offense, Pursuant to Sections 1-9-1 and 1-9-2 of the Town Code.

Tree City USA Application Expenditures 2020

| Activity | Amount Spent |
|---|---------------------|
| Tree Planting | |
| 50 ea. trees were planted on Lincoln medians due to re-construction of medians. | \$ 31,122.00 |
| Equipment installed on Lincoln medians improvements to provide irrigation. | \$ 122,993.00 |
| 13 ea. trees were planted on medians and R.O.W.s to replace failed trees. | \$ 1,885.00 |
| | |
| Tree removals account for 6 at the Lincoln medians due to re-construction of medians. | \$ 2,475.00 |
| Also 16 other trees removed from medians or R.O.W. due to storm or pest damage. | \$ 1,600.00 |
| | |
| Biomass recycling | \$ 1,000.00 |
| Tree Maintenance (Labor Hours) | \$ 100,000.00 |
| Pruning Equipment purchases/repairs | \$ 1,000.00 |
| Irrigation Repairs | \$ 6,741.00 |
| Irrigation costs | \$ 22,000.00 |
| Tree fertilization, materials | \$ 300.00 |
| Education | \$ 55.00 |

Total

\$ 291,171.00



Paradise Valley Community Tree Ordinance:

Adapted from the Tree City USA Model Ordinance

Tree City USA

Four “Standards” for a Tree City USA Community

- **Tree Board or Department**
 - “Someone must be legally responsible for the care of all trees on town-owned property”
- **Tree Care Ordinance**
 - Establish the tree department and delegate public tree care authority
 - Assign the task of documenting tree care expenses
 - Set standards for tree care and management
- **\$2 per capita on public trees**
 - Planting, care, and removal of public trees
- **Arbor Day Observance and Proclamation**

Model Ordinance

Provisions removed

- **Special Tree Care Appeals Process**
 - Would conflict with existing nuisance and criminal appeal provisions
- **Repeal of Conflicting Ordinances**
 - Would have the effect of elevating tree care provisions over existing code

Model Ordinance

Provisions amended

- **Language harmonized with existing code**
 - Example: “Parkway” definition was removed as inconsistent with existing Town Code
- **New provisions tied to existing code**
 - Example: Nuisance tree abatement tied to existing Town Code § 8-5-2 and 8-16-12

Community Tree Ordinance

Impact of Ordinance

- **Codified responsibilities for Public Works**
 - Maintaining all trees on public property
 - Identifying diseased or other nuisance trees
 - Authorizing any exceptions from tree rules
 - Documenting tree care expenditures
 - Establishing official spacing requirements
 - Establishing a list of trees for public property:
 - Category 1: Ornamental (less than 20 feet)
 - Category 2: Shade (greater than 20 feet)

Community Tree Ordinance

Impact of Ordinance

- **Codified rules related to damaging public trees**
 - No “topping,” or cutting the crown back to stubs
 - No surrounding with pavers
 - No attaching cables, wires, or signs
 - Must take steps to protect trees during construction

Community Tree Ordinance

Impact of Ordinance

- **Codified standards for public tree management**
 - American National Standards Institute ANSI A-300 “Standards for Tree Care Operations”
 - International Society of Arboriculture “Best Management Practices”

Community Tree Ordinance

Impact of Ordinance

- **Emphasizes or clarifies existing rules when applied to trees**
 - Example: Prohibition of dead/dying/diseased trees (*see* Town Code § 8-6-1 and 8-6-2)
 - Example: Responsibility for area between property line and curb (*see* Town Code § 8-1-1 and 8-1-13)

Example: Nuisance Trees

Existing Code (will not change)

- **Town Code § 8-1-9:** It is unlawful for any person to maintain or allow any tree, hedge, billboard, or other obstruction which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- **Town Code § 8-4-1:** Nuisances include conditions that “contribute to or cause injury or endangerment to the Health, safety or welfare of others.”
- **Town Code § 8-6-2:** Considered public nuisance:
 - (G) To cause or permit any object, debris, building, tree, bush or landscaping to interfere with, obstruct, tend to obstruct, or render dangerous the free passage, use or vision in the customary manner of any sidewalk, street, or right of way or in violation of the Town Code.
 - (H) To cause or permit any vegetation or landscaping, that is visible from public property, that is substantially dead or damaged, characterized by uncontrolled growth or lack of maintenance, or any other deteriorated condition.

Example: Nuisance Trees

Proposed Additional Code § 8-12-7

- Any tree, or limb thereof, on public or private property, which is determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or to threaten public health, safety, or welfare is declared a nuisance

Response From Public Works

Response to November 4 Presentation

- After reviewing the proposed Ordinance, and the information presented on November 4, 2021, Public Works Director Skoglund was not able to identify any responsibility, duty, or practice that Public Works has not already undertaken. He was also not able to identify any increase in cost or staffing that would be necessitated by adoption of the Community Tree Ordinance.

Questions?

Re: Study Session regarding proposed Ordinance No. 2021-05, The Paradise Valley Community Tree Ordinance.

I have reviewed the Staff Report, and the PowerPoint Presentation, that was presented to the Town Council on November 4, 2021, regarding the proposed Ordinance No. 2021-05, The Paradise Valley Community Tree Ordinance. My notes below follow the presentation and address current Public Works practices and responsibilities in relation to the *Four Standards for a Tree City USA Community* and the *Impact of the Ordinance* slides.

After reviewing the information, I did not identify any new responsibilities, duties, or practices that Public Works is currently not performing. I also do not see any increase in costs or staffing for Public Works that would be associated with adopting the proposed Paradise Valley Community Tree Ordinance. It is my recommendation that the Town continues to participate in the Tree City USA program, as we have for approximately the last 25 years, and adopt the new ordinance because it shows a commitment to the environment, it is a source of pride for the Public Works department staff and includes the best practices that we currently follow.



Tree City USA

Four “Standards” for a Tree City USA Community

- **Tree Board or Department**
 - “Someone must be legally responsible for the care of all trees on town-owned property”
- **Tree Care Ordinance**
 - Establish the tree department and delegate public tree care authority
 - Assign the task of documenting tree care expenses
 - Set standards for tree care and management
- **\$2 per capita on public trees**
 - Planting, care, and removal of public trees
- **Arbor Day Observance and Proclamation**

Four Standards for a Tree City USA Community:

- **Standard 1: Establish a Tree Board or designate a Department**

The Public Works Director currently has full authority and responsibility over all vegetation, including trees, on public property in the Town. The designation of the Public Works Director, with the assistance of the Town Superintendent and Town Certified Arborist, as the responsible department would satisfy Tree City Standard 1 with no additional duties or responsibilities added to the Public Works department.
- **Standard 2: Adopt a Tree Care Ordinance**

I have reviewed the proposed Town of Paradise Valley Community Tree Ordinance detailed in the November 4, 2021, Staff Report, and found no additional responsibilities or changes to existing tree and planting standards, practices, and procedures in the Public Works Department except for one area. Regarding, proposed section 8-12-6 Adjacent Owner Responsibility, Section B, of the proposed

new Article 8-12, I propose that the language should read “the Director, or designee (which would be the Code Compliance Officer) shall notify the property owner” so the Code Compliance Officer can issue a notice of violation if necessary.

- **Standard 3: Document at least \$2 per capita on annual tree care expenditures**

The Public Works Department all landscaping, vegetation, and irrigation costs annually and uses this information to create the Tree City USA Annual Expenditures Report every year. The Town has consistently exceeded the \$2 per capita minimum Tree City USA requirement on tree care, maintenance, irrigation, and management.

- **Standard 4: Arbor Day Observance and Proclamation**

The Town has been observing Arbor Day every year, except for 2020 and 2021 due to the COVID-19 pandemic, with a proclamation by the Mayor and a tree planting ceremony with the Town Council.

Community Tree Ordinance

Impact of Ordinance

- **New responsibilities for Public Works**
 - Maintaining all trees on public property
 - Identifying diseased or other nuisance trees
 - Authorizing any exceptions from tree rules
 - Documenting tree care expenditures
 - Establishing official spacing requirements
 - Establishing a list of trees for public property:
 - Category 1: Ornamental (less than 20 feet)
 - Category 2: Shade (greater than 20 feet)

Impact of Ordinance

To clarify, there are no new responsibilities for Public Works with the proposed ordinance. Public Works has always been responsible for:

- **Maintaining all trees on Public Property**

Public Works is responsible for all the vegetation, including trees, on Town public property.

- **Identifying diseased or other nuisance trees**

Public Works continuously identifies trees and vegetation that require treatment, removal or cause a nuisance and takes the appropriate actions, which may include reporting the nuisance to the Code Compliance Officer.

- **Authorizing any exceptions from tree rules**

The Public Works Director and designee would follow Town Code and Town of Paradise Valley Landscaping Guidelines when making decisions about trees.

- **Documenting Tree Care expenses**

Expenses are documented and reported in the Tree City USA Application each year.

- **Establishing official spacing requirements**

Typically, trees are spaced out in consideration of the tree species and mature potential growth not to overcrowd or have interference with one another in accordance with the Town of Paradise Valley Landscaping Guidelines.

- **Establishing a list of trees for Public property**

- Category 1: Ornamental (less than 20 feet)
- Category 2: Shade (greater than 20feet)

There is an established list of trees, and spacing requirements, included in the Town of Paradise Valley Landscaping Guidelines, established in 1996.

Community Tree Ordinance

Impact of Ordinance

- **Explicit rules related to damaging public trees**
 - No “topping,” or cutting the crown back to stubs
 - No surrounding with pavers
 - No attaching cables, wires, or signs
 - Must take steps to protect trees during construction

Regarding the explicit rules related to damaging public trees in the presentation:

- **No “topping,” or cutting the crown back to stubs.**

Trees are not topped, nor is the crown reduced to stubs. Trees are trimmed and pruned to allow proper growth of trees and to maintain safe clearance of traffic lanes and pedestrian paths.

- **No surrounding with pavers**

Generally, tree trunks are not surrounded by pavers, concrete or metal plates that prevent trunk growth and root development.

- **No attaching cables, wires, or signs**

Trees are not used in any scenario to hold signs, nor are wires and cables attached to a tree. At times, tree staking is used to anchor, support, and protect newly planted trees until the tree can stand on its own.

- **Must take steps to protect trees during construction**

Public Works takes the proper steps to protect, or relocate, trees during construction projects.



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-371

AGENDA TITLE:

Paradise Valley, 2022 General Plan - Update

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager
Lisa Collins, Community Development Director
Paul Michaud, Planning Manager
Loras Rauch, Special Projects Planner

DATE: November 18, 2021

AGENDA TITLE:
Paradise Valley 2022 General Plan - Update

UPDATE:

The Town released the 60-Day Public Review Draft of the 2022 General Plan on November 1, 2021 and will be taking additional public comments and holding a public workshop both in-person and virtually.

On November 17th an in-person open house style meeting, following CDC guidelines, was held outside at Town Hall. That evening, an alternative virtual workshop was held. Both meeting options provided a review of the 60-Day Public Review Draft of the General Plan and allowed residents to have further input on the final General Plan document. The 60-Day Public Review Draft Plan is available for viewing and/or download from the project website (www.pvtogether2022.com) from November 1st through December 31st.

NEXT STEPS:

The 60-Day Review Plan was also:

- Uploaded to the project website on November 1st for residents to review
- Summarized in the *Town Reporter* and mailed to all residents

TIMELINE/PROJECT SCHEDULE:

Opportunities for the public to comment will continue throughout, up to and including, at the public hearings during February and March 2022. Below is a more comprehensive timeline of future dates.

November/December:

- November 1, 2021 – December 31, 2021: 60-Day Review Period
- November 17, 2021: Community Workshop #2

January:

- January 4, 2022: Planning Commission Work Session
- January 13, 2022: Town Council Work Session

February:

- February 2022: Planning Commission Public Hearing (Recommendation)

March:

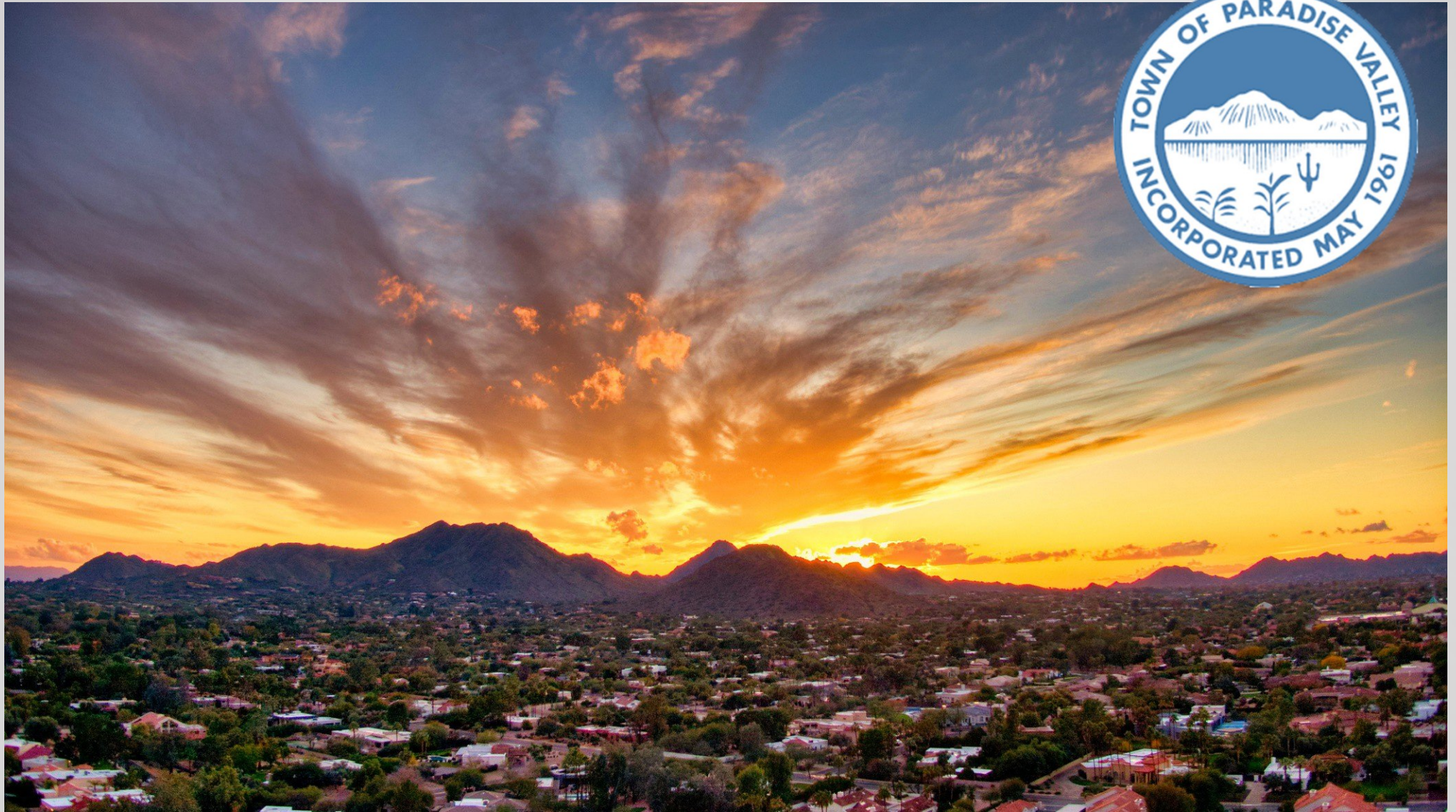
- March 2022: Town Council Public Hearing (Adoption)

August:

- August 2022: Primary Election (Voter Ratification)

ATTACHMENT(S):

- A. Staff Report
- B. Project Team Presentation



Paradise Valley, Together

2022 GENERAL PLAN

Town Council Work Session – November 18, 2021

GOALS FOR TODAY

**Update on Paradise Valley
2022 General Plan**

Upcoming schedule of events

GENERAL PLAN SCHEDULE

- 60-day review of General Plan 2022 DRAFT document November 1 – December 31
- Town Report – dedicated to the General Plan - delivered to every Paradise Valley residence
- Car Show – November 13 - staff provided information on the 60-day DRAFT
- Community Open House/Workshop held on November 17
- General Plan 2022 DRAFT document on-line

GENERAL PLAN SCHEDULE

2022

January

Complete 60-Day Review - Edits

- January 1, 2022 – January 31, 2022

Planning Commission - Work Session

- January 4, 2022

Town Council - Work Session

- January 13, 2022

February

Planning Commission

Recommendation

- February 1, 2022

March

Council Adoption

- March 10, 2022

April

Election Notification Period:

Begin 120-Day notification period

- April 4, 2022

August

Primary Election

(Voter Ratification)



Action Report

File #: 21-372

AGENDA TITLE:

Discussion of Amendments to the Paradise Valley Town Code Regarding Nuisances, Unruly Gatherings, Non-Compliant Short-Term Rentals, and the Peace, Health, Safety, and Welfare of the General Public

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager
Andrew J. McGuire, Town Attorney

DATE: November 18, 2021

DEPARTMENT: Town Attorney's Office
Andrew McGuire, 602-257-7664

AGENDA TITLE:

Discussion of Amendments to the Paradise Valley Town Code Regarding Nuisances, Unruly Gatherings, Non-Compliant Short-Term Rentals, and the Peace, Health, Safety, and Welfare of the General Public.

SUMMARY STATEMENT:

A.R.S. § 9-500.39 continues to severely limit Arizona municipalities' authority to regulate short-term rentals (STRs). However, within the statutory constraints, there are certain limited enforcement methods available. Accordingly, staff and the legal team have worked together on several proposed Code amendments focused on addressing nuisances, unruly gatherings, non-compliant STRs, and the peace, health, safety, and welfare of the general public. Among other things, the proposed Code amendment:

- Expands the definition of "special events" to capture problem activities.
- Requires certain disclosure in online advertisements, such as in-person check-in requirements, and that renters may also be sanctioned for violating the Code.
- Requires heightened health & safety compliance.
- Expands existing noise regulations to capture nuisance issues.
- Requires owner's in-person complaint response within one hour when police on property.
- Makes emergency contact numbers publicly available.

ATTACHMENTS:

- A. Staff Report
- B. Presentation
- C. Proposed Code Amendments



Paradise Valley Council Study Session

Proposed Code Changes

November 18, 2021

Goals for Today

Feedback from Council and Community on
draft proposed code changes

Today's Outline

- State Law
- Real Life Occurrences
- What We Have on the Books
- Recommended Changes

**Limited Local Authority to
Regulate Short-Term Rentals as
Explicitly Authorized by Arizona
State Law (§9-500.39)**

Arizona Revised Statutes, §9-500.39

- A. A city or town may not prohibit vacation rentals or short-term rentals.
- B. A city or town may not restrict the use of or regulate vacation rentals or short-term rentals based on their classification, use or occupancy except as provided in this section. **A city or town may regulate vacation rentals or short-term rentals** for the following purposes:

Arizona Revised Statutes, §9-500.39

- B. A city or town may not restrict...except as provided in this section. A city or town **may regulate** vacation rentals or short-term rentals for the following purposes:
1. Protecting the **public's health and safety**, including rules and regulations related to fire and building codes, **health and sanitation**, transportation or traffic control, solid or hazardous waste and pollution control, and designation of an **emergency point of contact**, if the city or town demonstrates that the rule or regulation is for the primary purpose of protecting the public's health and safety.
 2. Adopting and enforcing residential use and zoning ordinances, including ordinances related to **noise**, protection of welfare, **property maintenance** and other **nuisance issues**, if the ordinance is applied in the same manner as other property classified under sections 42-12003 and 42-12004.
 3. Limiting or prohibiting the use of a vacation rental or short-term rental for the **purposes of housing sex offenders**, operating or maintaining a sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and **other adult-oriented businesses**.
 4. Requiring the owner of a vacation rental or short-term rental to provide the city or town with **contact information** for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone or by email at any time of day before offering for rent or renting the vacation rental or short-term rental.

Arizona Revised Statutes, §9-500.39

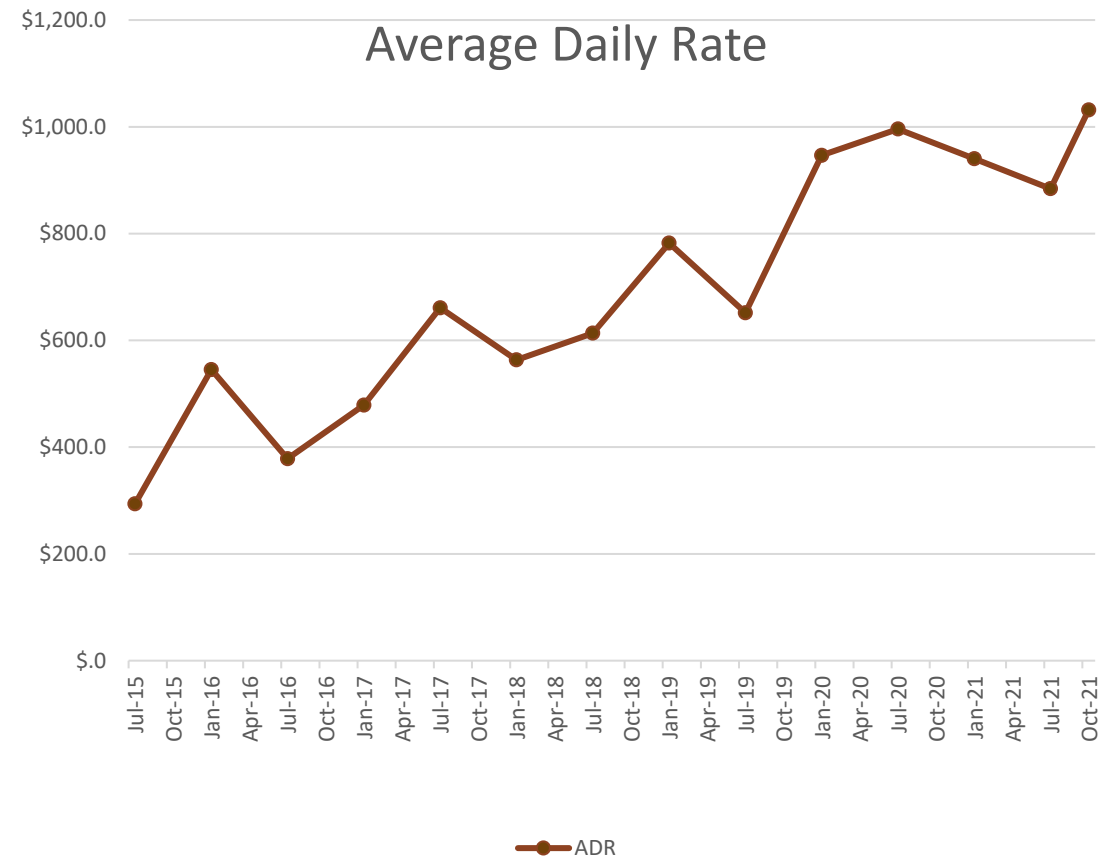
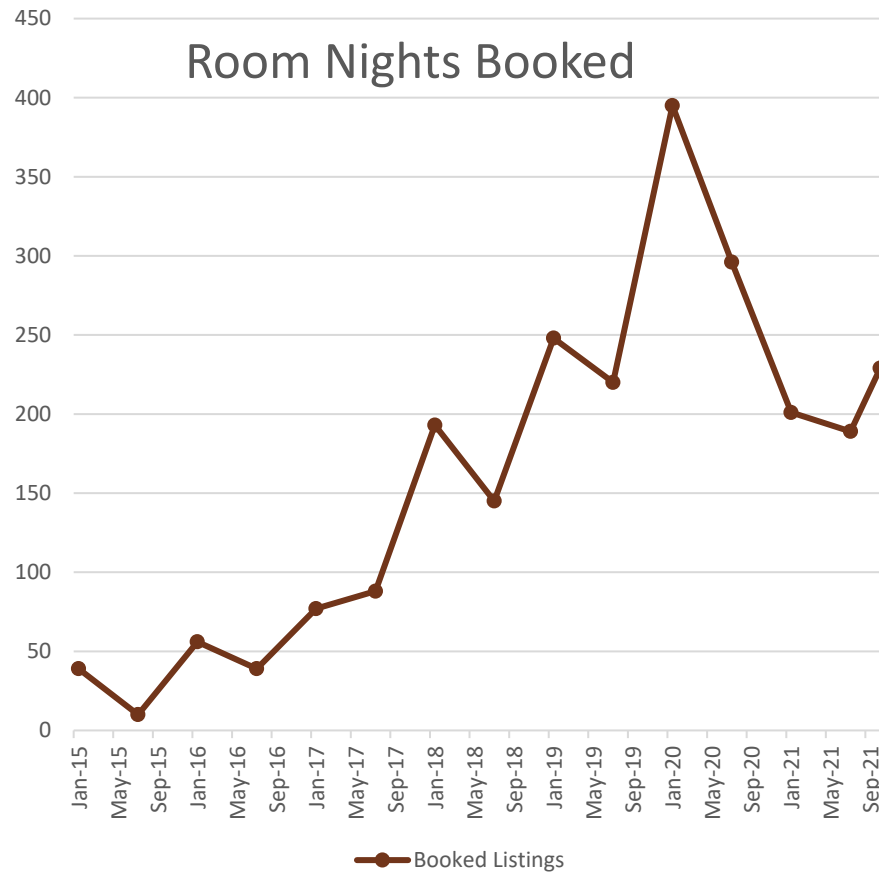
- C. Within thirty days after a **verified violation**, a city or town shall notify the department of revenue and the owner of the vacation rental or short-term rental of the verified violation of the city's or town's applicable laws, regulations or ordinances...”
- D. If the owner of a vacation rental or short-term rental has provided **contact information** to a city or town pursuant to subsection B, paragraph 4 of this section and if the city or town issues a citation for a violation of the city's or town's applicable laws, regulations or ordinances or a state law that occurred on the owner's vacation rental or short-term rental property, the city or town shall make a reasonable attempt to notify the owner or the owner's designee of the **citation within seven business days** after the citation is issued...”

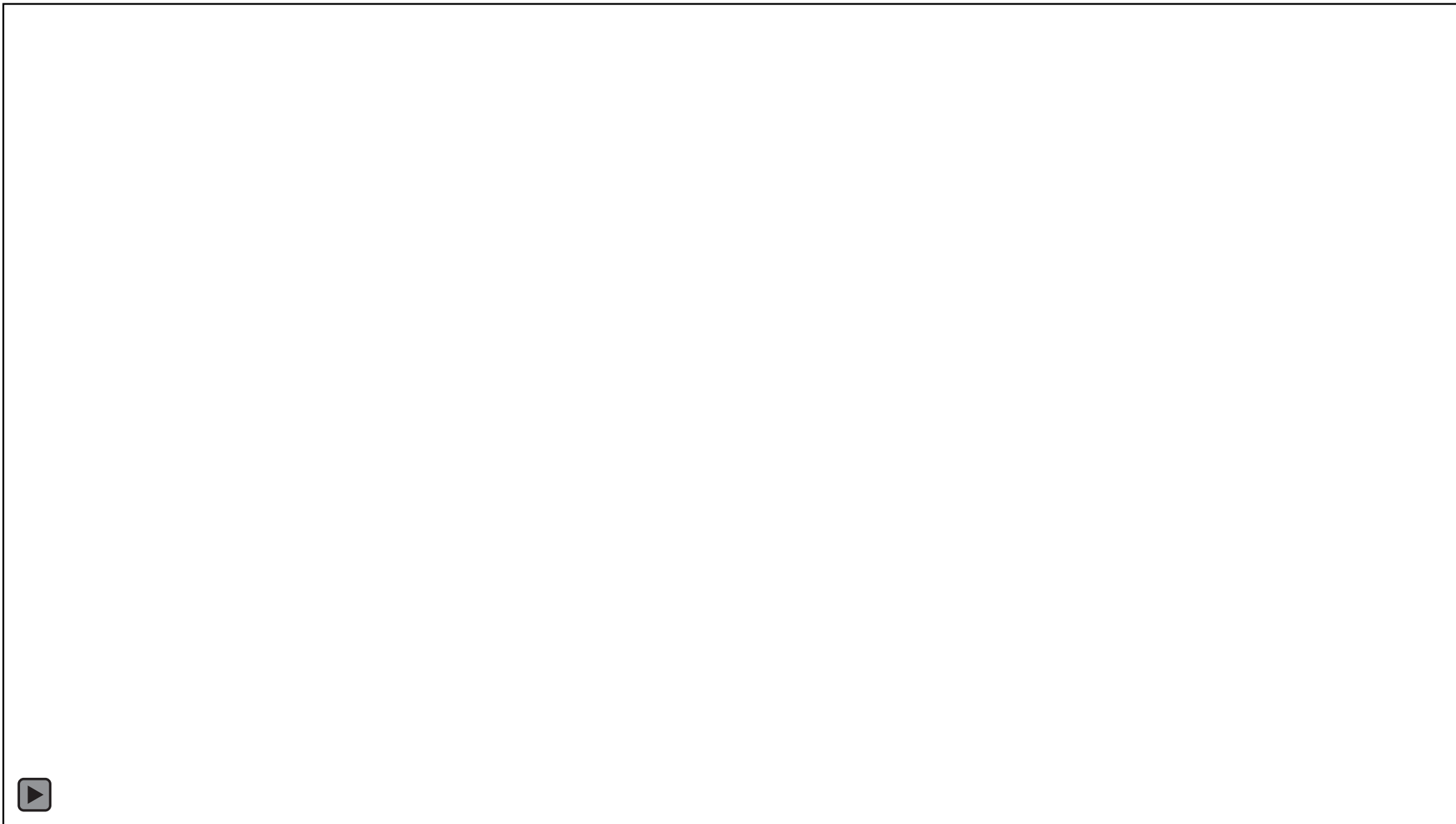
Arizona Revised Statutes, §9-500.39

- E. This section does not exempt an owner of a residential rental property, as defined in §33-1901, from maintaining with the assessor of the county in which the property is located information required under title 33, chapter 17, article 1.
- F. A vacation rental or short-term rental may not be used for **nonresidential uses, including for a special event** that would otherwise require a permit or license pursuant to a city or town ordinance or a state law or rule or for a retail, restaurant, banquet space, or other similar use.

Real Life Occurrences

Significant increase in STRs since 2015





Public Safety Obligations

Our Primary Goal is to Protect Residents and Visitors from:

- Criminal Homicide
- Forcible Rape/Sexual Assault
- Robbery
- Aggravated Assault
- Burglary
- Larceny-theft
- Motor vehicle theft
- Arson

Public Safety Surrounding STRs

- “Study links AirBnB listings to increased rates of violence”, Short Term Rentalz, 7/16/2021
- “When AirBnBs increase in a neighborhood, so does crime. Here’s why.”, News@Northeastern 7/16/2021
- “AirBnB raises violent crime rates in cities...”, Euronews.next, 7/23/2021
- “AirBnB properties have seen their share of crimes and other troubles.”, The Mercury News, 11/1/2019
- “Teen charged after gunfire at short-term rental property...”, WKRN.com, 9/9/2021
- “AirBnb has a secret team for hiding crimes that occur...”, Entrepreneur.com, 6/24/2021
- “After summer shooting at Center City AirBnb...”, Patch.com, 9/15/2021
- “Shooting, sex crime and theft: AirBnB takes halting steps to protect users.”, The Wall Street Journal, 12/26/2019

Paradise Valley is not immune to crime at STRs, having had sex crimes and robberies reported at short-term rentals.

State Law (Sec B.3) specifically allows a Town to prohibit the use of a STR for purposes of housing sex offenders and other ‘adult businesses’

Significant increase in Nuisance Noise Calls to PVPD 2019 and 2021

Noise Related Calls

- Noise calls at STRs were approximately 19% of the total noise complaints in 2019 (42 incidents)
- Noise calls at STRs were over 40% of the total noise complaints in 2020 and 2021 (179 incidents in 2020, 119 incidents through October 2021).
- Calls to PD after 10pm are sometimes as low as 25 dB(A).
- Is still disruptive to neighbors. Noise standard applies to every resident.

Enforcement Difficult

- Noise measured at property line.
- Only stationary objects count toward “noise”.

Existing and Proposed

-
- What We Have on the Books
 - Recommended Changes

Proposed Code Changes Intended to:

Regulate Short-Term Rentals as Explicitly Authorized by Arizona State Law (§9-500.39)

- Further Minimize Nuisance Complaints for All Residents
- Protect the Public's Health and Safety

Further Minimize Nuisance Complaints for All Residents

-
- Noise Ordinance
 - Unruly Gathering Ordinance
 - Special Events on Private Property Ordinance

Regulate Short-Term Rentals as Explicitly Authorized by Arizona State Law (§9-500.39)

*“Adopting and enforcing residential use and zoning ordinances, including ordinances related to **noise**, protection of welfare, **property maintenance** and other **nuisance issues...**”*

Existing Nuisance Ordinance Efforts

- **Noise Ordinance Article 10-7 (ordinance adopted 11/20/08)**

Limiting noise levels for stationary sources

TIME OF DAY MAXIMUM ALLOWABLE NOISE LEVEL dB (A)

- **7:00 a.m. to 10:00 p.m. 56 dB(A)**
- **10:00 p.m. to 7:00 a.m. (6 a.m.) 45 dB(A)**

Sundays and specified legal holidays

Proposed Nuisance Regulations

Noise Regulations for All Residential Units

Except where a Special Event Permit provides otherwise, it's a violation in a residentially zoned property to make noise from 10 p.m. - 7 a.m. (10-6 in Summer) that are:

- **Plainly audible** from within two or more enclosed residences or the cabin of a police vehicle situated on a public right-of-way
- Above the **Vibration Perception Threshold** of two or more residences or officer across a real property boundary

If noise is measured above the Town's existing noise limitations (day 56dB(A)/night 45dB(A)) it is also considered Plainly Audible.

Existing Nuisance Ordinance Efforts

■ Unruly Gathering Ordinance (ordinance adopted 3/8/18)

Five or more people, and **one** of the following:

- Noise
- Obstruction of public streets by crowds or vehicles
- Drinking in public areas
- Drugs
- Serving alcohol to minors
- Fighting
- Littering
- Disturbing the peace.

Existing Nuisance Ordinance Efforts

Post a notice on the property stating:

- An Unruly Gathering Occurred
- Warning that subsequent Unruly Gatherings within 90 days incurs additional fees and citations
- It is prohibited to remove posting
- Notification to Owner via personal contact

Proposed Nuisance Regulations

Unruly Gathering Regulations for All Residential Units

- Aggravating Factors:
 1. Minor in possession;
 2. Public urination or defecation;
 3. Indecent exposure;
 4. Public sexual indecency;
 5. Weapons violations; or
 6. Felonious conduct.
- Incidents involving Consistent Premises or Consistent Responsible Persons deemed Nuisance
- Appeal Process for Person charged with Police Service Fee

Regulate Short-Term Rentals as Explicitly Authorized by Arizona State Law (§9-500.39)

*“A vacation rental or short-term rental may not be used for **nonresidential uses, including for a special event** that would otherwise require a permit or license pursuant to a city or town ordinance or a state law or rule or for a retail, restaurant, banquet spa*

Proposed Public Health & Safety Regulations

Defines and Adds Non-residential Uses

Limits hosting non-residential Special Events that may impact neighbors, including:

- Banquets
- Pop-Up Bars
- Parades
- Fireworks
- Private Use of ROW requiring Valet Parking or Shuttle Service
- Adds amplified sound between 10 p.m. and 7 a.m.
- Plainly Audible Noise

Protecting the Public's Health and Safety

Arizona Revised Statutes, §9-500.39

*Protecting the **public's health and safety**, including rules and regulations related to fire and building codes, **health and sanitation**, transportation or traffic control, solid or hazardous waste and pollution control, and designation of an **emergency point of contact**, if the city or town demonstrates that the rule or regulation is for the primary purpose of protecting the public's health and safety.*

Arizona Revised Statutes, §9-500.39

*Limiting or prohibiting the use of a vacation rental or short-term rental for the **purposes of housing sex offenders**, operating or maintaining a sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and **other adult-oriented businesses**.*

Proposed Public Health & Safety Regulations

To protect the health, safety, and general welfare of all Short-Term Rental occupants, Short-Term Rentals must meet the minimum standards regarding:

- Smoke and carbon monoxide (CO) detection and notification system.
- Fire extinguisher
- Fire Safety and Emergency Evacuation Map
- Air Filters
- Local phone service
- Rental Cleaning...between bookings following CDC guidelines
- Pest Control
- Trash pick-up

Proposed Public Health & Safety Regulations

Renting to registered sex offenders is prohibited.

- Owner must perform a background check within 24 hours of every booking to ensure that there are no sex offenders at the short-term rental.

Prohibited uses expanded to include:

- Other adult-oriented businesses, performances, parties, or activities in which consideration is given in exchange for an adult-oriented service.

Where they may reasonably be viewed by the public, whether at ground level or from a reasonable vantage point of a nearby property:

- Urination or defecation; Nudity; or Sexual acts

Arizona Revised Statutes, §9-500.39

*Requiring the owner of a vacation rental or short-term rental to provide the city or town with **contact information** for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone or by email at any time of day before offering for rent or renting the vacation rental or short-term rental.*

Proposed Public Health & Safety Regulations

Town will make all of the following publicly available:

- Owner's name/contact information.
- Short-term rental's physical address.
- Local contact's name/address/contact information.
- Emergency contact's name/address/contact information.
- Short-term rental's phone number.

Owner required to meet guest in person on arrival and present copy of rules and regulations.

Questions?

**JANUARY 2022 AMENDMENTS
TO THE PARADISE VALLEY TOWN CODE
REGARDING NUISANCES, UNRULY GATHERINGS, NON-COMPLIANT SHORT-
TERM RENTALS, AND THE PEACE, HEALTH, SAFETY, AND WELFARE OF THE
GENERAL PUBLIC**

ADOPTED [DATE]

SECTION 1. Chapter 1 (General) of the Town Code of Paradise Valley, Article 1-9 (Penalty), Section 1-9-3 (Civil Penalties Prescribed) is hereby amended as follows (deletions shown as ~~striketroughs~~ and additions shown in **bold type**):

Section 1-9-3 Civil Penalties Prescribed

In the absence of a specifically prescribed penalty,~~Any~~ any violation of the provisions of this Code or amendments thereto shall also constitute a civil offense,~~and any.~~ **Any** person who is served with a citation charging such violation and who admits, or is found responsible for such offense, shall be liable to pay to the Town a civil sanction in an amount that does not exceed the maximum amount permitted by law. Each day that a violation continues shall be a separate offense punishable as described.

SECTION 2. The following sections of Chapter 8 (Safety, Health, Sanitation and Nuisance), Article 8-8 (Special Events on Private Property and Publics Rights-of-Way) are hereby amended as follows (deletions shown as ~~striketroughs~~ and additions shown in **bold type**):

Section 8-8-2 Definitions

In this Article, unless the context otherwise requires, the following terms or phrases are defined as follows:

“Block Party” means any group or neighborhood association consisting of Town residents, which, under competent adult supervision, gather upon any public street or right-of-way for a social purpose.

“Charitable Nonprofit Organization” means any person(s), partnership, association, corporation or other group whose activities are conducted for civic or humanitarian motives, or for the benefit of others, and not for the commercial gain of any private individual or group and may include, but shall not be limited, to political parties or committees, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, religious, athletic or medical organizations. Proof of federal exemption under 26 U.S.C. Section 501 (c), Section 501 (d) or Section 501 (e) may be required.

“Commercial-” means any individual, entity, or organization that operates for profit and does not have valid 26 U.S.C. Section 501(c), Section 501-(d), or Section 501-(e) tax-exempt status.

“Minor Event” means an event ~~that takes place on private property;~~ **(i) that** has a minimal impact on neighboring properties; ~~and~~ **(ii) that** lasts for less than ~~twenty-four (24)~~ consecutive hours; ~~and~~ **(iii) that** does not meet the Special Event criteria; ~~and~~ **(iv) during which the Owner or non-transient occupant is on site for the entire duration of the event., including but not limited to weddings, family reunions, memorials, or other ceremonies.**

“Nonresidential Use” means any use that is not permitted in a residential zoning district pursuant to the Zoning Ordinance; any use that constitutes an Unruly

Gathering, as used in Article 10-13; retail, restaurant, banquet space, or other similar use; and any use for which entrants pay an entry fee, unless such use is exempted under section 8-8-4 (C) or (D).

“Owner” means any person or entity who has legal or equitable title to the subject real property or, if the property is not owner-occupied, a non-transient occupant of the subject real property.

“Parade” or “Procession” means any organized procession, march, ceremony, or public walk, consisting of a group of individuals, animals or vehicles, or any combination thereof, moving in an orderly way on a public street or right-of-way, and shall include distance running, bicycle races and similar activities. This Article shall not apply to funeral processions or to governmental agencies acting within the scope of their functions.

“Special Event” includes a wide variety of events or short-term activities, other than ~~minor events~~ **Minor Events, that may impact neighboring properties; and that involve **any one of the following:****

- 1. ~~The~~ temporary use of residential property for **any Nonresidential Use, including but not limited to commercial, or charitable, or other purposes; inconsistent with the property’s legal use under the Zoning Ordinance;****
- 2. Plainly Audible Noise, as defined in and prohibited under section 8-10-2(E);**
- 3. Any electronically- or mechanically-amplified sound between the hours of 10:00 p.m. and 7:00 a.m.;**
- 4. ~~The~~ use of pyrotechnics or other temporary displays visible or audible off the property;**
- 5. ~~The~~ temporary use of public rights-of-way; or ~~the use of temporary directional signage in the public rights-of-way for private purposes (e.g., valet parking);~~**
- 6. ~~The~~ use of **any temporary structures** **Temporary Structure** for more than 24 hours; or**
- 7. Social gatherings consisting of more than five unrelated adults when the Owner or non-transient occupant is not on site for the duration of the event.**

~~Special Event includes~~ **Events include, but ~~is~~ **are** not limited to, parades or processions, block parties, film production events, charitable fundraising events, designer and/or showcase home events, home and garden tours, **banquets, pop-up bars, valet parking via public rights-of-way, fireworks displays and fireworks displays.****

9. “Temporary Structure” means anything constructed or erected, the use of which requires a fixed location on the ground that is intended to be erected for a limited time, including but not limited to, tents, grandstands, bleachers, scaffolding and platforms, but excluding temporary sunshade structures or canopies of 200 square feet or less which have no side walls, and any tents or membrane structures that are depicted on the approved site plan for a property subject to a Special Use Permit, or otherwise provided for pursuant to the terms of a Special Use Permit.

Section 8-8-3 Permit Required

- A. An application for a Special Event permit on private property or Town-owned property shall be submitted to the Community Development Department. An application for a Special Event involving the use of a public street, or that may require extra security or special traffic control measures, shall also be reviewed by the Chief of Police or his designee.
- B. It shall be unlawful to conduct a Special Event without a properly issued Special Event permit, unless the event is exempted as provided in Section 4 of this Article, provided, however, that any Special Event that occurs on or involves the use of public rights-of-way, in whole or in part, shall obtain a permit. ~~Minor deviations or variances from Town Code requirements, such as temporary exceptions from regulations to the noise and sign regulations, shall be denoted in the Special Event permit.~~ **Minor deviations or variances from Town Code regulations, prohibitions, requirements, or conditions shall be denoted in the Special Event permit. Such minor deviations or variances may include, but are in no way limited to, temporary exceptions regarding noise, social gatherings, occupancies, private use of public rights-of-way, signs, or as otherwise permitted by the Town Manager or designee.**
- C. Special Events occurring without a valid permit shall be subject to immediate cessation pursuant to notice from the Town ~~manager~~**Manager** or his designee. It shall be unlawful to continue event activities after notice of a violation has been issued.

SECTION 3. Chapter 8 (Safety, Health, Sanitation and Nuisance), at the Table of Contents, Article 8-10 (Nuisance Noise) is hereby amended as follows (additions shown in **bold type**):

Article 8-10 NUISANCE NOISE

| | |
|-----------------------|---|
| Section 8-10-1 | General Prohibitions |
| Section 8-10-2 | Declaration of Certain Acts Constituting Disturbing, Excessive, or Offensive Noises |
| Section 8-10-3 | Exemptions |
| Section 8-10-4 | Penalty |
| Section 8-10-5 | Enforcement |

SECTION 4. Chapter 8 (Safety, Health, Sanitation and Nuisance), Article 8-10 (Nuisance Noise), Section 8-10-2 (Declaration of Certain Acts Constituting Disturbing, Excessive, or

Offensive Noises) is hereby amended by adding Subsection E (Plainly Audible Noise; Vibration) as follows (additions shown in **bold type**):

Section 8-10-2 Declaration of Certain Acts Constituting Disturbing, Excessive, or Offensive Noises

E. Plainly Audible Noise; Vibration

1. Definition.

“Plainly Audible Noise” means any sound for which any of the content of that sound, such as, but not limited to, comprehensible speech or musical rhythms, is communicated to the listener using their unaided hearing faculties.

“Summer” shall mean those months from May through September, inclusive.

“Vibration Perception Threshold” means the minimum ground- or structure-borne vibrational motion necessary to cause an ordinary person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

2. Prohibition.

a. Except for those properties where a Special Use Permit provides otherwise, or as otherwise allowed under Town Code, it shall be unlawful for any person in a residentially zoned property to make, continue, maintain, or cause to be made or continued, between the hours of 10:00 p.m. and 7:00 a.m. (10:00 p.m. and 6:00 a.m. during Summer months), any noise that is:

(i) Above the Vibration Perception Threshold of any reasonable person across a real property boundary; or

(ii) Plainly audible from within:

(a) Two or more enclosed residences; or

(b) The cabin of a police vehicle situated on a public right-of-way.

b. Except for those properties where a Special Use Permit provides otherwise, or as otherwise allowed under Town Code, if noise, when measured at the property line or, where such property lines are not clear, beyond the boundary of the nearest public right-of-way, measures as follows, it is presumed to be plainly audible:

- (i) Above 56 dB between 7:00 a.m. and 10:00 p.m.; or
- (ii) Above 45 dB between 10:00 p.m. and 7:00 a.m. (10:00 p.m. and 6:00 a.m. during Summer months) and during all hours on all Sundays and specified legal holidays.

3. Standard of Reasonableness and Use of Technology; Detection.

It is the intent of the Town in regulating noise to take into account the latest scientific advances in noise measurement and control while at the same time preserving the common sense and common law determination of what constitutes a disturbance or public nuisance. Therefore, technological sound level measurements, while desirable, shall not be required to demonstrate a violation of this section. The detection of any sound component, including, but not limited to, understandable speech, comprehension of whether a voice is raised or normal, repetitive bass sounds, or comprehension of musical rhythms, by a person using their unaided hearing faculties is sufficient to verify Plainly Audible Noise. It is not necessary for such a person to determine the title, specific words, or artist of music, or the content of any speech. A sound level meter may be used but is not required to determine whether noise is prohibited, and decibel level measurements less than those specified in this article may still establish a violation of this article when due regard is made for the time, place, and circumstances of the noise.

4. Prima Facie Violations.

Noise prohibited under this section that disturbs two or more residents residing in separate residences adjacent to any part of the source property, or three or more residents residing in separate residences in close proximity to the source property, shall be prima facie evidence of a violation of this section.

SECTION 5. Chapter 8 (Safety, Health, Sanitation and Nuisance), Article 8-10 (Nuisance Noise), Section 8-10-4 (Penalty) is hereby amended as follows (additions shown in **bold type**):

Section 8-10-4 Penalty

Any person who violates any provision of this article may be prosecuted for such a violation in accordance with the provisions of article 1-9 of the Paradise Valley Town Code. **Each such violation shall constitute a new and separate, yet cumulative, punishable offense.**

SECTION 6. Chapter 8 (Safety, Health, Sanitation and Nuisance), Article 8-10 (Nuisance Noise), is hereby amended by adding Section 8-10-5 (Enforcement) as follows (additions shown in bold type):

Section 8-10-5 Enforcement

To protect the peace, health, safety, and welfare of the general public, the Police Department is authorized to enforce the provisions of this section regardless of whether enforcement is initiated by a complaint from a member of the public or detected by the Police Department without any such complaint. Peace officers or other designated Town employees or contractors shall enforce the provisions of this section using their sound discretion and the consideration of the totality of the circumstances, including but not limited to the use of the Premises (e.g., residential, commercial, etc.).

SECTION 7. Chapter 10 (Offenses), at the Table of Contents, Article 10-13 (Unruly Gatherings) is hereby amended as follows (deletions shown as ~~strike throughs~~ and additions shown in **bold type**):

ARTICLE 10-13 UNRULY GATHERINGS

| | |
|----------------------|---|
| 10-13-1 | Purpose |
| 10-13-2 | Definitions |
| 10-13-3 | Unruly Gathering |
| 10-13-4 | Subsequent Unruly Gathering |
| 10-13-5 | Posting of Unruly Gathering; Removal of Notice Prohibited; Right to Contest Posting |
| 10-13- 56 | Billing; Procedure for Appeal of Police Service Fee |
| 10-13- 67 | Penalties; Aggravating Factors |
| 10-13- 78 | Enforcement |
| 10-13-9 | Violations Deemed a Public Nuisance |

SECTION 8. The following sections of Chapter 10 (Offenses), Article 10-13 (Unruly Gatherings) are hereby amended as follows (deletions shown as ~~strike throughs~~ and additions shown in **bold type**):

Section 10-13-2 Definitions

In ~~the~~ **this** Article, unless the context otherwise requires, the following terms or phrases are defined as follows:

1. **“Excessive Noise” means any Plainly Audible Noise, as defined in and prohibited under section 8-10-2(E), as well as any noise in violation of Article 10-7.**
12. “Increased Response” means the response of two or more uniformed officers to the scene of an Unruly Gathering in which eleven (11) or more persons are present and where it becomes necessary to restore the public peace, health, safety and/or general welfare.
23. “Juvenile” means a Minor under the age of eighteen (18) years.
34. “Minor” means any person under the age of twenty-one (21) years.

45. “Owner” means any **person or entity who has legal or equitable title to the owner the Premises**, as well as any agent of any **such** owner, such as a landlord or **property manager, or other designees**, acting on behalf of the owner, who controls or otherwise regulates the occupancy or use of the property.
56. “Premises” means any property that is the site of an Unruly Gathering. For residential properties, Premises can mean the dwelling unit, units, or other common areas where the unruly gathering occurs.
67. “Police Service Fee” means the fee to reimburse the cost of services provided by the Police Department in response to the Unruly Gathering. The Police Service Fee is more fully defined in §10-13-7(C).
78. “Responsible Person” means any person in attendance at an Unruly Gathering, including any Owner, occupant, tenant, or tenant’s guest, or any sponsor, host, or organizer of a social activity or special occasion, or Owner that was aware of the social activity or special occasion constituting the Unruly Gathering, even if such person is not in attendance, or any Owner who had been notified that an Unruly Gathering had previously occurred on the same Premises within one hundred eighty (180) days prior to a subsequent Unruly Gathering. If such a person is a Juvenile, the term “Responsible Person” includes, in addition to the Juvenile, the Juvenile’s parents or guardians. Responsible Person does not include Owners or persons in charge of Premises where an Unruly Gathering takes place if the persons in attendance obtained use of the Premises through illegal entry or trespassing. A person need not be present at the time of the party, gathering, or event to be deemed responsible.
89. “Special Security Assignment” means the police services provided during any call-in response to complaints or other information regarding ~~unruly gatherings~~ **Unruly Gatherings**.
910. “Unruly Gathering” means a gathering of five (5) or more persons on any private property, including property used to conduct business, which constitutes a threat to the public peace, health, safety or general welfare including, but not limited to: ~~excessive noise~~ **Excessive Noise**, impeding traffic, obstruction of public streets by crowds or vehicles, use or possession of illegal drugs, drinking in public areas, the service of alcohol to ~~minors~~ **Minors** or consumption of alcohol by ~~minors~~ **Minors**, fighting, disturbing the peace, and/or littering.
1011. “Unruly Gathering Notice-~~(Notice)~~” **or, for purposes of this chapter, “Notice”** means ~~be~~ a document identifying the Premises as the site of an Unruly Gathering in which a citation was issued and advising the Owner, occupants, guests or other persons entering the Premises that any future Unruly Gathering upon the Premises shall have additional consequences.

Section 10-13-4

Subsequent Unruly Gathering

- A. Consistent Premises - If, after receiving an Unruly Gathering Notice as provided in §10-13-3(C), a second or subsequent police response or responses is/are necessary to the same Premises for an Unruly Gathering within ninety (90) days of the first response, such response(s) shall be deemed a second response and subject to the higher fines and the Police Service Fee as provided in §10-13-7(C). If, after written notice of the violation as provided in §10-13-3(C), a third **or subsequent** response is necessary to the same Premises for an Unruly Gathering within one hundred twenty (120) days of the second response, such response shall be deemed a third response and subject to the highest fines and the Police Service Fee as provided in §10-13-7(C).
- B. Consistent Responsible Person - If, after receiving an Unruly Gathering Notice as provided in §10-13-3(C), a second or subsequent police response or responses is necessary to any Premises involving the same Responsible Person for an Unruly Gathering within ninety (90) days of the first response, such response shall be deemed a second response and subject to the higher fines and the Police Service Fee as provided in §10-13-7(C). If, after written notice of the violation as provided in §10-13-3(C), a third **or subsequent** response is necessary to any Premises involving the Same Responsible Person for an Unruly Gathering within one hundred twenty (120) days of the second response, such response shall be deemed a third response and subject to the highest fines and the Police Service Fee as provided in §10-13- 7(C).
- C. Once a Premises is initially posted as a result of an Unruly Gathering and the conduct causing the gathering to be unruly has ceased, a resumption of unruly behavior on the Premises resulting in another police response shall constitute a new and separate, yet cumulative, Unruly Gathering for purposes of this section.

Section 10-13-6 **Billing; Procedure for Appeal of Police Service Fee**

The Chief of Police, or any person designated by the Chief of Police, shall cause appropriate billings for the Police Service Fee to be made to the Responsible Person(s). Billings shall include the name and address of the Responsible Person, the date, time and location of the Unruly Gathering for which a Police Service Fee is imposed, and shall identify the services provided, any loss or damage and such other information as may be relevant.

- A. The amount of such Police Service Fees charged shall be deemed a joint and several debt to the Town of any and all Responsible Persons, whether they received the benefit of such Special Security Assignment services or not. If the Responsible Person(s) for the Unruly Gathering is a Juvenile, then the parents or guardians of that Juvenile will also be jointly and severally liable for the costs incurred for police services. Any person owing money due for the Police Service Fee shall be liable in an action brought in the name of the Town for recovery of such amount, including reasonable attorney fees.

- B. If a Responsible Person is the person who owns the property where an Unruly Gathering takes place, the Owner will not be charged the Police Service Fee unless:
1. the Owner was present at or had knowledge of the Unruly Gathering and took no reasonable action to prevent the ~~unruly gathering~~**Unruly Gathering** or unlawful gathering; or
 2. the **Town notified the Owner pursuant to section 10-13-3(C)** ~~had been sent a notice from the Town~~ that an Unruly Gathering had taken place on the Premises, and a subsequent ~~unruly gathering~~**Unruly Gathering** occurs within the prescribed time of the mailing of such notice to the ~~owner~~**Owner**; or
 3. the Owner/~~landlord~~ fails to provide the names of the occupants listed on the leasing documents where the Unruly Gathering occurs.

The Town reserves all rights and remedies at its disposal to collect the Police Service Fee.

- C. **A person charged a Police Service Fee may file an appeal with the Town Clerk requesting a hearing before the Town Manager's designee within ten (10) days of receiving notice of the costs imposed. The Town Manager shall designate a hearing officer who is not an employee of the Police Department or a sworn police officer to preside over this administrative hearing.**
- D. **The request must set forth the specific objections to the Police Service Fee, which form the basis of the appeal.**
- E. **The hearing officer shall set a time and place for the hearing as soon as practicable, which shall be conducted informally and without a jury to determine whether there is a sufficient factual and legal basis to impose the costs of the Police Service Fee.**
- F. **All parties to the hearing have the right to present evidence in support of or opposition to the Police Service Fee. Except for the statutory provisions relating to privileged communications, the technical rules of evidence do not apply. However, the hearing officer's decision shall always be based upon the evidence presented.**
- G. **The Police Department shall have the burden of establishing by a preponderance of the evidence that the Police Service Fees should be imposed and that the amount is reasonable under the circumstances. The hearing officer may reduce the costs imposed if the Police Department fails to meet its burden.**
- H. **The decision of the hearing officer is final.**

- I. A person's failure to timely request a hearing or appear at a scheduled hearing shall constitute a waiver of the right to a hearing or to challenge the Police Service Fee's validity or amount.**

Section 10-13-7. Penalties; Aggravating Factors

- A. Criminal Offense. If the Responsible Person is convicted of an Unruly Gathering, the penalty shall be a minimum mandatory fine of one thousand dollars (\$1000.00) or up to the maximum associated with a class one misdemeanor. Additionally, if the Responsible Person for an Unruly Gathering has previously been convicted for an Unruly Gathering, regardless of the location of the prior violation, the penalty shall be a minimum mandatory fine of two thousand dollars (\$2,000.00) for a second violation, and a minimum mandatory fine of two thousand five hundred dollars (\$2,500.00) for a third or subsequent violation.
- B. Civil Offense. If the Responsible Person is an Owner that was not present at the Unruly Gathering, was not aware of the social activity or special occasion constituting the Unruly Gathering, and was not an organizer, host or sponsor of the Unruly Gathering, but had been notified that an Unruly Gathering had ~~previously~~ occurred on the property within **the prior** one hundred eighty (180) days ~~prior to an Unruly Gathering~~, then the civil penalty shall be a minimum mandatory fine of one thousand dollars (\$1000.00) for a first violation, a minimum mandatory fine of two thousand dollars (\$2,000.00) for a second violation, and **a** minimum mandatory fine of the maximum amount permitted by law for civil violations for a third or subsequent violation.
- C. Police Service Fee. The Police Service Fee shall be an amount equal to the actual costs (essentially a reimbursement) of the law enforcement response to an Unruly Gathering, including:
1. the salaries, and associated benefits of the responding law enforcement officers corresponding to the amount of time actually spent in responding to and remaining at the Unruly Gathering; and,
 2. the salaries, and associated benefits of any dispatcher or other police personnel involved with the response for the amount of time actually spent in responding to Unruly Gathering; and
 3. any actual costs of any medical treatment to injured officers and/or the costs of repairing any damage to town equipment or property; and
 4. the associated overhead costs including, but not limited to, vehicle and equipment used; with such overhead costs to be set annually within the first 60 days of the new fiscal year and available for inspection.
- D. Aggravating Factors. Mandatory fines shall be automatically increased to the next higher fine level if any of the following factors are found during a response to an Unruly Gathering:**

1. Minor in possession;
2. Public urination or defecation;
3. Indecent exposure;
4. Public sexual indecency;
5. Weapons violations; or
6. Felonious conduct.

Section 10-13-9. Violations Deemed a Public Nuisance

Incidents involving Consistent Premises or Consistent Responsible Persons that violate any of the provisions of this Article and threaten the public peace, health, safety, and welfare, are declared and deemed a nuisance, which the Town may abate as provided in Article 8-5, pursuant to A.R.S. § 9-240, as amended, by removing nuisances and punishing persons committing nuisances, or in any other manner authorized by law.

SECTION 9. Chapter 10 (Offenses), at the Table of Contents, Article 10-14 (Short-Term Rentals Responsible Party Requirements and Other Violations) is hereby amended as follows (deletions shown as ~~striketroughs~~ and additions shown in **bold type**):

**ARTICLE 10-14 SHORT-TERM RENTALS RESPONSIBLE PARTY
REQUIREMENTS AND OTHER VIOLATIONS**

- | | |
|----------------|---|
| 10-14-1 | Definitions Purpose |
| 10-14-2 | Contact information required; information updates Definitions |
| 10-14-3 | Compliance with Laws Short-Term Rental Registration Required; Required Information |
| 10-14-4 | Non-Residential Usage by Short-Term Rentals or Vacation Rentals Prohibited Compliance with Laws; Non-Residential Usage and Other Prohibitions |
| 10-14-5 | Standards and Operating Requirements; Health and Safety |
| 10-14-6 | Enhanced Penalties |

SECTION 10. The following sections of Chapter 10 (Offenses), Article 10-14 (Short-Term Rentals Responsible Party Requirements and Other Violations) are hereby amended as follows (deletions shown as ~~striketroughs~~ and additions shown in **bold type**):

Section 10-14-1 DefinitionsPurpose****

This Article is adopted to protect the peace, health, safety, and welfare of the Town's residents and visitors by enacting reasonable regulations that mitigate the harmful abuses common to the short-term rental of residential property within the Town while preserving property owners' rights to rent their property in a manner that does not

disturb the peace or harm public health, public safety, or general public welfare. Such harmful abuses deplete law enforcement and public safety resources and can leave other areas of the Town with compromised levels of police protection so as to create a significant threat to the safety of both citizens and police officers alike. The inclusion of a specific regulation or reference to the Town Code in this chapter does not imply the exclusion of any other applicable law.

Section 10-14-2 ~~Contact information required; information updates~~ **Definitions**

In this Article, unless the context otherwise requires, the following terms or phrases are defined as follows:

“Nonresidential Use” means any use that is not permitted in a residential zoning district pursuant to the Zoning Ordinance, any use that constitutes an Unruly Gathering, as used in Article 10-13, and any use for which entrants pay an entry fee, unless such use is exempted under section 8-8-4 (C) or (D).

“Online Lodging Marketplace” has the same meaning given to it in A.R.S. § 42-5076, as amended.

“Owner” means any owner, as well as any agent of an owner, such as a landlord or property manager, or other designees acting on behalf of the owner, who controls or otherwise regulates the occupancy or use of the property.

~~“Short-term rental”~~ **Short-Term Rental** ~~or~~ and ~~“vacation rental”~~ **Vacation Rental** are interchangeable for purposes of this Article, and ~~means~~ mean any individually or collectively owned single-family or one-to-four-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use. ~~Short-term rental~~ **Short-Term Rental** and ~~vacation rental~~ **Vacation Rental** do not include a unit that is used for any ~~nonresidential use~~ **Nonresidential Use**, including retail, restaurant, banquet space, event center or similar use.

“Special Event” has the same meaning given to it in section 8-8-2.

“Timely Manner” means: (a) within one hour after the initiation of contact with the Owner’s designee when the contact is made by a Police Department officer or employee for a complaint or incident that is reported to the Police Department and for which police officers have been dispatched to the Owner’s property ~~due to such complaint or incident~~; and (b) within 24 hours after the initiation of contact with the Owner’s designee when the contact is made by a Police Department officer or employee or a code enforcement officer for a complaint or incident that is either reported to or directly observed by the Police Department personnel or a code enforcement officer and for which the police are not at the scene of the complaint or incident at the time that such contact is initiated.

Section 10-14-3 ~~Compliance with laws~~ **Short-Term Rental Registration Required; Required Information**

- A. **Short-Term Rental Registration Required.** Before offering for rent or renting a ~~short-term rental~~ **Short-Term Rental** or ~~vacation rental~~ **Vacation Rental** within the Town, the ~~owner~~ **Owner** thereof shall register the **Short-Term Rental** with the Town, on a form or platform specified by the Town and obtain a valid transaction privilege tax license under A.R.S. Title 42. The Owner shall notify the Town, in writing, of all changes in the information required by this section, not less than ten (10) days prior to the effective date of the change. ~~of a short-term rental or vacation rental must shall provide the Town with contact information for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone, or by email at any time, of day.~~

1. Every Short-Term Rental registration must include the following information, which shall be made publicly available:
 - a. The name and contact information of the Owner or, if the Owner is a business entity, the name and contact information of the entity's statutory agent.
 - b. The Short-Term Rental's physical address.
 - c. The name, address, and contact information of the Owner or Owner's designated local contact person who is responsible for responding to complaints in person, by telephone, or by email in accordance with section 10-14-5(A)(1).
 - d. The name, address, and contact information of the person the Owner designated as an emergency contact.
 - e. The phone number to the Short-Term Rental's landline or modern equivalent.

- B. **Consent and Certification.** When registering a Short-Term Rental, the Owner must:

1. Consent to and authorize any Online Lodging Marketplace on which the Short-Term Rental is listed to provide to the Town the Owner's listing (including the address of the listing), rental activity, and contact information.
2. Provide evidence that the Short-Term Rental has been registered with Maricopa County Assessor's Office in accordance with A.R.S. § 33-1902.
3. Provide evidence of a valid transaction privilege tax license issued by the State of Arizona.

~~In addition to the information required above, the owner of a short-term rental or vacation rental shall provide to the Town the name and contact information of a person designated as an emergency contact.~~

C. Booking Information. To protect the peace, health, safety, and general welfare of the Town's residents and visitors, the Owner of a Short-Term Rental shall promptly provide the information below to the Town, on a form or a platform specified by the Town, within 24 hours of every booking; provided, that any booking for an occupancy beginning less than 24 hours from the time of booking shall be reported within one hour after the time of the booking:

1. A copy of the Short-Term Rental's advertisement or listing upon which the relevant booking occurred, along with the name of the Online Lodging Marketplace accommodating the listing;
2. The dates for which a guest booked the Short-Term Rental and the number of people in their party;
3. Evidence of compliance with section 10-14-5(B).
4. Evidence that the booking guest has acknowledged receipt of the statement of rules and regulations prepared by the Town, and has agreed by that acknowledgement to comply with such rules and regulations.

~~The owner or the owner's designee designees is responsible for responding to complaints in a timely manner in person, by telephone, or by email at any time of day or night. For purposes of this section "timely manner" shall mean: 1) within two hours after the initiation of contact with the owner's designee when the contact is made by a police department officer or employee for a complaint or incident that is reported to the police department and for which police officers have been called out to the owner's property due to such complaint or incident and where the police officers are at the owner's property at the time that such contact is initiated; and 2) within twenty four hours after the initiation of contact with the owner's designee when the contact is made by a police department officer or employee or a code enforcement officer for a complaint or incident that is either reported to or directly observed by the police department personnel or a code enforcement officer and for which the police are not at the scene of the complaint or incident at the time that such contact is initiated.~~

D. Failure to Register. Any person, entity, or Online Lodging Marketplace who offers for rent or accepts a fee for booking a Short-Term Rental that is not registered with the Town pursuant to section 10-14-3(A) or, where applicable, with the Maricopa County Assessor's Office pursuant to A.R.S. § 33-1902, as amended, shall be fined \$150 per violation per day. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.

- E. The Town Manager or designee shall develop the necessary forms and/or database necessary to implement this section.
- F. **The Town may mitigate, suspend, or reduce any penalties the Owner might otherwise incur under this article if the Town deems that the Owner has made reasonable attempts to prevent nuisance activities from occurring at the Short-Term Rental. The Owner shall keep a record of steps taken to prevent such nuisance activities.**

Section 10-14-4 ~~Non-Residential Usage by Short-Term Rentals or Vacation Rentals~~
Prohibited Compliance with Laws; Non-Residential Usage and Other Prohibitions

- A. ~~No short-term rental or vacation rental may be used for any non-residential use or purpose including but not limited to any of the uses listed in ARS § 9-500.39(B)(3).~~ **A Short-Term Rental or Vacation Rental must at all times comply with the federal, state, and local laws, rules, and regulations related to public health, safety, sanitation, solid waste, hazardous waste, tax privilege licensing, including advertising requirements, property tax registration, traffic control, pollution control, noise, property maintenance, and nuisance abatement.**
- B. ~~No person including an owner or operator shall operate a short term rental or vacation rental in violation of this section.~~ **A Short-Term Rental lacking a valid Short-Term Rental registration under section 10-14-3 and a valid transaction privilege tax license issued by the State of Arizona shall not be rented or offered for rent.**
- C. **No person or entity shall operate a Short-Term Rental or Vacation Rental in violation of this Article.**
- D. **No person or entity may receive payment or accept a fee, directly or indirectly, for facilitating the rental of a Short-Term Rental operating in violation of this Code or any other applicable law.**
- E. **Any renter who causes, permits, facilitates, aides, or abets any violation of this Article shall be subject to a civil sanction as set forth in 10-14-6(B).**
- F. **In accordance with A.R.S. § 9-500.39(B)(3), a Short-Term Rental may not be rented, advertised, or used for any of the following uses or purposes: housing sex offenders, operating or maintaining a sober living home, selling illegal drugs, liquor control, or pornography, obscenity, nude or topless dancing, and other adult-oriented businesses, performances, parties, or activities in which consideration is given in exchange for an adult-oriented service. Within 24 hours of every booking, the Owner shall perform a background check on every guest to ensure that there are no sex offenders at the Short-Term Rental. Owners who permit a sex offender to occupy their Short-Term Rental shall be found in violation of this section.**

- G. None of the following may occur where such acts may reasonably be viewed by the public, whether at ground level or from a reasonable vantage point of a nearby property, such as a deck or balcony:**
 - 1. Urination or defecation;**
 - 2. Nudity; or**
 - 3. Sexual acts.**
- H. A Short-Term Rental may not be used or advertised to accommodate occupancies exceeding the lesser of five unrelated adults or the occupancy limits set forth in Chapter 5 of this Code.**
- I. Per section 1007 of the Zoning Ordinance, motor homes, campers, trailers, boats, buses, and similar equipment allowed to be stored on residentially-zoned property shall not be used for sleeping or habitation purposes.**
- J. Except when permitted by a Special Event permit under Article 8-8, no Short-Term Rental or Vacation Rental may be used for any Nonresidential Uses, including but not limited to, an event that requires a permit or license pursuant to a Town ordinance or State law or rule; a retail, restaurant, banquet hall, event space, or other similar use, such as weddings and pop-up bars; or any use prohibited in a residentially-zoned district pursuant to the Zoning Ordinance.**
- K. Any violation of an ordinance related to noise, protection of welfare, property maintenance, and other nuisance issues, where such ordinances are permitted under A.R.S. § 9-500.39(B)(2), constitutes a Nonresidential Use.**

Section 10-14-5 Standards and Operating Requirements; Health and Safety

- A. Standards and Operating Requirements.**
 - 1. Owners or their designees shall (1) affirmatively respond to complaints in person, over the phone, or by email, and (2) abate the incident from which the complaint arose in a ~~timely manner~~ Timely Manner regardless of when the Owner receives notice of the complaint. If such a response is due within one hour under this Article's definition of Timely Manner, the response is deemed necessary to protect the peace, health, safety, and welfare of the general public, and the Owner shall so respond in person. If the response is due within 24 hours, the Owner shall respond either in person, by telephone, or by email. Failure of the Owner to respond to a complaint as provided herein is a violation of this Article.**
 - 2. The Owner shall meet in-person at their Short-Term Rental with their Short-Term Rental guests prior to the commencement of the occupancy or during check-in and verbally explain and describe all rules and**

regulations applicable to the use of the property as a Short-Term Rental including, but not limited to, parking restrictions, restrictions on noise and amplified sound, trash collection schedules, Special Event and Nonresidential Use restrictions, fire evacuation routes, and any other information, as required by this Code, applicable to the Short-Term Rental and the surrounding neighborhood. When meeting in person upon the guest's arrival at the Short-Term Rental, the Owner shall provide the booking guest with a written copy of the statement of rules and regulations acknowledged by the guest at the time of booking as required by section 10-14-3(C)(4). The Owner shall keep a record of compliance with this section.

3. Trash and refuse shall not be left stored within public view, except in proper collection containers for the purpose of collection in accordance with the residential collection schedule outlined in section 8-3-9. Containers shall not be placed for collection before 6:00 p.m. on the day preceding the date of collection, and after the containers are emptied, they shall be removed from the street and stored in a screened area by the end of the collection day.
4. The following notice must be completed in 14-point or larger bold font, on a laminated or otherwise similarly shielded paper, and prominently displayed on the inside of the front door and the primary door to the backyard or in a conspicuous location near each such door. The notice below shall also include information regarding the location of all fire extinguishers and Town of Paradise Valley parking and waste disposal regulations.

NOTICE

USE OF THIS PROPERTY FOR ANY OF THE FOLLOWING PURPOSES IS PROHIBITED; VIOLATORS MAY BE SUBJECT TO SUBSTANTIAL PENALTIES:

1. Housing sex offenders;
2. Operating or maintaining a sober living home;
3. Selling controlled substances, liquor, or pornography;
4. Obscenity, Nude or topless dancing, and other adult-oriented businesses, performances, parties, or activities in which value is given in exchange for an adult-oriented service;
5. Any uses prohibited under A.R.S. § 9-500.39, or federal, state, or local law; or
6. Any use that disturbs neighboring properties' peace and enjoyment including, but not limited to, excessive noise, impeding traffic, obstruction of public streets by crowds or vehicles, use or possession of illegal drugs, drinking in

public areas, the service of alcohol to minors or consumption of alcohol by minors, fighting, disturbing the peace, and/or littering.

UNLESS THE TOWN EXPRESSLY PERMITS SUCH A USE IN WRITING, USE OF THIS PROPERTY FOR ANY OF THE FOLLOWING PURPOSES IS PROHIBITED; VIOLATORS MAY BE SUBJECT TO SUBSTANTIAL PENALTIES:

1. Any nonresidential use;
2. Holding an event that exceeds the maximum occupancy or otherwise requires a permit or license under Town Code or state law, including but not limited to, special events, on-street parking, and social gatherings consisting of more than five unrelated adults;
3. Operating a retail business, restaurant, event center, banquet hall, or similar use;

The maximum occupancy of this residence is _____ adults.

Your local contact person's name is _____ and can be reached by phone 24 hours a day, seven days a week, at ____-____-____.

- B. Health, Safety, and Sanitation.** To protect the health, safety, and general welfare of all Short-Term Rental occupants, Short-Term Rentals must meet the minimum standards for habitable structures set forth in this Code and the Zoning Ordinance and the following requirements. The Town may require inspection if it has a reason for concern that the Short-Term Rental may not be compliant with the Town of Paradise Valley's fire, building, or zoning requirements.

1. **Owners shall:**
 - a. Have either (1) liability insurance to cover the Short-Term Rental in an amount determined appropriate by the insurance company insuring such Short-Term Rental, but in no case, an amount less than \$1,000,000 in the aggregate, or (2) equal or greater insurance coverage is provided for the Short-Term Rental through the Online Lodging Marketplace through which the property is booked; and
 - b. Ensure their Short-Term Rental meets the requirements of this subsection B.
2. **Smoke and carbon monoxide (CO) detection and notification system.** A working smoke alarm and carbon monoxide (CO) alarm system, which may require the installation and maintenance of several detection units,

shall be present within the Short-Term Rental or Vacation Rental and maintained annually as required under NFPA 72. The Owner or Owner's designee shall keep and make available for inspection upon request by the Fire Marshal a record of all inspections and maintenance activities.

3. **Fire extinguisher.** A portable, multi-purpose fire extinguisher shall be installed, inspected, and maintained as required under NFPA 10 in any kitchen area and on each floor of a Short-Term Rental and within 20 feet of every outdoor fire feature, fire pit, patio heater, fireplace, or other areas with fire. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location of the fire extinguisher.
4. **Fire Safety and Emergency Evacuation Map.** The Owner shall provide and prominently display a map of the Short-Term Rental showing the following information: safe routes of egress in the event of a fire or other emergency; the location of telephone(s) required under this Article; the location of fire detection and suppression equipment; and any additional information relevant to such emergency preparedness measures. Such maps shall include the full property address, emergency information (911), and Owner contact information.
5. **Air Filters.** As applicable, all HVAC filters in the Short-Term Rental shall be changed every three months or according to the manufacturer's instructions. The Owner or Owner's designee shall keep and make available for inspection upon request by the Town a record of all HVAC filter changes.
6. **Local phone service.** At least one landline telephone or modern equivalent with the ability to call 911 and receive inbound calls shall be available on every floor of the Short-Term Rental.
7. **Cleaning.** The Owner shall have the Short-Term Rental cleaned between bookings following CDC guidelines and using household disinfectant products included on the EPA's List N: Disinfectants for Coronavirus (COVID-19), available at <https://cfpub.epa.gov/wizards/disinfectants/>.
8. **Pest Control.** The Owner shall ensure that the Short-Term Rental receives regular (at least monthly) pest control treatments to keep the interior of all buildings and structures and exterior area of the premises free from infestation of insects, rodents, and other noxious pests where such infestation threatens the health, safety, or welfare of a person or persons.

- C. In addition to the transaction privilege tax license number that must be included in the Short-Term Rental's listing, the Owner shall complete and prominently display the following statement in the Vacation Rental's Online Lodging Marketplace or other listing:

You must meet in person with the owner of this property during check-in. The owner will provide you with pertinent safety information, explain your responsibilities under the Paradise Valley Town Code, and expect you to certify your compliance therewith.

You must not use this property for any of the uses identified in Paradise Valley Town Code section 10-14-4. Any renter who causes, permits, facilitates, aides, or abets any violation thereof shall be subject to a civil infraction carrying a mandatory penalty of a minimum of \$500.00 in addition to any other penalties which the Town may impose.

The use of this short-term rental to house sex offenders is prohibited. The owner of this short-term rental is required to perform a background check on you and your guests prior to your stay.

The maximum occupancy of this residence is ____ adults.

Section 10-14-6 Enhanced Penalties

- A. The remedies herein are cumulative, and the Town may proceed under one or more such remedies.
- B. Any Short-Term Rental Owner, agent, or renter who causes, permits, facilitates, aides, or abets any violation of any provision of this Article or who fails to perform any act or duty required by this Article is subject to the following civil sanctions:
1. First offense, \$500.
 2. Second offense on the property within twelve months, \$1,000 per offense.
 3. Third and subsequent offense within twelve months, \$1,500 per offense.
- C. Notwithstanding any other provisions of the Code, the Short-Term Rental Owner, agent, or renter who causes, permits, facilitates, aides, or abets the use of the Vacation Rental in violation of any provision of the Code is subject to a civil sanction as set forth in subsection B of this section.
- D. Any Vacation Rental Owner, agent, or renter who causes, permits, facilitates, aides, or abets any violation of any provision of this Article or fails to perform any act or duty required by this Article is guilty of a Class 1 misdemeanor.

SECTION 11. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 12. This Ordinance shall become effective in the manner provided by law.



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-370

AGENDA TITLE:
Experience Scottsdale Update

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill B. Keimach, Town Manager

DATE: November 18, 2021

DEPARTMENT: Town Manager
Jill Keimach, 480-348-3690

AGENDA TITLE:
Experience Scottsdale Update

SUMMARY STATEMENT:

The Town of Paradise Valley partners with Experience Scottsdale to promote the Town's hospitality industry for the purpose of bringing additional business to the Town's tourism industry. The Town's agreement with Experience Scottsdale establishes a set of parameters to be met annually. Leadership from the organization will report on activities, accomplishments, and trends over the last quarter.

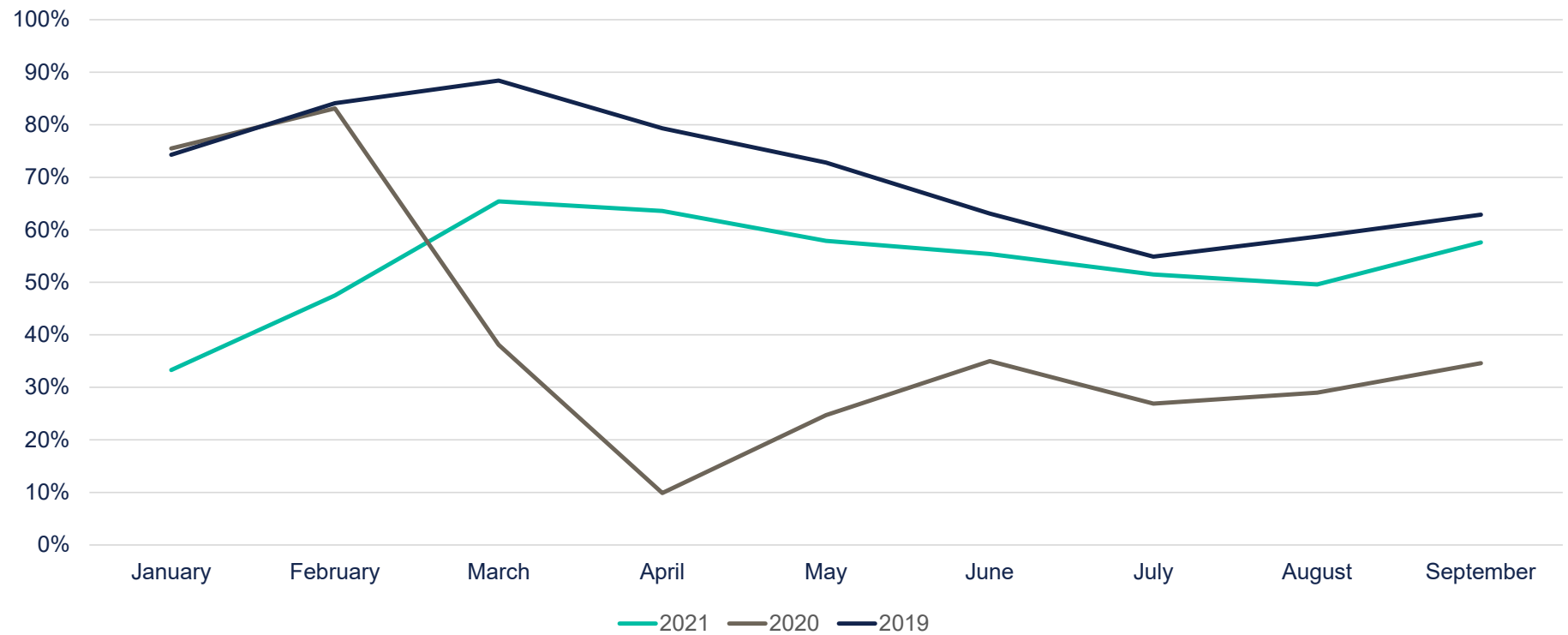
ATTACHMENT(S):
Presentation

EXPERIENCE SCOTTSDALE



SCOTTSDALE
ARIZONA


RESEARCH



INTERNATIONAL EFFORTS




FALL PROMOTIONS



[FALL HOME](#)[RESORT RATES](#)[OFFERS](#)[EVENTS](#)[STORIES](#)

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EXTRAORDINARY MOMENTS. LIFELONG MEMORIES.

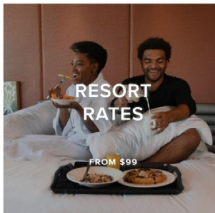
Chat with us

Dreaming of a fall getaway that will stir your soul? Celebrate the change of season in Scottsdale, where relaxation and adventure converge in a sun-drenched Sonoran Desert setting like no other.

From sunrise hikes and hot-air balloon flights to bountiful farmers' markets and day trips to prime leaf peeping, extraordinary moments and lifelong memories are waiting for you in Scottsdale.

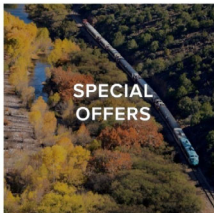
WHERE TO STAY, PLAY & SAVE

— Discover fall's best resort rates, attractions and events —

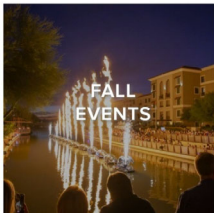


RESORT RATES

FROM \$99




SPECIAL OFFERS



FALL EVENTS


FALL MUST-HAVES

Your fall bucket list, from leaf peeping to pumpkin patches




Scottsdale's Fall Top 10

READ MORE



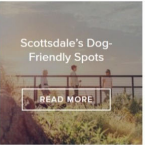
Day Drives to Fall Foliage

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Scottsdale's Pumpkin Patches

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Scottsdale's Dog-Friendly Spots

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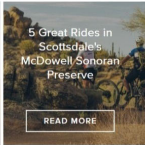
THE GREAT OUTDOORS

Soak up the sun on these fall adventures



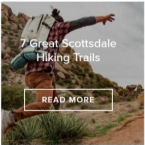
Top 5 Ways to Explore Scottsdale's Sonoran Desert

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5 Great Rides in Scottsdale's McDowell Sonoran Preserve

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7 Great Scottsdale Hiking Trails

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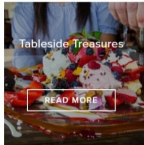


Scottsdale's Top Par 3s

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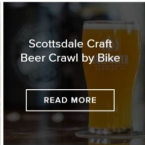
HOT EATS & COOL DRINKS

Where to find the season's best bites and bevies




Tableside Treasures

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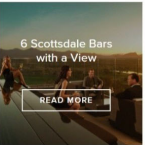
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SCOTTSDALE
ARIZONA


HEATING UP THE HOLIDAYS





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HEAT UP YOUR HOLIDAYS IN SCOTTSDALE


Mother Nature can keep her snow and icy temperatures – Scottsdale's turning up the heat this holiday season in more ways than one! From November through New Year's, Scottsdale is ablaze with festive light displays, hot holiday gift ideas and warm, sunny days that are perfect for outdoor explorations and al fresco dining. And these are just a few of the delights we have in store for you and yours. Read on for more reasons why you'll want to heat up your holidays in Scottsdale!

HOT HOLIDAY OFFERINGS


— Discover the season's best places to stay and play —




RESORT RATES
FROM \$129



SPECIAL OFFERS



HOLIDAY EVENTS

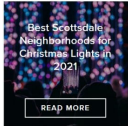


HOLIDAY INSPIRATION


your insider's guide to celebrating in Scottsdale

HOLIDAY BUCKET LIST


Festive activities for sunny days and glowy nights



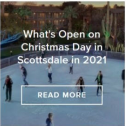
Best Scottsdale Neighborhoods for Christmas Lights in 2021
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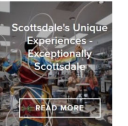
2021 Guide to the Best Holiday Lights Displays in Scottsdale
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Scottsdale's Winter Top 10
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What's Open on Christmas Day in Scottsdale in 2021
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MEETINGS SECTOR

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A close-up photograph of several aloe vera leaves, showing their characteristic serrated edges and pointed tips. The leaves are in sharp focus in the foreground, while the background is a soft, out-of-focus sky with warm sunset colors of orange, pink, and blue.

THANK YOU!



SCOTTSDALE
ARIZONA



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-358



**TOWN COUNCIL MEETING
6401 E. LINCOLN DRIVE
PARADISE VALLEY, ARIZONA 85253
MINUTES
THURSDAY, OCTOBER 28, 2021**

1. CALL TO ORDER / ROLL CALL

Mayor Bien-Willner called to order the Town Council Meeting for Thursday, October 28, 2021, at 3:00 p.m. in the Town Hall Boardroom and through remote participation as authorized by Resolution 2020-08.

COUNCIL MEMBERS PRESENT

Mayor Jerry Bien-Willner attended by video conference
Vice Mayor Mark Stanton attended by video conference
Council Member Ellen Andeen attended by video conference
Council Member Paul Dembow attended by video conference
Council Member Scott Moore attended by video conference
Council Member Julie Pace attended by video conference
Council Member Anna Thomasson attended by video conference

STAFF MEMBERS PRESENT

Town Manager Jill Keimach attended by video conference
Town Attorney Andrew J. McGuire attended by video conference
Assistant Town Attorney Deborah Robberson attended by video conference
Attorney Michael Goodman, Gust Rosenfeld PLC attended by video conference
Town Clerk Duncan Miller
CFO Michael Carbone
Chief of Police Peter Wingert attended by video conference
Town Engineer Paul Mood attended by video conference
Community Development Director Lisa Collins attended by video conference
Public Works Director Brent Skoglund attended by video conference
Special Projects Planner Loras Rauch
Matthew Klyszeiko, Michael Baker attended by video conference

2. STUDY SESSION ITEMS

21-332 Discussion of Photo Enforcement Program

Police Chief Peter Wingert summarized the procurement process followed to select a recommended vendor for photo enforcement services in Paradise Valley. He reported that the proposal review committee, made up of representatives from police, court, finance, and public works, selected American Traffic Solutions, Inc as the highest scoring, most qualified, cost-efficient respondent. The proposal includes fixed photo enforcement technology covering 12 intersection approaches, two mobile units, and

Note: Minutes of Town Council meetings are prepared in accordance with the provisions of Arizona Revised Statutes. These minutes are intended to be an accurate reflection of action taken and direction given by the Town Council and are not verbatim transcripts. Video recordings of the meetings along with staff reports and presentations are available online (www.paradisevalleyaz.gov) and are on file in the Office of the Town Clerk. Persons with disabilities who experience difficulties accessing this information may request accommodation by calling 480-948-7411 (voice) or 480-348-1811 (TDD).

two portable units. There was Council consensus to schedule the contract for consideration at a future meeting.

21-334 Discussion on the Paradise Valley 2022 General Plan - "60-Day

Community Development Director Lisa Collins summarized the General Plan review schedule. The statutorily mandated 60-day review period would begin November 1; the Planning Commission and Town Council would review the document in January and February; and the Council would vote on the Plan and call an election on March 10, 2022. The ratification election would be held August 2, 2022.

Ms. Collins reviewed the edits already made to the draft General Plan in response to Council feedback from the previous meeting and presented new comments provided since then. The Council discussed and offered additional edits. There was consensus to release the draft document with the additional edits for the 60-day review period.

A motion was made at 4:25 PM by Council Member Thomasson, seconded by Council Member Andeen, to go into executive session for legal advice regarding item 21-328. The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Vice Mayor Stanton
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace
Council Member Thomasson

3. EXECUTIVE SESSION

- 21-328 Discussion or consultation for legal advice with the Town Attorney regarding Town Code amendments related to code enforcement (special events, nuisance noise, unruly gatherings, and rental registration) as authorized by A.R.S. §38-431.03(A)(3).**
- 21-329 The Town Council may go into executive session at one or more times during the meeting as needed to confer with the Town Attorney for legal advice regarding any of the items listed on the agenda as authorized by A.R.S. §38-431.03(A)(3).**

4. BREAK

5. RECONVENE FOR REGULAR MEETING

Mayor Bien-Willner reconvened the meeting at 6:00 PM.

6. ROLL CALL**COUNCIL MEMBERS PRESENT**

Mayor Jerry Bien-Willner attended by video conference
Vice Mayor Mark Stanton attended by video conference
Council Member Ellen Andeen attended by video conference
Council Member Paul Dembow attended by telephone conference
Council Member Scott Moore attended by video conference
Council Member Julie Pace attended by video conference
Council Member Anna Thomasson attended by video conference

STAFF MEMBERS PRESENT

Town Attorney Jill Keimach attended by video conference
Town Attorney Andrew McGuire attended by video conference
Assistant Town Attorney Deborah Robberson attended by video conference
Town Clerk Duncan Miller
Chief of Police Peter Wingert attended by video conference
Chief Financial Officer Michael Carbone
Community Development Director Lisa Collins attended by video conference
Town Engineer Paul Mood attended by video conference
Attorney Michael Goodman, Gust Rosenfeld attended by video conference

7. PLEDGE OF ALLEGIANCE*

Quinci Castleberry representing CASA of Arizona led the Pledge of Allegiance.

8. PRESENTATIONS

Mayor Bien-Willner read a proclamation declaring October as Domestic Violence Awareness month in Paradise Valley. Quinci Castleberry, representing Court Appointed Special Advocates (CASA), accepted the proclamation. CASA volunteers are appointed by judges to speak up for abused and neglected children in court.

9. CALL TO THE PUBLIC

There were no public comments.

10. CONSENT AGENDA

Town Manager Keimach summarized the items on the Consent Agenda.

[21-330](#)

Minutes of Town Council Meeting October 14, 2021

[21-336](#)

Discussion and Action regarding Town participation in and administrative support for the Town of Paradise Valley Sixteenth Annual Veterans' Appreciation Vintage Car Show to be held on

Saturday, November 13, 2021

Recommendation: Authorize Town Participation in, and Administrative Support for, the Town of Paradise Valley Sixteenth Annual Veterans' Appreciation Vintage Car Show.

21-326 Discussion and Action regarding the Purchase of TASERs

Recommendation: Approve the purchase of 34 TASERs and authorize the Town Manager to sign the contract purchasing this equipment.

21-333 Discussion and Action on Fiscal Year 2022 Municipal Firefighters Cancer Reimbursement Fund Assessment

Recommendation: Authorize payment in the amount of \$37,910.48 to the Industrial Commission of Arizona for the Fiscal Year 2022 Municipal Firefighters Cancer Reimbursement Fund Assessment, pursuant to A.R.S. §23-1703.

21-337 Discussion and Action on Resolution 2021-21 Authorizing the Submittal for Certain ARPA Funds for Replacement of Public Revenue Loss, Stormwater Infrastructure Investments, Technology Backup and Cyber Security Efforts, And Partnership with Town Resorts to Analyze and Mitigate Neighborhood Noise

Recommendation: Adopt Resolution 2021-21.

21-338 Discussion and Action Authorizing A Contract Amendment to S+C for Public Communications Services for One-Year With 4 One-Year Extensions for an Annual Amount not to Exceed \$60,000

Recommendation: Approve a contract with S+C Communications (Scutari and Cieslak, Inc.) for one-year and providing up to four one-year extensions, not to exceed \$60,000 annually.

A motion was made by Council Member Dembow, seconded by Council Member Pace, to approve the Consent Agenda as submitted and to waive, pursuant to Section XIX of the Town Council Rules and Procedure, the opportunity to reconsider any items on the Consent Agenda. The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Vice Mayor Stanton
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace
Council Member Thomasson

11. PUBLIC HEARINGS

There were no public hearings.

12. ACTION ITEMS

There were no action items.

13. FUTURE AGENDA ITEMS**21-331 Consideration of Requests for Future Agenda Items**

Town Manager Keimach summarized upcoming agenda items. There were no requests to schedule any other items.

14. MAYOR / COUNCIL / MANAGER COMMENTS

Council Members provided comments and updates related to current events.

15. ADJOURN

A motion was made at 6:35 PM by Council Member Dembow, seconded by Council Member Pace, to adjourn. The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Vice Mayor Stanton
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace
Council Member Thomasson

Mayor Bien-Willner adjourned the meeting at 6:35 PM

TOWN OF PARADISE VALLEY

SUBMITTED BY:

Duncan Miller, Town Clerk

STATE OF ARIZONA)
 :ss.
COUNTY OF MARICOPA)

CERTIFICATION

I, Duncan Miller, Town Clerk of the Town of Paradise Valley, Arizona hereby certify that the following is a full, true, and correct copy of the minutes of the regular meeting of the Paradise Valley Town Council held on Thursday, October 28, 2021.

I further certify that said Municipal Corporation is duly organized and existing. The meeting was properly called and held and that a quorum was present.

Duncan Miller, Town Clerk



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 21-359



**TOWN COUNCIL MEETING
6401 E. LINCOLN DRIVE
PARADISE VALLEY, ARIZONA 85253
MINUTES
THURSDAY, NOVEMBER 4, 2021**

1. CALL TO ORDER / ROLL CALL

Mayor Bien-Willner called to order the Town Council Meeting for Thursday, November 4, 2021, at 3:00 p.m. in the Town Hall Boardroom and through remote participation as authorized by Resolution 2020-08.

COUNCIL MEMBERS PRESENT

Mayor Jerry Bien-Willner attended by video conference
Vice Mayor Mark Stanton attended by video conference
Council Member Ellen Andeen attended by video conference
Council Member Paul Dembow attended by video conference
Council Member Scott Moore attended by video conference
Council Member Julie Pace attended by video conference
Council Member Anna Thomasson attended by video conference

STAFF MEMBERS PRESENT

Town Manager Jill Keimach attended by video conference
Town Attorney Andrew J. McGuire attended by video conference
Assistant Town Attorney Deborah Robberson attended by video conference
Attorney Michael Goodman, Gust Rosenfeld PLC attended by video conference
Town Clerk Duncan Miller
Chief of Police Peter Wingert attended by video conference
Community Development Director Lisa Collins attended by video conference

A motion was made at 3:01 PM by Council Member Thomasson, seconded by Vice Mayor Stanton, to go into executive session to receive legal advice on items 21-340 and 21-354. The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Vice Mayor Stanton
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace

2. EXECUTIVE SESSION

- 21-340** Discussion or consultation for legal advice with the Town Attorney regarding Town Code amendments related to code enforcement (special events, nuisance noise, unruly gatherings, and rental registration) as authorized by A.R.S. §38-431.03(A)(3).
- 21-344** Discussion or consultation with the Town Attorney to consider the Town's position regarding contract negotiations with the Super Bowl Host Committee as authorized by A.R.S. §38 431.03(A)(4) and legal advice as authorized by A.R.S. §38 431.03(A)(3).
- 21-343** Discussion of Assistant Town Attorney responsibilities following retirement as authorized by A.R.S. §38-431.03(A)(1).
- 21-354** Discussion or consultation for legal advice with the Town Attorney regarding proposed zoning ordinance regarding regulations for walls, view fences and combination view fences as authorized by A.R.S. §38-431.03(A)(3).
- 21-341** The Town Council may go into executive session at one or more times during the meeting as needed to confer with the Town Attorney for legal advice regarding any of the items listed on the agenda as authorized by A.R.S. §38-431.03(A)(3).

3. STUDY SESSION ITEMS**STAFF MEMBERS PRESENT**

Town Manager Jill Keimach attended by video conference
Town Attorney Andrew J. McGuire attended by video conference
Assistant Town Attorney Deborah Robberson attended by video conference
John Austin Gaylord, Gust Rosenfeld, PLC, attended by video conference
Town Clerk Duncan Miller
Chief of Police Peter Wingert attended by video conference
Town Engineer Paul Mood attended by video conference
Community Development Director Lisa Collins attended by video conference

The study session convened at 5:10 PM.

- 21-347** Discussion of Proposed Zoning Ordinance regarding Regulations for Walls, View Fences and Combination View Fences

Community Development Director Lisa Collins summarized the current ordinance governing walls, view fences, and combination view fences. She explained concerns that have been raised with the current ordinance and the lack of clarity with the associated exhibits. She discussed possible code amendments related to view fence and combination view fence regulations and how they would be applied to properties on major arterials, minor arterials, and collector streets. She also discussed the possible elimination of the fence hedge maintenance agreement.

She reported that the Planning Commission discussed the ordinance and suggested amendments. They voted unanimously not to recommend amendments to the Code but did recommend clarifying the exhibits.

There was Council consensus to schedule this item for another study session to consider eliminating the fence hedge maintenance agreement requirement and further discuss fence / wall setbacks.

21-351 Discussion of Proposed Ordinance No. 2021-05, the Paradise Valley Community Tree City Ordinance

John Gaylord, Gust Rosenfeld, PLC, summarized a draft Town Tree Ordinance. He stated that adoption of the ordinance was required in order for the Town to continue to be eligible for the Tree City USA designation. He detailed what would be required of the Public Works Department under the ordinance and stated that many of the duties are already performed by the Department.

The Council requested an additional study session with more information on the costs of materials and staff time to implement the proposed ordinance.

21-349 Paradise Valley, 2022 General Plan - Update

Ms. Collins summarized the General Plan review schedule. She highlighted the Community Open House on November 17, 2021 at Town Hall and on Zoom. She reminded Council that the 60-day review period will occur between November 1 and December 31, 2021. The Planning Commission and Town Council will hold study sessions in January and February 2022. The Council was scheduled to adopt the Plan on March 10 and send it to the voters for ratification at the August 2, 2022 regular election.

4. BREAK

5. RECONVENE FOR REGULAR MEETING

Mayor Bien-Willner reconvened the meeting at 6:00 PM.

6. ROLL CALL**COUNCIL MEMBERS PRESENT**

Mayor Jerry Bien-Willner attended by video conference
Vice Mayor Mark Stanton attended by video conference
Council Member Ellen Andeen attended by video conference
Council Member Paul Dembow attended by video conference
Council Member Scott Moore attended by video conference
Council Member Julie Pace attended by video conference
Council Member Anna Thomasson attended by video conference

STAFF MEMBERS PRESENT

Town Attorney Jill Keimach attended by video conference
Town Attorney Andrew McGuire attended by video conference
Assistant Town Attorney Deborah Robberson attended by video conference
Town Clerk Duncan Miller
Chief of Police Peter Wingert attended by video conference
Community Development Director Lisa Collins attended by video conference
Town Engineer Paul Mood attended by video conference

7. PLEDGE OF ALLEGIANCE*

Member of Ballers Dream Foundation of Arizona Justin White, Chase Salone, and Cynthia Wenstrom led the Pledge of Allegiance.

8. PRESENTATIONS**21-348 Proclaim November 2021 as Baller Dream Foundation Month**

Mayor Bien-Willner read a proclamation declaring November 2021 as Ballers Dream Foundation in Paradise Valley. The Foundation is a non-profit organization supporting young cancer patients and their families.

9. CALL TO THE PUBLIC

Resident Michael Carmel discussed a code enforcement issue with a property in his neighborhood. He recommended reducing the amount of time Code violators are given to cure the violations, increase fines to encourage compliance and further regulation of short-term rental properties.

10. CONSENT AGENDA

There were no consent agenda items.

11. PUBLIC HEARINGS

There were no public hearings.

12. ACTION ITEMS

There were no action items.

13. FUTURE AGENDA ITEMS**21-342 Consideration of Requests for Future Agenda Items**

Town Manager Keimach summarized upcoming agenda items. There were no requests to schedule any other items.

14. MAYOR / COUNCIL / MANAGER COMMENTS

Council Members provided comments and updates related to current events.

A motion was made at 6:57 PM by Vice Mayor Stanton, seconded by Council Member Pace, to go into executive session to receive legal advice on items 21-343 and 21-344. The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Vice Mayor Stanton
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace
Council Member Thomasson

15. ADJOURN

A motion was made at 9:06 PM by Vice Mayor Stanton, seconded by Council Member Thomasson, to adjourn. The motion carried by the following vote:

Aye: 7 - Mayor Bien-Willner
Vice Mayor Stanton
Council Member Andeen
Council Member Dembow
Council Member Moore
Council Member Pace
Council Member Thomasson

Mayor Bien-Willner adjourned the meeting at 9:06 PM

TOWN OF PARADISE VALLEY

SUBMITTED BY:

Duncan Miller, Town Clerk

STATE OF ARIZONA)

:ss.

COUNTY OF MARICOPA)

CERTIFICATION

I, Duncan Miller, Town Clerk of the Town of Paradise Valley, Arizona hereby certify that the following is a full, true, and correct copy of the minutes of the regular meeting of the Paradise Valley Town Council held on Thursday, November 4, 2021.

I further certify that said Municipal Corporation is duly organized and existing. The meeting was properly called and held and that a quorum was present.

Duncan Miller, Town Clerk



Action Report

File #: 21-352

AGENDA TITLE:

Discussion and Action regarding the Purchase of Police Vehicle Radios

RECOMMENDATION:

Approve the purchase of 10 police vehicle Radios and authorize the Town Manager to sign the contract purchasing this equipment.

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager
Peter Wingert, Chief of Police

DATE: November 18, 2021

DEPARTMENT: Police Department
Peter Wingert, 480 948-7410

AGENDA TITLE:
Discussion and Action Regarding the Purchase of Ten Police Motorola Radios

RECOMMENDATION:

Approve the purchase of 10 police vehicle radios and authorize the Town Manager to sign the contract purchasing this equipment.

SUMMARY STATEMENT:

Police vehicle radios have a seven-to-ten-year life cycle and were purchased during FY 10-11. The Department's existing police vehicle radios are ten (10) years old and were discontinued by the manufacturer in 2017. The end of support set for our current vehicle radios is December 2023. Ten police vehicle radios were budgeted for replacement and approved in the FY 21-22 regular budget. Staff desires to move forward with the purchase and replacement of this equipment.

Police vehicle radios are used by the officers regularly. This equipment is an officer's primary method of communication with dispatch and other officers. This purchase will provide ten of the 21 Town marked and unmarked vehicles new radios.

Eleven additional radios will be requested in the FY 22-23 budget year.

BUDGETARY IMPACT:

The police department budgeted \$75,000 for the replacement of police vehicle radios during FY 21-22, based on preliminary budget numbers. The original quote from Motorola did not include sales tax. The sales tax on the ten (10) police vehicle radios is approximately \$6,483.00. The final cost of the 10 police vehicle radios in FY 21-22 will be \$80,751.40. The \$7,000 overage will be funded from DUI drug equipment that was budgeted in FY 21-22 but purchased from a Governor's Office of Highway Safety (GOHS) grant.

Preliminary budget figures for the completion of this project will be approximately \$93,000, which will be requested in the FY 22-23 budget cycle.

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

ATTACHMENT(S):

- A. 11182021 Staff Report FY 22 Moto radio purchase
- B. 11182021 Moto Project outline
- C. 11182021 FY 21-22 Moto 10 APX radios
- D. Procurement form
- E. Linking agreement



PROPOSED PROJECT

Proposed Project Name: Mobile Radios for Police Department Vehicles

Business Problem:

The Department's existing mobile radios utilized in the patrol and undercover units are currently ten (10) years old and have been discontinued by the manufacturer in 2017. The end of support set for our current mobile units is December 2023.

Goal / Objectives:

- Update the patrol fleet with new mobile radios
- Ability to incorporate new P25 GPS location technology in the future
- Support is extended for newer equipment

Project Description:

Aside from the vehicle itself, the radio is a very crucial piece of mobile equipment that is used daily. The radio is one of the direct lifelines that the officers and detectives have in the field to each other, and to the Paradise Valley Police Communications Center. Radios are also programmed with several Interoperability channels in the event multiple agencies are working together on an incident as well as our backup frequency, in the event our main channel is inoperable. The need for continued support and functionality is paramount for this piece of equipment.

Motorola is the only logical provider as the State of Arizona has a contract in place that provides equipment at discounted rates to agencies across the state for Communications Equipment and Services. Also, the Paradise Valley Police Department currently utilizes a Motorola radio system and holds an annual service contract with Motorola.

The radios will be covered by a 3-year essential service plan, then will be rolled into the annual service contract that we currently hold.

Each vehicle would take approximately 5 hours for the removal of the current mobile and installation of the new radio with two (2) Motorola technicians. Approximately three (3) vehicles can be completed each day, which will be approximately 3-4 days for FY21-22 and 4 days for FY22-23.

Motorola has offered to complete the install at the Paradise Valley Police Department; however, there is an hourly travel fee, per tech, per day. It would be approximately an additional \$300/day for travel for installation of mobile radios if Motorola were to

complete installation at our station. These travel fees have been added to the cost chart below (listed in orange italics as this is optional).

Stakeholders identified in the project include Command Staff, Communications, Patrol and Detectives.

Justification/Benefits: Why should/must the project be started now? List reasons

1. End of support for current mobile radios is fast approaching.
2. Ability to utilize the new technology of P25 GPS Tracking which can be integrated with the mapping tools for Dispatch for more accurate locations of officers in patrol units.

Funding Sources:

Town Council have approved a budgeted expenditure of up to \$75,000.00 for the refresh.

Funding: 10-66-869 PD

Strategic Plan Alignment:

Town: Approved \$75,000.00

Other: Re-allocated from other equipment \$7,000.00

PD Goal #4: Incorporate tech into the department

| PROJECT COSTS | | | | | | | | |
|---------------|------------|--------------------|--------------------|---------|---------|---------|------|---------------------|
| Costs (k) | Prior | 2021-22 | 2022-23 | 2023-24 | 2022-23 | 2023-24 | 2025 | Total |
| Hardware | | \$74,151.40 | \$85,755.24 | | | | | \$159,906.64 |
| Travel Fees | | <i>\$600.00</i> | <i>\$700.04</i> | | | | | <i>\$1,300.04</i> |
| Labor | | \$6,000.00 | \$6,600.00 | | | | | \$12,600.00 |
| O&M | | | | | | | | |
| Total | \$0 | \$80,751.40 | \$93,055.28 | | | | | \$173,806.68 |


| LIFECYCLE COSTS | |
|-----------------|--|
| Assumption: | 10 years |
| Estimated: | Mobile radios have a lifecycle of approximately ten (10) years. The yearly costs are included in the annual maintenance contract with Motorola. As the expense of the radios is significant, the radios will be divided in half and purchased in FY21-22 and FY22-23. Each radio comes with a 3-year essential service package. After the 3-year service has expired, our current annual service contract will continue to provide technical support as well as repairs and returns. |

| PROJECT TIMELINE | | |
|------------------|--|--|
| Duration: | 2 years | (Anticipated Completion by January 2023) |
| Resources: | 21 vehicles requiring removal of current mobile radio, programming and installation of new mobile radios, divided over two fiscal years. Ten (10) vehicles for FY21-22, and 11 vehicles for FY22-23, over a 3-4 day time frame per year. | |

| PROJECT RISKS |
|---|
| <ol style="list-style-type: none"> 1. Several vehicles will be down at a time. 2. Unknown hardware costs after ten (10) years. |
| Consequences of Not Performing Project: |
| <ol style="list-style-type: none"> 1. No further support on current mobile radios provided after December 2023. |
| What criteria should halt this project for review? |
| <ol style="list-style-type: none"> 1. If it becomes over budget by 10% 2. 20% delay measured in work days from the project schedule |

| ROLES | | | | | |
|--------------------------------------|---------------|-----------------|--------------|-------------|-------------|
| Organization | Project Mgmt. | Sponsor / Owner | User/ Client | M&O Support | Stakeholder |
| <i>Chief of Police</i> | | X | X | | X |
| <i>PD Commander Support Services</i> | | | X | | X |
| <i>PD Commander Operations</i> | | | X | | X |
| <i>PD Detectives</i> | | | X | | X |
| <i>PD Patrol Officers</i> | | | X | | X |
| <i>3rd Parties</i> | | | | X | |

Approvals

| NAME | ROLE | SIGNATURE | DATE |
|--------------|-----------------|---|------------|
| Pete Wingert | Chief of Police |  | 11/01/2021 |

Billing Address:
 PARADISE VALLEY, TOWN OF
 6401 E LINCOLN DR
 PARADISE VALLEY AZ, 85253

Quote Name: 10-APX8500
Quote Date: 2021-10-08
Expiration Date: 2022-01-06

Customer: PARADISE VALLEY, TOWN OF
Contact Name: Heather Beckwith
Contact Email: hbeckwith@paradisevalleyaz.gov
Contact Phone: +1.480.348.3543

Quote Notes: PI
 STATE OF AZ CC

Terms and Conditions: none

| Line # | Item Number | Description | Quantity |
|--------|--------------|---|----------|
| | APX™ 8500 | | |
| 1 | M37TSS9PW1AN | APX8500 ALL BAND MP MOBILE. | 10 |
| 1a | GA00580AA | ADD: TDMA OPERATION. | 10 |
| 1b | GA01513AB | ADD: ALL BAND MOBILE ANTENNA (7/8/V/U). | 10 |
| 1c | G51AT | ENH:SMARTZONE. | 10 |
| 1d | G78AT | ENH: 3 YEAR ESSENTIAL SVC. | 10 |
| 1e | GA05509AA | DEL: DELETE UHF BAND. | 10 |
| 1f | GA01606AA | ADD: NO GPS/WI-FI ANTENNA NEEDED. | 10 |
| 1g | G298AS | ENH: ASTRO 25 OTAR W/ MULTIKEY. | 10 |
| 1h | B18CR | ADD: AUXILIARY SPKR 7.5 WATT APX. | 10 |
| 1i | G843AH | ADD: AES ENCRYPTION AND ADP. | 10 |
| 1j | G444AH | ADD: APX CONTROL HEAD SOFTWARE. | 10 |
| 1k | G67EH | ADD: REMOTE MOUNT E5 MP. | 10 |
| 1l | GA01517AA | DEL: NO J600 ADAPTER CABLE NEEDED. | 10 |
| 1m | G806BL | ENH: ASTRO DIGITAL CAI OP APX. | 10 |
| 1n | GA01670AA | ADD: APX E5 CONTROL HEAD. | 10 |
| 1o | W22BA | ADD: STD PALM MICROPHONE APX. | 10 |
| 1p | G361AH | ENH: P25 TRUNKING SOFTWARE APX. | 10 |
| 2 | LSV00Q00202A | DEVICE PROGRAMMING. | 10 |
| 3 | LSV00Q00203A | DEVICE INSTALLATION. | 10 |

| | | | |
|---|--------------|--|----|
| 4 | LSV00Q01073A | DEVICE MISCELLANEOUS: Estimated On-Site Travel Fee | 10 |
| 5 | Trade-In | . | 1 |

Quote Number: QUOTE-1573303

Quote Created By:
Suzanne Millard

Suzy.Millard@motorolasolutions.com

Currency: USD

Please include the following on all PO's: NET 30 SUBJECT TO TERMS AND CONDITIONS PER CONTRACT CTR046830

| Unit List Price | Ext. List Price | Discount % | Discount \$ |
|-----------------|-----------------|------------|-------------|
| | | | |
| \$5,152.00 | \$51,520.00 | 27.00% | \$1,391.04 |
| \$450.00 | \$4,500.00 | 27.00% | \$121.50 |
| \$95.00 | \$950.00 | 27.00% | \$25.65 |
| \$1,500.00 | \$15,000.00 | 27.00% | \$405.00 |
| \$176.00 | \$1,760.00 | 0.00% | \$0.00 |
| -\$800.00 | -\$8,000.00 | 27.00% | -\$216.00 |
| \$0.00 | \$0.00 | 0.00% | \$0.00 |
| \$740.00 | \$7,400.00 | 27.00% | \$199.80 |
| \$60.00 | \$600.00 | 27.00% | \$16.20 |
| \$475.00 | \$4,750.00 | 27.00% | \$128.25 |
| \$0.00 | \$0.00 | 0.00% | \$0.00 |
| \$297.00 | \$2,970.00 | 27.00% | \$80.19 |
| \$0.00 | \$0.00 | 0.00% | \$0.00 |
| \$515.00 | \$5,150.00 | 27.00% | \$139.05 |
| \$652.00 | \$6,520.00 | 27.00% | \$176.04 |
| \$72.00 | \$720.00 | 27.00% | \$19.44 |
| \$300.00 | \$3,000.00 | 27.00% | \$81.00 |
| \$75.00 | \$750.00 | 0.00% | \$0.00 |
| \$525.00 | \$5,250.00 | 0.00% | \$0.00 |

| | | | |
|-------------|-------------|-------|--------|
| \$60.00 | \$600.00 | 0.00% | \$0.00 |
| -\$3,500.00 | -\$3,500.00 | 0.00% | \$0.00 |



| Unit Sale Price | Ext. Sale Price | APC |
|-----------------|-----------------|------|
| | | |
| \$3,760.96 | \$37,609.60 | 0681 |
| \$328.50 | \$3,285.00 | 0656 |
| | | |
| \$69.35 | \$693.50 | 0681 |
| \$1,095.00 | \$10,950.00 | 0656 |
| \$176.00 | \$1,760.00 | 0185 |
| -\$584.00 | -\$5,840.00 | 0681 |
| | | |
| \$0.00 | \$0.00 | 0681 |
| \$540.20 | \$5,402.00 | 0656 |
| \$43.80 | \$438.00 | 0656 |
| \$346.75 | \$3,467.50 | 0656 |
| \$0.00 | \$0.00 | 0656 |
| \$216.81 | \$2,168.10 | 0656 |
| \$0.00 | \$0.00 | 0681 |
| \$375.95 | \$3,759.50 | 0681 |
| \$475.96 | \$4,759.60 | 0681 |
| \$52.56 | \$525.60 | 0471 |
| \$219.00 | \$2,190.00 | 0656 |
| \$75.00 | \$750.00 | 0461 |
| \$525.00 | \$5,250.00 | 0461 |

| | | |
|-------------|-------------|------|
| \$60.00 | \$600.00 | 0461 |
| -\$3,500.00 | -\$3,500.00 | |

Net Total **\$74,268.40**

Estimated Tax **\$6,483.00**

Estimated Freight **\$0.00**

Grand Total **\$80,751.40**



PROCUREMENT FORM

For Procurement Review – Please route Contract through Douglas Allen in Finance

Please fill out this form completely or it will be returned to you prior to review, approval, or filing. If a response is not applicable, please use "N/A" – Do Not Leave Blanks.

Date Submitted for Review: _____

PROCUREMENT PROCESS – NOTE: IGAs, Easements, Lease/Property Acquisition and Development Agreements do not require Procurement Review. However, they must still be seen by Legal Services. All Contracts must be reviewed and signed off by the Town Manager & Legal Services prior to going to Council.

Procurement Type (check one):

- | | | | |
|---------------------------------------|---|--|-------------------------------------|
| <input type="checkbox"/> Construction | <input type="checkbox"/> Contract | <input type="checkbox"/> Change Order/Modification | <input type="checkbox"/> On Call |
| <input type="checkbox"/> IGA | <input type="checkbox"/> Development Agreement | <input type="checkbox"/> Amendment | <input type="checkbox"/> Blanket PO |
| <input type="checkbox"/> Easement | <input type="checkbox"/> Lease/Property Acquisition | <input type="checkbox"/> Other _____ | |

IDENTIFYING INFORMATION: (Please fill in each field)

Requesting Department: _____

Requesting Employee Name: _____

Vendor Name: _____

Vendor Address: _____

Vendor Phone: _____

Brief Summary of the Services to be provided: _____

Terms:

Start Date: _____ Expiration Date: _____

Contract Amount \$: _____

CONTRACT REVIEW REQUIREMENTS

Designate what method you used to arrive at this contract and whether the item is budgeted for:

Requirements:

- ☐ Informal (\$1-\$49,999)
 - ☐ \$5k to \$24,999 (3 Verbal Quotes)
 - ☐ \$25,000 to \$49,999 (3 Written Quotes)
- ☐ Formal - \$50k and more (Invitation to bid/ RFP)
- ☐ Sole Source / Competition Impracticable - \$5k or more (Document basis)
- ☐ Cooperative agreement (\$5k to \$24,999) (3 Verbal Quotes)
- ☐ Cooperative agreement (\$25k to \$49,999) (3 Written Quotes)
- ☐ Cooperative agreement (\$50k and more) (Contract legal review)

Approval Levels:

- ☐ Specifically Budgeted
 - ☐ Town Manager Delegated Approval (\$1 to \$24,999)
 - ☐ Town Manager Approval (\$25k to \$99,999)
 - ☐ Town Council Approval (\$100k and more)
- ☐ Not Budgeted
 - ☐ Town Manager Approval (\$1 to \$24,999)
 - ☐ Town Council Approval (\$25k and more)

Cooperative Agreement and Contract Number if selected: _____ GL Code: _____

Additional Funding Source? ☐ General Fund – Identify: _____ ☐ Other – Identify: _____

ADDITIONAL COMMENTS? _____

REVIEWED AND APPROVED:

☐ Initiated By/Other: _____ Date: _____

☐ Department Director: _____ Date: _____

☐ Procurement: _____ Date: _____

☐ Finance: _____ Date: _____

☐ Legal: _____ Date: _____

☐ Town Manager: _____ Date: _____



LINKING AGREEMENT FOR COOPERATIVE PURCHASE

MOTOROLA SOLUTIONS, INC.

MOBILE RADIOS

This Linking Agreement for Cooperative Purchase (hereinafter “**Linking Agreement**”) is made and entered into on this ____ day of _____, 2021 (“Effective Date”) by and between the Town of Paradise Valley, an Arizona municipal corporation (hereinafter designated as the “Town”) and Motorola Solutions, Inc., a Delaware corporation, authorized to do business in Arizona (hereinafter designated as “**Contractor**”), (each individually a “Party,” together “Parties”).

RECITALS

A. On October 9, 2019, the State of Arizona entered into a contract with Contractor to purchase goods and services described in the State of Arizona Solicitation No. ADSP019-00008376 and State of Arizona Contract for Public Communications Equipment and Services, Contract No. CTR046830 (“**Cooperative Purchasing Agreement**”), which is incorporated herein as if fully set forth. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the Town; and

B. Pursuant to A.R.S. § 41-2631 et seq. and Town of Paradise Valley Resolution Nos. 1205 and 1207, the Town has authority to utilize cooperative purchasing contracts of the Federal government and State of Arizona public agencies and public procurement units, including Mohave Educational Services Cooperative, Inc., and engage contractors under the terms thereof.

C. The Town desires to contract with Contractor for supplies or services identical or nearly identical to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement as the basis of this Linking Agreement, and Contractor desires to enter into this Linking Agreement to provide the supplies and services set forth in this Linking Agreement.

AGREEMENT

NOW, THEREFORE, Contractor and the Town, in consideration of the foregoing Recitals, which are incorporated herein by reference, and for the consideration hereinafter set forth, promise, covenant, and agree as follows:

1. Scope of Work; Terms, Conditions, and Specifications.

- 1.1. Contractor shall provide Town the supplies and/or services, generally described as 10 All Band mobile radios and associated equipment, and more particularly identified in the Motorola Solutions, Inc. Quote No. QUOTE 1573303 dated 10-8-2021 (“**Scope of Work**”) attached hereto as **Exhibit A** and incorporated herein by this reference.

- 1.2. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Linking Agreement, except to the extent otherwise provided in Exhibit B. As used in this Linking Agreement, all references to the State of Arizona or its agencies and departments in the Cooperative Purchasing Agreement shall mean the Town of Paradise Valley, Arizona, and/or its departments.
- 1.3. Contractor shall comply with all specific requirements and/or options of the Town, as specified in **Exhibit B** attached hereto and incorporated herein by reference. **To the extent there is any conflict between Exhibit A or B and the Cooperative Purchasing Agreement, Exhibits A and B take precedence.**
2. Payment. Payment to the Contractor for the services, materials and/or equipment provided, shall be made in accordance with the price list and terms set forth in the Cooperative Purchasing Contract. The total compensation for the supplies and/or services purchased under this Linking Agreement shall not exceed \$80,751.40, as provided in **Exhibit A**.
3. Contract Term and Renewal.
 - 3.1. According to the Cooperative Purchasing Agreement, purchases can be made from the date of the award, which was October 9, 2019, until the date the contract expires on October 9, 2024, unless the term of the Cooperative Purchasing Agreement is extended by the original contracting parties.
 - 3.2. The term of this Linking Agreement shall commence upon the Effective Date set forth above and shall remain in full force and effect through June 30, 2021, or until all work under this Linking Agreement is completed and satisfactory to the Town, whichever is earlier, unless terminated as otherwise provided in this Linking Agreement.
4. Certificates of Insurance. All insurance provisions of the Cooperative Purchasing Contract shall apply, including without limitation, the requirement to name the Town as an additional insured. Prior to commencing work under this Linking Agreement, Contractor shall furnish the Town with Certificate(s) of Insurance issued by the Contractor's insurer(s) as evidence that policies providing the required coverages, conditions and limits required by this Linking Agreement are in full force and effect.
5. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.
6. Boycott of Israel Prohibited. To the extent Title 35 is applicable to the Contract, the Contractor warrants that it is not and will not participate in prohibited activity in contravention of A.R.S. § 35-393.01.
7. Cancellation for Conflict of Interest. This Linking Agreement may be cancelled pursuant to A.R.S. § 38-511.

IN WITNESS WHEREOF, the Parties have hereunto subscribed their names.

(Signatures on Following Page)

TOWN OF PARADISE VALLEY,
an Arizona municipal corporation

By: Jill Keimach
Its: Town Manager

ATTEST:

Duncan, Miller, Town Clerk (SEAL)

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney

MOTOROLO SOLUTIONS, INC.,
a Delaware corporation

By: _____

Its: _____

EXHIBIT A
LINKING AGREEMENT
FOR COOPERATIVE PURCHASE

MOTOROLA SOLUTIONS, INC.

MOBILE RADIOS

SCOPE OF WORK AND PRICING

See Attached Quote No. QUOTE-1573303

EXHIBIT B
LINKING AGREEMENT
FOR COOPERATIVE PURCHASE

MOTOROLA SOLUTIONS, INC.

MOBILE RADIOS

SPECIFIC REQUIREMENTS/OPTIONS OF TOWN

Notices: All notices required under the Linking Agreement shall be sent to:

Pete Wingert, Chief of Police
Paradise Valley Police Department
Town of Paradise Valley
6433 E. Lincoln Drive
Paradise Valley, Arizona 85253

With mandatory copy to:

Town Attorney
Town of Paradise Valley
6401 E. Lincoln Drive
Paradise Valley, Arizona 85253



Action Report

File #: 21-366

AGENDA TITLE:

Discussion and Action to Rescind the Temporary Suspension of Sick Leave Payout due to COVID-19 Financial Constraints

RECOMMENDATION:

Rescind the temporary suspension of Section 940(J) in Resolution 2020-20 that altered the Council approved Sick Leave Payout Policy.

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager

DATE: November 18, 2021

DEPARTMENT: Town Manager
Jill Keimach, 480-348-3533

AGENDA TITLE:

Discussion and Approval to Rescind the Temporary Suspension of Section 940(J) Sick Leave Payout Policy as a Result of COVID-19 Financial Constraints

RECOMMENDATION:

Rescind the Temporary Suspension of Section 904(J) in Resolution 2020-20 that altered the Council approved sick leave payout policy

SUMMARY STATEMENT:

On July 11, 2020, the Town Council approved Resolution 2020-20 (Attachment A), which amended several financial management policies due to the economic downturn that the Town was experiencing during the height of the COVID-19 pandemic. Also included in the resolution, was the temporary suspension of Section 940(J) Sick Leave Policy. The Policy allows the Town to reduce its long-term liability of accumulated sick leave by allowing an employee that has accumulated in excess of 480 hours to convert it at 50% value to either vacation time or 50% cash value. The suspension of the cash payout allowed employees to only convert it to 50% vacation time as a cost saving measure, but more importantly to encourage sick employees to stay home.

The Town's revenue has recovered since the peak of the pandemic and FYI 2020-21. Consequently, there is currently no financial hardship to continue to suspend this policy that effects employees that have accumulated more than 480 hours of sick leave.

BUDGETARY IMPACT:

The current FY2021/22 Budget includes a total of \$56,602 for the anticipated sick leave payout under this policy. By paying out these accumulated liabilities this year, rather than postponing the liability to a future date, the Town pays a lower rate, assuming staff salaries increase over time due to cost of living and merit pay increases.

ATTACHMENT(S):

Attachment A: Resolution 2020-20

ATTACHMENT A

RESOLUTION NUMBER 2020-20

A RESOLUTION OF THE TOWN OF PARADISE VALLEY, ARIZONA ADOPTING AMENDMENTS TO PERSONNEL AND FINANCIAL MANAGEMENT POLICIES.

WHEREAS, the Town of Paradise Valley has a longstanding tradition of fiscal prudence and maintaining essential policies to serve as the foundation and framework for continuity in financial planning and budgeting; and,

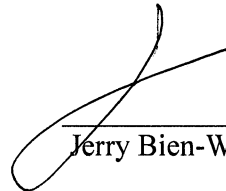
WHEREAS, the Government Finance Officers Association (GFOA) recommends maintaining financial policies as a best practice that is central to a strategic and long-term approach to financial management; and,

WHEREAS, along with a comprehensive review of all of the Town's Financial Management Policies Town management and the Mayor and Town Council have reviewed policy amendments in Exhibit A on April 9, 2020 and May 28, 2020; and the amendment in Exhibit B on May 28, 2020; and,

WHEREAS, the policy amendments in Exhibit A and B are integral components to the Town's FY2021 budget to promote health and safety for town personnel and residents they interact with and give flexibility and clarity for fiscal strategies; and

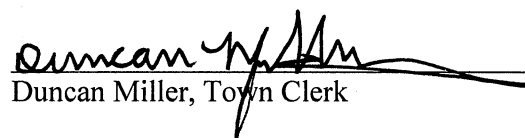
NOW THEREFORE, BE IT RESOLVED, that the policy amendments attached hereto as Exhibits A and B are hereby adopted.

PASSED AND ADOPTED by the affirmative vote of the Paradise Valley Town
Council this 11th day of June 2020.




Jerry Bien-Willner, Mayor

ATTEST:



Duncan Miller, Town Clerk

APPROVED AS TO FORM



Andrew M. Miller, Town Attorney

EXHIBIT A
Town of Paradise Valley
Financial Management Policy Amendments
Fiscal Year 2020/21

OPERATING BUDGET POLICIES

13. ~~Construction sales tax in excess of \$0.5 million will be transferred from the operating budget to the CIP fund to provide a dedicated CIP funding.~~

CAPITAL BUDGET POLICIES

7. ~~Construction sales tax in excess of \$0.5 million will be transferred from the operating budget to the CIP fund to provide a dedicated CIP funding.~~ assigned to fund the Capital Improvement Plan including capital improvement projects and capital improvement debt obligations.

CONTINGENCY AND RESERVE POLICIES

2. A reserve no less than ~~equal to at least 90%, but not more than 110%,~~ of the annual operating budget (General and HURF funds) operating expenditures will be maintained. The amount will be calculated using the budgeted expenses for the following year. The reserve is to be used for unforeseen emergencies, such as a significant loss of revenues or catastrophic impacts on the Town. At the time the Town Council approves the use of the reserve below 90%, it will also identify the time period over which the reserve will be replenished.

EXHIBIT B
Town of Paradise Valley
Personnel Policy Amendments
Fiscal Year 2020/21

SECTION 904

J. Sick leave accumulated in excess of 480 hours must be converted on the 15th of December each year to either vacation time or cash value. If converted to vacation time, the conversion shall be one hour of vacation for every two (2) hours of accumulated sick leave in excess of 480 hours. If converted to cash value the conversion rate shall be made at 50% of the employee's current hourly wage multiplied by the number of hours in excess of 480 hours.

NOTE:

To encourage sick employees to stay home, Section 904 (J) is temporarily suspended.

As a transition, any sick leave hours accumulated over 480 hours as of the last full pay period ending in June 2020, may be converted to 1 hour of vacation for every 2 hours of sick or paid out at 50% of the cash value.

Sick leave will continue to be earned but not paid out until the suspension is lifted and / or a new policy is put into place.



Action Report

File #: 21-367

AGENDA TITLE:

Discussion and Action to Approve Contract Extension with and Funding for Interim Public Management, LLC for Interim Chief Financial Officer Services

RECOMMENDATION:

Approve additional funding for the IPM contract for interim CFO services up to \$100,000 on a full-time month-to-month basis.

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager

DATE: November 18, 2021

DEPARTMENT: Town Manager
Jill Keimach, 480.348.3533

AGENDA TITLE:

Discussion and Approval Regarding Additional Funding for Interim Chief Financial Officer Services Through Contract with Interim Public Management, LLC

SUMMARY STATEMENT:

On July 6, 2021, the Town Manager began the process to interview and hire an interim Chief Financial Officer, Michael Carbone. Mr. Carbone was unanimously selected out of several potential candidates interviewed for the position vacated by former CFO Doug Allen.

Because of the summer recess, the Town Manager signed an agreement with IPM on August 5, 2021 to immediately fill the vacancy pursuant to the Town Code urgent procurement provisions, Sec. 3-8-4(1). This was necessary in order to meet financial reporting deadlines for filing and converting the recently approved Budget into the Town's accounting system and assist as needed with the federal Single Audit that was the Town's primary focus at the time. The Town Code allows urgent expenditures of up to \$50,000 with follow-up reporting to the Town Council within 10 business days. In accordance with this provision, Town Council was informed of the hiring of an interim CFO and the Town has expended funds near the urgency limit. This request is to continue the agreement month-to-month for interim CFO services until a permanent replacement is selected.

BUDGETARY IMPACT:

The contracted CFO services are currently for \$4,214 per week, with a 5% increase in the rate on July 1, 2022. The rate is pro-rated when the services fall below a full-time work week. This budget request is to grant up to an additional \$100,000 to cover the contract interim CFO position through March 2022.

RECOMMENDATION:

Approve additional funding for the attached contract with IPM (Schedule F) for up to \$100,000 on a full-time, month-to-month basis.

ATTACHMENT(S):

- A. Staff Report
- B. Retention Letter, dated July 6, 2021
- C. Schedule F of Master IPM Professional Services Agreement
- D. IPM Professional Services Agreement, Dated July 2, 2014



Interim Public Management, LLC

16868 North Stoneridge Court

Fountain Hills, Arizona 85268

480.577.0949

tim@interimpublicmanagement.com

July 6, 2021

Jill Keimach, Town Manager
Town of Paradise Valley
6401 E Lincoln Dr.
Paradise Valley, AZ 85253

Via electronic mail only: jkeimach@paradisevalleyaz.gov

Dear Jill,

Thank you for reaching out to us. Interim Public Management (IPM) is happy to be able to provide services to the Town of Paradise Valley. By retaining IPM under the terms of this letter to search for an Interim Chief Financial Officer the Town will receive the following services:

- Up to three confidential interim resumes provided by no later than 15 business days from the date of the signature of this letter in order to meet your preferred start date.
- Access to over 250 pre-qualified and vetted interim managers, department directors and Associates, all under confidentiality agreements; and
- Handling of all call-ins and external referrals of potential interims (which eliminates Town staff time and allows for a coordinated effort, background searches and vets potential candidates) and related contract administration.

IPM's retainer fee for the above services is \$1,500 payable by the Town on net 10-day payment terms, which will be credited to the Town should you choose an IPM Associate for interim services. For a period of 30 days after signing this letter and returning it to IPM, you agree that the Town will use IPM exclusively for this search.

If the Town wishes to retain IPM under these terms, please sign this letter below and email it to me by July 9, 2021. After that date, these terms will expire due to the time sensitive nature of the search. Although you are under no obligation to select any IPM Associates provided to you for interviews, a contracted interim search ensures a coordinated effort, reduces the Town's staff time, and increases the quality and speed of your interim interview process.

July 6, 2021

Page 2

IPM appreciates the opportunity to once again serve the Town of Paradise Valley as we have served many other nearby public entities such as Scottsdale, Phoenix and Glendale.

Kindest regards,

Timothy G. Pickering,
President and CEO

The Town of Paradise Valley agrees with the above understanding.

DocuSigned by:
Jill Keimach
By: CE1DC3A7429445A...
Jill Keimach, Town Manager

Date 7/8/2021

ATTEST:

DocuSigned by:
Duncan Miller
FD56FF67A95043D...

Duncan Miller, Town Clerk

APPROVE AS TO FORM:

DocuSigned by:
Deborah Robberson for
G4D96C6022896478...

Andrew J. McGuire, Town Attorney

SCHEDULE F
TO
PROFESSIONAL SERVICES AGREEMENT DATED JULY 2, 2014

Effective Date of Schedule: August 5, 2021

Client: The Town of Paradise Valley, Arizona

Services: Interim Chief Financial Officer

Expected Commencement Date for Engagement: Friday, August 6, 2021

Expected Services Performance Schedule: As mutually agreed upon by Manager and Contractor, beginning August 16, 2021, a four day/ten hours per day work schedule, typically Monday through Thursday (a 4/10 schedule), on and off-site with approval of Manager, excluding holidays. Beginning August 6, some initial days as Contractor is available.

Fees: Client shall pay to IPM the Fees set forth below, in consideration of the Services rendered by IPM hereunder:

| | |
|----------------|--|
| Services Fees: | The Client shall pay IPM the following fee for each week during which the Consultant or other IPM representatives provide Services per the Expected Services Performance Schedule to the Client: \$4,214 per week, per Consultant or other IPM resources. Client shall pay a pro-rated amount for Services in which the Consultant or other IPM resource provides less than full-time work week. |
|----------------|--|

The Services Fees set forth above shall increase by five percent on July 1, 2022 and annually thereafter.

Term: This Schedule shall commence upon its stated Commencement Date and shall continue until November 19, 2021, and shall continue month to month after said date with mutual consent of the parties (email acceptable). After, November 19, 2021 this Schedule may be terminated either (a) by either party without cause by providing the other party 7 days' prior written notice of termination; or (b) by either party with cause by providing the other party at least fifteen (7) days' prior written notice of termination for cause, provided that if the party giving such notice agrees that such cause has been cured during the first seven (7) days of such notice period then such notice of termination shall have no force or effect. Should the Client terminate the agreement before November 19, 2021, Client shall pay to IPM as a termination fee and not as a penalty fifty percent (50%) of the Services Fee set forth above, including at the pro-rated amount for weeks in which the Expected Services Performance Schedule is less than a full-time work schedule, for each week remaining between the date of Client's early termination and November 19, 2021.

Prohibited Acts: The IPM Consultant shall not represent another person for compensation before the Client's governing body or boards or commissions for 12 months after completing Services, concerning any matter Consultant personally participated during the course of providing Services. In addition, for at least two years after completing Services, Consultant shall not disclose or use for Consultant's personal profit, without authorization from Client's governing body, any information acquired by Consultant while providing Services which is designated as confidential or which is known to Consultant to be confidential and preserving its confidentiality is necessary for the proper conduct of government business. Under no circumstances does the Town authorize the Consultant, now or in the future, to take any action that, to his knowledge, would constitute a waiver of any privilege or protection belonging to the Town of Paradise Valley (e.g., attorney-client communications or attorney work product), without prior express consent from the Town's governing body.

IN WITNESS WHEREOF the parties have executed this Schedule, effective on the Effective Date described above.

Client: Town of Paradise Valley, Arizona

DocuSigned by:
Jill Keimach 8/5/2021
CE1DC3A7420445A...
By: Jill Keimach, Town Manager Date

Agreed to and accepted by Interim Public Management, LLC:

DocuSigned by:
Tim Pickering 8/5/2021
By: 35F043D4FF5D40F...
Tim Pickering, CEO Date

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (the "Agreement") is entered into between the Town of Paradise Valley, a municipal corporation of the State of Arizona ("Client") acting through Town Manager (the "Manager"), and Interim Public Management, LLC, an Arizona limited liability company ("IPM").

RECITALS

WHEREAS, the Code and Ordinances of Client, Client policies and/or Client's Council empower the Manager to enter into contracts on behalf of Client for professional services; and

WHEREAS, Client is in need of professional management-level services, at this time and possibly in the future; and

WHEREAS, Client desires to enter into this Agreement for IPM to provide professional services to Client upon the terms and conditions set forth herein and to agree to terms and conditions that will govern other such related services as may be requested by the Manager from time to time (the "Services"); and

WHEREAS, IPM desires to provide the Services upon the terms and conditions set forth herein;

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Details of Services. For each engagement hereunder, a description of the Services to be provided, the expected start date, fees and expenses, and other details regarding the Services shall be set forth in a Schedule to this Agreement signed by the Manager and IPM. The individuals to be provided by IPM to perform the Services shall be referred to herein as each a "Consultant" and collectively the "Consultants." In addition, the Consultants, other IPM representatives and the Chief Executive Officer of IPM (the "CEO") will be reasonably available by telephone and email to Client for additional workdays and/or hours, subject to appropriate additional charges based on the fee structure set forth in the applicable Schedule, if such additional work and charges have been preapproved in writing (email acceptable) by the Manager.

2. Selection of Consultants. IPM and Client will agree from time to time to certain Consultant(s) to provide Services to Client, and each such engagement will become effective upon the Effective Date of the applicable Schedule to this Agreement. IPM and Client agree each such

Consultant has been selected to perform the Services after mutual consultation and is a suitable individual with sufficient education and prior experience to provide the designated Services to Client. IPM may replace a Consultant if such Consultant becomes unavailable to IPM for any reason. In each such event, IPM will endeavor to provide a reasonably sufficient replacement Consultant within two (2) weeks, and this Agreement and the applicable Schedule shall then apply with respect to that replacement Consultant. IPM may use secondary vendors to fulfill any or all of its obligations hereunder without securing Client's consent.

3. Term. This Agreement shall commence upon its execution by both parties hereto (the "Effective Date") and shall continue until terminated by either party, with or without cause, by providing the other party 30 days' prior written notice of termination. Each Schedule shall set forth the terms under which it may be terminated. Any termination of this Agreement shall not automatically terminate any then-effective Schedule(s), each of which must be terminated pursuant to its specific terms and conditions.

4. Fees, Invoicing and Payment.

4.1. In consideration of the Services to be rendered by IPM, Client shall pay to IPM all fees and expenses arising hereunder and arising pursuant to the terms of each active Schedule.

4.2. In addition, if at any time during the term of this Agreement or the applicable Schedule or within one (1) year thereafter Client hires, contracts with or engages in any way, directly or indirectly, any Consultant that has been provided by IPM to provide Services to Client under this Agreement or any Schedule hereto to perform any services for or for the benefit of Client (other than through IPM), Client hereby agrees to pay IPM an Engagement Fee equal to 20.8% of the annualized salary, fees or other compensation to be paid to or for the benefit of such Consultant, payable to IPM at the time of such engagement of the Consultant's services.

4.3. Client agrees to timely review and approve reports of time worked by IPM employees, if submitted to Client. If Client is unavailable to approve, IPM may approve such reports on Client's behalf. Reports of time worked approved as set forth herein will be conclusive as to the Services provided by each IPM Consultant assigned to Client.

4.4. IPM will invoice Client semi-monthly for all amounts arising hereunder, which invoices are payable by Client on net 10-day payment terms. Late payments will be subject to a service charge of one and one-half percent (1.5%) per month, or the maximum charge permitted by law, whichever is less. In addition to charging interest, IPM reserves the right to suspend performance of the Services while any amount due hereunder is past due and remains unpaid.

5. Independent Contractor Status; Obligations and Duties of Parties. With respect to the services provided by IPM hereunder, IPM shall be an independent contractor, and no Consultant shall be construed in any way to be an employee of Client.

5.1. As the employer, IPM will maintain all necessary personnel and payroll records for its employees; calculate their wages and withhold taxes; remit such taxes to the appropriate governmental entity; pay net wages and benefits, if any, to its employees; and provide workers' compensation insurance coverage as required by law.

5.2. IPM shall be responsible for providing proper compensation to the Consultants and all other IPM representatives per IPM's agreed terms therewith, and no employee or contractor of IPM shall be entitled to or have any right to demand salary, wages, benefits, employment or income taxes, reimbursements, workers compensation coverage, retirement, insurance or any other benefit, compensation or remuneration directly from Client, whether or not Client affords any such payment or benefit to its employees. Notwithstanding the foregoing, if applicable Client shall be responsible to pay any alternative pension contributions if required by state law that arise as a result of the Services provided hereunder; Client agrees that it shall otherwise pay no wages, salary or other forms of direct or indirect compensation, including employee benefits, to any Consultant.

5.3. IPM shall have the sole authority to assign and/or remove the Consultants. Notwithstanding the foregoing, Client may request in writing that IPM remove or reassign a Consultant, and IPM shall not unreasonably withhold its approval of any such request.

5.4. Client shall provide IPM's employees with a suitable workplace, if and as applicable, that complies with all applicable safety and health requirements; and adequate instructions, assistance, supervision and time to perform the Services. Where an IPM employee is given access to any of Client's computer equipment or systems, Client is responsible for maintaining a current backup copy of any data associated with those systems and appropriate written internal control procedures relating thereto. Client agrees to give IPM immediate written notice of any concern or complaint regarding a Contractor's performance or conduct. Client agrees that it shall report all on-the-job illnesses, accidents and injuries of any Contractor to IPM immediately upon Client's receipt of notice or knowledge of same.

6. Compliance with Law. IPM agrees to comply, and to ensure that the Consultants and all other IPM representatives comply, with the provisions of Federal law, State statutes, Client's Code and any and all other applicable laws. Client agrees to comply with its obligations under all applicable laws, regulations and orders, including but not limited to laws relating to workplace safety and employment discrimination. Client represents that its actions under this Agreement do not violate its obligations under any agreement it has with any labor union.

7. Indemnification.

7.1. IPM agrees to indemnify, defend and hold harmless Client, to the extent of the insurance limits set forth in Section 9, from and against all claims, liabilities, damages, attorneys' fees, costs and expenses ("Losses") arising out of IPM's breach of its obligations under this Agreement or any direct claim for workers' compensation benefits for job-related bodily

injury or death asserted against Client by any IPM employees or, in the event of death, by their personal representatives. IPM's obligation to indemnify, defend and hold harmless will not apply to: indirect, special or consequential Losses; the extent Losses are due to Client's failure to fulfill its duties under this Agreement or any applicable law; the extent any Losses, except for the payment of workers' compensation benefits, are the result of any negligent act or omission or intentional misconduct of Client, its employees or agents; or the extent Client is required to indemnify IPM against such Damages as set forth in this Agreement.

7.2. Client agrees to indemnify, defend and hold harmless IPM and its officers, directors, employees and agents from and against all Losses imposed upon or incurred by IPM, other than for job-related bodily injury or death of IPM's employees on assignment to Client, arising out of Client's breach of its obligations under this Agreement or Client's failure to comply with its obligations under applicable laws, regulations or orders. Client's obligation to indemnify, defend and hold harmless will not apply to: indirect, special or consequential Losses, or the extent any Losses are the result of any negligent act or omission or intentional misconduct of Client, its employees or agents.

7.3. IPM and all IPM Consultants and representatives shall be entitled to the defense and indemnification provisions of Client's Code and any other indemnification protections available by statute.

7.4. The party that is seeking indemnity from the other party pursuant to this Section 7 shall give the indemnifying party prompt notice of any such claim, allow the indemnifying party to control the defense and settlement thereof, and cooperate with the indemnifying party relating thereto. If the indemnifying party does not assume control of the defense, the indemnified party may do so at the expense of the indemnifying party. Failure or delay of notice of any claim hereunder shall not relieve an indemnifying party of its obligations with respect to such claim except to the extent such indemnifying party can demonstrate that its interests have been materially prejudiced by such failure or delay.

7.5. The provisions of this Section 7 shall survive the termination of this Agreement and the expiration or termination of any Schedule hereto.

8. Performance Warranty. IPM warrants that the Services rendered by the Consultants will conform to the requirements of this Agreement and to the prevailing professional standards for comparable services in the Phoenix metropolitan area. In the event of breach of the foregoing warranty, IPM will re-perform the deficient Services and correct the breach at no additional cost. Except for the warranties described herein, IPM disclaims all other warranties concerning the Services, express or implied, including without limitation any warranty of merchantability or fitness for a particular purpose and any warranty that might otherwise arise pursuant to applicable law. Client's remedies and IPM's liability under this Agreement are limited to the remedies and liabilities set forth in this Section 8.

9. Insurance.

9.1. IPM agrees to procure and maintain in force during the term of this Agreement, at its own cost, the following coverages or sufficient evidence of qualified self-insured status of same:

9.1.1. Commercial General or Business Liability Insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate.

9.1.2. Professional Liability coverage with minimum limits of one million dollars (\$1,000,000) each claim and one million dollars (\$1,000,000) general aggregate.

9.2. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by IPM pursuant this Agreement. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Client reserves the right to continue payment of the premium for which reimbursement will be deducted from amounts due or subsequently due IPM.

9.3. A Certificate of Insurance shall be completed by IPM's insurance agent(s) as evidence that policies providing the required coverages, conditions and minimum limits are in full force and effect. The Certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be canceled, terminated or limits reduced until at least 30 days prior written notice has been given to Client. The Certificate of Insurance shall be sent or emailed to the Manager.

10. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the County in the State of Arizona in which Client is located.

11. Miscellaneous.

11.1. Amendments. Except as may be otherwise stated herein, this Agreement or any Schedule hereto may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of Client and IPM.

11.2. Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.

11.3. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors, representatives and assigns.

11.4. Entire Agreement; Interpretation; Parol Evidence. This Agreement and the Schedules hereto collectively represent the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded thereby. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

11.5. Waiver. The failure by one party hereto to require performance by the other party shall not be deemed to constitute a waiver of any such breach, nor of any subsequent breach by the other party of any provision of this Agreement, and shall not affect the validity of this Agreement, nor prejudice either party's rights in connection with any subsequent action. This Agreement or any provision hereof may be waived by a party hereto only via a writing signed by such party.

11.6. Force Majeure. IPM will not be responsible for failure or delay in assigning its employees to Client if the failure or delay is due to labor disputes and strikes, fire, riot, war, acts of nature or of God, or any other causes beyond the control of IPM.

11.7. Dispute Resolution. The parties agree in good faith to attempt to resolve amicably, without litigation, any dispute arising out of or relating to this Agreement or any Schedule hereto. In the event that any dispute cannot be resolved through direct discussions, the parties agree to endeavor to settle the dispute by mediation. Either party may make a written demand for mediation, upon which demand the matter shall be submitted to a mediation firm mutually selected by the parties. The mediator shall hear the matter and provide an informal opinion and advice within twenty (20) days following written demand for mediation. Said informal opinion and advice shall not be binding on the parties, but shall be intended to help resolve the dispute. The mediator's fee shall be shared equally by the parties. Each party shall pay its own attorneys' fees and costs. If the dispute has not been resolved, the matter may then be submitted by either party to the judicial system.

11.8. Attorneys' Fees and Costs. Should any legal action, including mediation or other alternative dispute resolution methods, be necessary to enforce any term of provision of this Agreement or to collect any portion of the amount payable hereunder, then all reasonably incurred expenses of such legal action or collection, including witness fees, costs of the proceedings and attorneys' fees, shall be awarded to the substantially prevailing party.

11.9. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been

duly given if (a) delivered to the party at the address set forth below, (b) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, or (c) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to Client: James C. Bacon Jr., Town Manager
Town of Paradise Valley
6401 E. Lincoln Dr.
Paradise, AZ 95253
Email: jbacon@paradisevalleyaz.com

If to IPM: Interim Public Management, LLC
16868 North Stoneridge Court
Fountain Hills, Arizona 85268
Attn: Timothy G. Pickering, CEO
Email: tim@interimpubliemanagment.com

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received the earlier of (a) when delivered to the party, (b) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, or (c) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

11.10. Confidentiality of Records. IPM shall establish and maintain commercially reasonable procedures and controls for the purpose of ensuring information contained in its records or obtained from Client or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform IPM's duties under this Agreement or for the management of IPM's business. Persons requesting such information should be referred to Client.

11.11. Americans With Disabilities Act. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFF Parts 35 and 36. (Non-Discrimination: IPM shall comply with Executive Order 2009-09, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities, and all other applicable state and federal employment laws, rules and regulations, including the Americans With Disabilities Act. IPM shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, age, national origin or political affiliation or disability.)

11.12. Compliance With Federal and State Laws. IPM understands and acknowledges the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989.

11.12.1. Under the provisions of A.R.S. § 41-4401, IPM hereby warrants to Client that IPM and each of its subcontractors will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter "Contractor Immigration Warranty").

11.12.2. Client retains the legal right to inspect the papers of any contractor or subcontractor employee who works on this Agreement to ensure that the contractor or subcontractor is complying with the Contractor Immigration Warranty. IPM agrees to assist Client in regard to any such inspections.

11.12.3. Client may, at its sole discretion, conduct random verification of the employment records of IPM and any subcontractors to ensure compliance with Contractor's Immigration Warranty. IPM agrees to assist Client in regard to any random verifications performed.

11.12.4. Neither IPM nor any subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if IPM or any subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, Subsection A.

11.12.5. The provisions of this article must be included in any contract that IPM enters into with any and all of its subcontractors who provide services under this Agreement or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

11.13. Scrutinized Business Operations. In signing this Agreement, IPM certifies pursuant to ARS §35-391 that it does not have scrutinized business operations in the Sudan and pursuant to ARS §35-393 that it does not have scrutinized business operations in Iran.

11.14. No Kick-back Certification. No person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that member of Client's Council or any employee of Client has an interest, financially or otherwise, in IPM's firm.

11.15. Conflict of Interest. From the date of this Agreement through the termination of its service to Client, IPM shall not accept, negotiate or enter into any contract or agreements for services with any other party that may create a substantial interest, or the

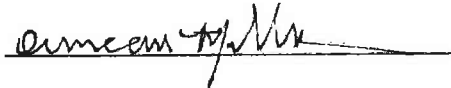
appearance of a substantial interest in conflict with the timely performance of the work or ultimate outcome of this Agreement and/or adversely impact the quality of the work under this Agreement without the express approval of the Manager. Whether such approval is granted shall be in the sole discretion of the Manager. The parties hereto acknowledge that this Agreement is subject to cancellation pursuant to the provisions of ARS § 38-511.

IN WITNESS WHEREOF the parties have executed this Agreement, effective on the Effective Date described above.

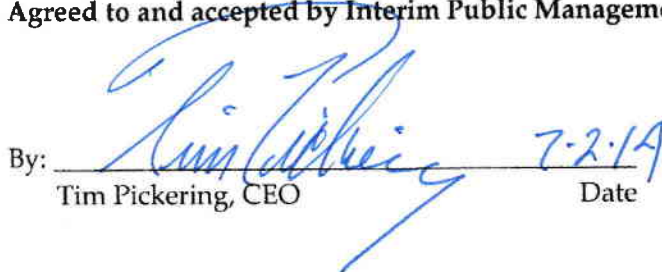
Client: Town of Paradise Valley, Arizona

 7/2/2014
By: James C. Bacon Jr., Town Manager Date

ATTEST:



Agreed to and accepted by Interim Public Management, LLC:

 7-2-14
By: Tim Pickering, CEO Date

**SCHEDULE A
TO
PROFESSIONAL SERVICES AGREEMENT**

Effective Date of Schedule: June 27, 2014

Client: The Town of Paradise Valley, Arizona

Services: Interim Public Safety Director with no duties involving those of a peace officer

Expected Commencement Date for Engagement: Tuesday, September 2, 2014.

Expected Services Performance Schedule: 5 days per week, typically Monday through Friday, excluding holidays.

Fees: Client shall pay to IPM the Fees set forth below, in consideration of the Services rendered by IPM hereunder:

| | |
|----------------|--|
| Services Fees: | The Client shall pay IPM the following fee for each week during which the Consultant or other IPM representatives provide Services per the Expected Services Performance Schedule to the Client: \$3,450.00 per week, per Consultant or other IPM resource |
|----------------|--|

The Services Fees set forth above shall increase by five percent on April 1, 2015 and annually thereafter. Services Fees may be prorated by IPM as appropriate. If Client expressly approves or requests that a Contractor work overtime hours, and if IPM is required to pay such Consultant overtime rates for such work, Client hereby agrees that its rates for such Consultant with respect to such overtime hours shall be 1.5 times the Services Fees rates set forth above.

Term: This Schedule shall commence upon its stated Commencement Date and shall continue until terminated either (a) by either party without cause by providing the other party 30 days' prior written notice of termination; or (b) by either party with cause by providing the other party at least fifteen (15) days' prior written notice of termination for cause, provided that if the party giving such notice agrees that such cause has been cured during the first seven (7) days of such notice period then such notice of termination shall have no force or effect.

IN WITNESS WHEREOF the parties have executed this Schedule, effective on the Effective Date described above.

Client: Town of Paradise Valley, Arizona

James C. Bacon Jr. 7/2/2014
By: James C. Bacon Jr., Manager Date

ATTEST:

Quinn Smith

Agreed to and accepted by Interim Public Management, LLC:

By: Tim Pickering 7-2-14
Tim Pickering, CEO Date



Action Report

File #: 21-373

AGENDA TITLE:

Discussion and Action to Approve a Contract Extension with and Funding for Trick Dog Technology, a division of My Computer Works, Inc. for IT Consulting Services of James Bailey

RECOMMENDATION:

Approve additional funding for the contract with Trick Dog Technology for up to \$80,000 on a part-time month-to-month basis.

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager

DATE: November 18, 2021

DEPARTMENT: Town Manager
Jill Keimach, 480.348.3533

AGENDA TITLE:

Discussion and Approval of a Contract Extension and Funding with Trick Dog Technology, a division of My Computer Works, Inc. for IT consulting services of James Bailey.

SUMMARY STATEMENT:

In May, 2021, the Town Manager interviewed and hired an interim IT Director. James Bailey was unanimously selected out of three candidates to fill the position for three to six months through Trick Dog Technology, an IT consulting services company.

The Council approved an initial three-month contract for \$83,200 plus approval of an additional three months on a month-to-month basis at the Town Manager's discretion. The contract under the Manager's signing authority started May 3, 2021. The initial three-month term was through August 3, 2021 with the additional three months on a month-to-month basis up to November 3, 2021.

During these last six months the IT Department has accomplished an incredible amount of work. All the Town email accounts have been successfully relocated to the cloud. Backup systems have been initiated, fully implemented, and maintained. Cyber Security systems have been implemented and are continuing to be enhanced. And, off-site monitoring and after hours assistance from Sentinel has further streamlined the department, leading to an overall reduction of two IT positions. The Town is currently recruiting for a full-time permanent CIO which should be on-site before the end of the year.

The Town Manager would also like to retain the part-time services of James Bailey to on-board the successful CIO candidate and any consulting services for special projects, such as the coordination of improved resident and applicant transparency and linking of technology throughout the various Town departments.

BUDGETARY IMPACT:

The hourly rate plus the contract amount with Trick Dog Technology is \$160/hr. With the needed additional on-boarding and consultation time, the Town Manager is requesting up to an additional \$80,000 on a part-time month-to-month basis.

RECOMMENDATION:

Approve additional funding for the attached contract with Trick Dog Technology for up to \$80,000 on a part-time month-to-month basis.

ATTACHMENT(S):

- A. Staff Report
- B. Contract with Trick Dog Technology, a division of My Computer Works, Inc

My Computer Works, Inc. (or DBA Trick Dog Technology) Recruiting Agreement

This Recruiting Agreement ("Agreement") is between My Computer Works, Inc., an Arizona corporation with its principal place of business located at 7975 North Hayden Road, #C-320, Scottsdale, Arizona 85260 ("MCW") and the Town of Paradise Valley, an Arizona municipal corporation ("CUSTOMER") dated May 11, 2021 ("Effective Date").

MCW Responsibilities

Provision Professional Services Resources

MCW will provide to Customer the professional resourcing services ("Long Term Professional Services Resources") specifically listed in the applicable Statement of Work (a form of which is set forth in the attached Exhibit A) and generally described as recruiting, interviewing and/or screening persons to serve Customer as IT consultant ("Prospective Professional Consultants"); conducting applicable background checks; providing offers of employment to qualified Prospective Professional Consultants when appropriate; and assigning Prospective Professional Consultants who have accepted employment with MCW to perform temporary work for Customer ("Assigned Professional Consultants"). In addition, on behalf of all Assigned Professional Consultants, MCW will maintain personnel and payroll records; pay, withhold and transmit payroll taxes; provide Workers' Compensation insurance, make unemployment contributions; and handle unemployment and workers' compensation claims with respect to compensation that MCW has agreed to pay (obligations collectively "Employer Obligations"). The Assigned Professional Consultant(s) will perform the work on behalf of Customer within the United States or Canada locations as set forth in the applicable Statement of Work.

Services

Upon request, MCW shall recruit and refer to Customer Prospective Professional Consultants for consideration for an Assigned Professional Consultant by providing resumes or Prospective Professional Consultant profiles. All decisions whether to accept a Prospective Professional Consultant referral as an Assigned Professional Consultant will be made by Customer according to Customer's business needs and other lawful criteria. MCW is committed to equal employment opportunity and, as such does not discriminate in referrals, and does not consent to discrimination by its Customers, against any Prospective Professional Consultant on the basis of age, race, color, religion, disability, sex, national origin, veteran status or any other protected characteristic. Customer agrees to indemnify and hold MCW and its employees, directors, officers, subsidiaries and representatives harmless against any and all claims, losses and liabilities that arise from any hiring decision made by Customer hereunder. MCW warrants, to the best of its knowledge, that all Prospective Professional Consultant information presented is accurate; however, MCW shall not be required to perform an independent investigation of the accuracy of any information provided by a Prospective Professional Consultant, including educational background, work experience, immigration status and contractual obligations to prior employers. Although MCW may perform reference checks upon the request and at the Customer's expense, such reference checks only provide answers to specific questions asked, and they are not intended to be an exhaustive check of employment, education and other background information. **EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, MCW EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES AND REPRESENTATION OF ANY KIND OR NATURE WITH RESPECT TO THE SERVICES PROVIDED UNDER THIS SECTION OF THE AGREEMENT, WHETHER EXPRESS OR IMPLIED.**

Client Responsibility

Assignment of the Work.

Customer shall provide Assigned Professional Consultant with a suitable workplace, if and as applicable, that complies with all applicable safety and health requirements; adequate instructions, assistance, supervision and time to perform professional services for Customer as described in the Description of Services, attached hereto as Exhibit A; and Customer will review and approve the corresponding work product. In addition, Customer will control the development, quality and implementation of the work product. Customer will be responsible for, and assume the risk for, any problems attributable to the content, accuracy, completeness and consistency of all data, materials, information and resources supplied by Customer.

Independent Contractor Status. With respect to the services provided by MCW hereunder, MCW shall be an independent contractor and all Prospective and Assigned Professional Consultants are employees of MCW. No Assigned Professional Consultant shall be construed in any way to be an employee of Customer. MCW is the

employer of the Professional Consultants and will remain responsible as the employer, including with respect to the Employer Obligations outlined above.

Accurate Description of Job Duties.

Customer will provide MCW with an accurate description of the material professional services to be provided by the Assigned Professional Consultant ("Services Description"). Such description will be provided to MCW prior to the Assigned Professional Consultant's commencing his or her assignment. Customer will not make material changes in the Services Description for the Assigned Professional Consultant without MCW's prior written approval. The nature of the Services requires the Assigned Professional Consultant to have access to and be entrusted with unattended property or valuables, including, but not limited to, computer equipment and systems, keys, confidential information, confidential personal identifying information, Town and third party financial and account information. Customer will not entrust any Consultant with unattended property or valuables, such as cash, negotiable instruments, keys, merchandise and confidential or trade secret information, or with access to third party financial or account information, other than as is strictly required by the description provided to MCW.

Provision of Equipment, Supplies and Training

Except as set forth in the Services Description, Customer shall provide Assigned Professional Consultant with all equipment, facilities, technology, and supplies reasonably necessary for them to perform their duties hereunder. Customer shall train Assigned Professional Consultant with regard to all Customer policies and procedures that will enable Assigned Professional Consultant to successfully perform the specific duties hereunder.

Payment

Customer agrees to pay MCW for its Professional Resourcing Services hereunder at the rates set forth on Exhibit A and also agrees to pay any additional costs or fees set forth in this Agreement. Except as otherwise set forth in the applicable SOW, MCW will invoice Customer weekly at the address to be provided by Customer and payment will be due upon receipt of invoice. Amounts invoiced for work performed by Assigned Professional Consultant will be calculated on the basis of hours shown on MCW time slips. Customer will pay interest to MCW for any balance unpaid after forty-five (45) days, at a rate of one and one-half percent (1.5%) per month on the outstanding balance or the highest rate of interest allowed by law, whichever is less.

Additional Payment Terms.

Rate Increases

Customer agrees to notify MCW immediately whenever any Assigned Professional Consultant performs work pursuant to a government contract covered by the Service Contract Act of 1965 and to pay MCW the price differential associated with any wage determinations under such government contract. MCW and Customer further agree to negotiate rate changes in good faith every twelve (12) months following the Effective Date hereof.

Payment for Overtime

The pricing provided herein does not contemplate non-exempt or computer professional-exempt Professional Consultants (as defined in the Fair Labor Standards Act or relevant state law) working overtime. If the Consultant works more than forty (40) hours in any one work week, MCW will be compensated by Customer for the additional hours by multiplying the Consultant's straight-time bill rate by the same multiplier that MCW is legally required to apply to the Consultant's pay rate ("Premium Rate"). Any hours required to be paid at a Premium Rate (hours over 40 hours per week) must be approved by Customer in advance.

Reimbursement for Expenses

Customer will reimburse MCW for business and/or travel expenses incurred by Assigned Professional Consultant, but only if such expenses were approved in writing by the Customer prior to being incurred. Such expenses shall be billed to Customer at MCW's actual cost with no markup.

Conversion / Non-solicitation

If at any time during the term of this Agreement or within twelve months after termination or expiration of the Agreement, Customer hires, contracts with or engages in any way, directly or indirectly, any Assigned Professional Consultant that has been provided by MCW to provide Services to Customer under this Agreement, Customer will pay to MCW the Conversion Fee set forth in the following section, ("Conversion Fee") With respect to any non-Consultant, staff employee of MCW, during the term of this Agreement and for a period of twelve (12) months thereafter, Customer agrees that it will not knowingly solicit for hire, hire, or advise others with the opportunity to do the same, such staff employee of MCW without express written consent of MCW and payment of the Notwithstanding the foregoing, this Section shall not restrict either party from hiring any current or former employee of any entity who responds to general employment advertisements through newspapers, on-line job boards or postings, agencies, open house or job fairs, or who makes a direct unsolicited inquiry as to employment with the hiring party.

Conversion Fee


The Conversion Fee payable pursuant to the preceding section, "Conversion / Non-Solicitation," is 20% of the annualized salary, fees or other compensation to be paid to or for the benefit of such Assigned Professional Consultant during the first 12 months of employment by Customer. Any Conversion Fee shall be paid by Customer within 30 days of receipt of an invoice from MCW.

Placement Guarantee. In the event that the employee for whom a Conversion Fee has been paid by Customer leaves the employ of the Customer within 90 days from date of hire, for any reason other than company lay-off, MCW will replace the employee for no additional fee.

Effect of Termination


Upon expiration or termination of this Agreement, MCW will promptly provide an invoice to Customer for any unbilled fees under this Agreement. Customer will pay all undisputed amounts set forth on the invoice within thirty (30) days of receipt.

IN WITNESS WHEREOF, this Agreement has been executed by authorized signatories of the parties on the dates below.

DocuSigned by:

 CE1DC3A7429445A...
 Signature

Jill Keimach
 Printed Name

Town Manager
 Title
 5/21/2021
 Date

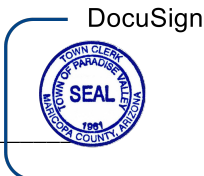
DocuSigned by:
My Computer Works, dba Trick Dog Technology

 225862E245F7432...
 Signature

J. T. Driscoll
 Printed Name

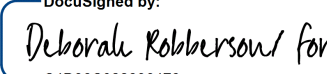
General Manager
 Title
 5/20/2021
 Date

ATTEST:
 DocuSigned by:

 FD56FF67A95043D...
 Duncan Miller, Town Clerk



APPROVED AS TO FORM:

DocuSigned by:

 C4D96C622896478...
 Andrew J. McGuire, Town Attorney
 By Deborah Robberson

Trick Dog Technology, a division of My Computer Works, Inc.

EXHIBIT A
STATEMENT OF WORK
(For Professional Resourcing)

THIS STATEMENT OF WORK ("SOW") is issued in accordance with the Agreement dated 5/11/2021 between My Computer Works, Inc ("MCW") and the Town of Paradise valley ("Client"). This SOW authorizes the following MCW Consultant to provide Services under the Agreement.

| | | | | | | | |
|---|--|---|--|--|--|-----------------------------------|--|
| MCW Consultant Name: James Bailey | | SOW Effective Date: 5/3/2021 | | SOW End Date: TBD | | Job Title: Interim CIO | |
| Bill Rate/Hour: \$160 | | Total No. of Hours Authorized: NA | | Overtime Allowed: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | | Overtime Bill Rate/Hour: \$240 | |
| Other Expenses Allowed: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | | Pre-Approval Required: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | | 8 Hr. Work Day <input type="checkbox"/> Other Work Day <input checked="" type="checkbox"/> Specify: As needed, 40 hrs. / week | | | |
| Background Checks and Pre-Employment Testing: | | | | | | | |
| _____ Criminal background check | | | | \$[0] Per Consultant, Paid by Client | | | |
| _____ | | | | \$[] Per Consultant, Paid by Client | | | |
| _____ | | | | \$[] Per Consultant, Paid by Client | | | |
| CONVERSION FEES If Client hires any Consultant during the term of this Agreement or within twelve (12) months after its termination or expiration, MCW will receive a fee calculated based on the Compensation that the Consultant will be paid as an employee of Client during the first (twelve) 12 months of being hired by Client, plus all applicable taxes. | | | | | | | |
| Client Approved Timesheet Required: Yes X No <input type="checkbox"/> | | | | End Client (If different than Client Name): | | | |
| Specify Any Additional Timesheet Approvals Required: NO | | | | Location of Services (If different than Client Name): Paradise Valley | | | |
| MCW Provided Equipment: <input type="checkbox"/> Yes X No | | | | If yes, please describe: Cost: \$ _____ | | | |
| Invoicing Frequency: weekly | | | | | | | |
| Payment Terms: Net 30 | | | | | | | |
| MCW Consultant Status: (Check one): MCW W-2 Supplier <input type="checkbox"/> IC <input checked="" type="checkbox"/> | | | | Client Billing Address: 6401 E Lincoln Dr, Paradise Valley, AZ 85253 Attention – Accounts Payable | | | |

Description of Services and Job Location: Lead all IT matters including email repair and migration to cloud networking. Services are to be performed at Paradise Valley Town Hall complex, generally located at 6401 E. Lincoln Drive, Paradise Valley, AZ 85253.

Automatic Term Renewal: Yes ☒ No ☐ (NOTE: If the "Yes" box is checked, unless MCW is notified otherwise

in writing by Client, this SOW shall be extended thereafter on a month-to-month basis until such time as the services being provided have been completed, or until this SOW has been terminated in accordance with the Agreement. In no event, however, will the term of this SOW extend beyond the term of the Agreement.)

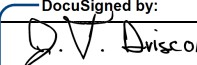

Review Meetings. Both parties will meet at regularly and mutually acceptable times to discuss the overall relationship and each party's performance of this Agreement.

INCORPORATION BY REFERENCE: This SOW when signed by both parties will incorporate by reference all of the terms and conditions of the Agreement (and any Addenda thereto that pertain to the subject matter of this SOW) and will form a part of the Agreement. Further, the terms of this SOW will supplement and modify the terms of the Agreement to the extent set forth herein.

The undersigned have read, understand, and agree to the terms and conditions herein, including any attachments hereto.

MCW

CLIENT: TOWN OF PARADISE VALLEY

| | |
|---|--|
| <p>DocuSigned by:</p> <p>By: </p> <p>225862E245F7432...</p> | <p>DocuSigned by:</p> <p>By: </p> <p>CE1DC3A7428445A...</p> |
| <p>Printed Name/Title: J.T. Driscoll, GM</p> | <p>Printed Name/Title: Jill Keimach, town Manager</p> |
| <p>Date: 5/20/2021</p> | <p>Date: 5/21/2021</p> |



Action Report

File #: 21-365

AGENDA TITLE:

Discussion and Action Authorizing Expenditure of Budgeted Funds for Information Technology Professional Services and Software Reseller Support with Sentinel Technologies, Inc

RECOMMENDATION:

Approval to exceed the \$100,000 per vendor limit for Sentinel Technologies, Inc. up to the amount specifically budgeted for IT improvements.

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: James Bailey, Interim Chief Information Officer
Jill Keimach, Town Manager

DATE: November 9, 2021

AGENDA TITLE:

Discussion and Action Authorizing Expenditure of Budgeted Funds for Information Technology Professional Services and Software Reseller Support with Sentinel Technologies, Inc

SUMMARY STATEMENT:

The Town Council authorized for FY22 additional budget dollars to address critical technology issues and risks. This combined series of projects, referenced as the “Summer Technology Focus Areas”, were executed to provide upgrades for Office 365 email services, Cyber Risk improvements, Backup and Recovery of email services, and additional analysis about the overall health of the data center. The Town Council was briefed on these projects at its September 9 meeting as part of the 2021 Summer Recess Update.

Sentinel Technologies, Inc. was selected in May 2021 to assist the IT Department and Town by providing the professional services and software reseller support to successfully execute these projects. The costs to complete the Summer Technology Focus Areas were included in the FY 2021/2022 budget and specifically approved as part of the budget process.

Pursuant to Town Code Section 3-8-4, Town Council approval is required for expenditures exceeding \$100,000 to a single vendor, even if approved in the budget. Therefore, Town Manager is requesting approval from Council to exceed the \$100,000 per vendor limit for Sentinel Technologies, Inc. up to the amount specifically budgeted for IT improvements.

ATTACHMENT(S):

A. Staff Report Exhibits – Technology Projects / Sentinel Purchase Order Summary



STAFF REPORT EXHIBITS

SUMMARY STATEMENT:

Below is the financial summary for the Summer Technology Focus Areas as of November 9th, 2021. The overall project performance to budget is on track with the Council approved FY22 summer projects budgets. Exhibit 1 focuses on the overall financials and exhibit 2 shows the cumulative purchase orders with Sentinel Technologies, Inc. to support these projects.

Council approved \$351,000 for these projects and Sentinel Technologies Inc. combined purchase order value is \$237,762. The Town Manager is seeking approval to continue executing purchase orders with Sentinel Technologies above the \$100,000 per vendor threshold up to the budgeted amount.

Exhibit 1: Summer Projects Financial Status

Technology Focus Areas

| Description of Services | FY22 Projects Budget | Total Costs (Actuals + Estimates) | Delta (Under) / Over Budget |
|---|-------------------------|---|--------------------------------|
| 1.a Email Upgrade - Office 365 Cloud | | | |
| Sub-Total | 136,200 | 106,050 | (30,150) |
| 1.b Email Backup & Recovery | | | |
| Sub-Total | 35,000 | 23,500 | (11,500) |
| 2 Cyber Security & Risk Mgmt. (Phase 1) | | | |
| Sub-Total | 94,950 | 62,273 | (32,677) |
| 3 Data Center Major Systems Health Check / Risk Assessment | | | |
| Sub-Total | 32,000 | 104,531 | 72,531 |
| Total Estimates | 351,150 | 347,930 | (3,220) |

Exhibit 2: Sentinel Purchase Order Summary

Below is a summary of purchase orders with Sentinel Technologies, Inc. for FY22 summer projects.

Sentinel Technologies, Inc. is being considered for additional professional services and will continue to be used in an on-going capacity as a software reseller for major vendors like Microsoft, Cisco, and Druva Backup & Recovery.

The majority of purchases from Sentinel Technologies are cooperative purchases under state of Arizona contracts. All other purchases have been through the Town's required competitive process.

| Vendor | PO# | Description | PO Amount | Notes |
|---|------|--|----------------|---|
| Summer Projects: | | | | |
| Sentinel Technologies, Inc | 3835 | Exchange Migration Services | 5,331 | Sentinel Professional Services |
| Sentinel Technologies, Inc | 3836 | Exchange Server Decommission Services | 4,950 | Sentinel Professional Services |
| Sentinel Technologies, Inc | 3838 | Cisco CES Email Security Annual License | 3,754 | Sentinel Software Reseller - Cisco SPAM Filter Software |
| Sentinel Technologies, Inc | 3839 | Cisco CES Email Security Professional | 11,995 | Sentinel Professional Services |
| Sentinel Technologies, Inc | 3843 | Azure Tenant Space Setup Services | 11,200 | Sentinel Professional Services |
| Sentinel Technologies, Inc | 3844 | Email Stabilize Actions - Remediation Services | 7,000 | Sentinel Professional Services |
| Sentinel Technologies, Inc | 3856 | Cloud backup solution for 0365-Druva | 16,413 | Sentinel Software Reseller - Backup & Recovery |
| Sentinel Technologies, Inc | 3857 | Microsoft 365 G3 1 Year Licenses | 52,251 | Sentinel Software Reseller - Microsoft Licenses |
| Sentinel Technologies, Inc | 3866 | G1 0365 GCC Licenses | 4,591 | Sentinel Software Reseller - Microsoft Licenses |
| Sentinel Technologies, Inc | 3874 | Visio Annual Renewal | 1,231 | Sentinel Software Reseller - Microsoft Licenses |
| Sentinel Technologies, Inc | 3834 | Datacenter Health Check | 12,576 | Sentinel Professional Services |
| Sentinel Technologies, Inc | 3875 | Sentinel Managed IT Services Onetime | 8,350 | Sentinel Managed Services |
| Sentinel Technologies, Inc | 3875 | Sentinel Managed IT Services Yearly - Billed Monthly | 85,170 | Sentinel Managed Services |
| Sentinel Technologies, Inc | 3886 | File Server Migration to Cloud - SharePoint Project | 12,950 | Sentinel Professional Services |
| Total Sentinel Summer Projects Purchase Orders | | | 237,762 | |
| Future ARPA Funded Projects: | | | | |
| Sentinel Technologies, Inc | | Backup & Recovery Phase 2 - Onpremises Upgrades | 50,000 | On-hold pending spending limit approval |
| | | Cyber Phase 2 Improvements | TBD | |
| | | Business Continuity & Disaster Recovery Improvements | TBD | |



Action Report

File #: 21-369

AGENDA TITLE:

Discussion and Action regarding Adoption of Ordinance No. 2021-05, Paradise Valley Community Tree Ordinance

RECOMMENDATION:

Adopt Ordinance No. 2021-05

STAFF CONTACT:

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill Keimach, Town Manager
Lisa Collins, Community Development Director
Brent Skoglund, Public Works Director
Andrew J. McGuire, Town Attorney

DATE: November 18, 2021

DEPARTMENT: Town Manager's Office
Jill Keimach, 480-348-3690

AGENDA TITLE:

Discussion and Action on Ordinance No. 2021-05, the Paradise Valley Community Tree Ordinance.

RECOMMENDATION:

Adopt Ordinance No. 2021-05, the Paradise Valley Community Tree Ordinance.

SUMMARY STATEMENT:

Staff has worked with the Arbor Day Foundation to pursue recognition of the Town as a "Tree City USA Community." The Tree City USA program recognizes cities and towns that have demonstrated a strong commitment to urban forestry and its benefits. According to the Arbor Day Foundation, trees absorb traffic noise, bring down neighborhood temperatures, reduce energy costs, increase property values, improve health outcomes, and absorb carbon dioxide. For these reasons, recognition as a "Tree City USA Community" could serve as a point of pride for Paradise Valley and further strengthen the comfortable residential character of the Town.

Previous Town actions to pursue Tree City USA recognition have included the adoption of Resolution Number 924 in 1997, which established a Landscaping and Beautification Special Revenue Fund. Resolution 924 does not satisfy the current qualification criteria for Tree City USA recognition, which include four standards:

1. Establish a Tree Board or designate a responsible Department;
2. Adopt a Tree Care Ordinance;
3. Document at least \$2 per capita on annual tree care expenditures; and
4. Observe Arbor Day.

The proposed Paradise Valley Community Tree Ordinance is adapted from a Model Ordinance provided by the Arbor Day Foundation, and would satisfy standards 1 and 2. Standard 1 is satisfied by the designation of the Public Works Director as the Town official responsible for public trees, and Standard 2 is satisfied by the Ordinance itself.

The proposed Ordinance also addresses Standard 3 by instructing the Public Works Director to document annual expenditures on tree care activities. Staff has determined that the Town already spends more than \$2 per capita on annual tree care. The calculation of 2020 tree care expenditures is attached to this report as an example.

Standard 4 is not addressed by the Ordinance, but is being addressed by Town Staff separately. Staff has developed a plan to observe Arbor Day without significant expenditure, through an Arbor Day observance that can coincide with another Town event. This is consistent with established Town practice.

Following the Study Session held on November 4, 2021, Public Works Director Skoglund provided written comments on the proposal, focusing on the current practices of his department. Director Skoglund reports that the Ordinance will not impose any additional responsibilities, duties, practices, or costs on the Public Works Department. He recommends continued participation in the Tree City USA program, and believes it is a point of pride for Public Works. He confirms that the proposed Ordinance will have the general effect of codifying existing practices at Public Works, rather than necessitating new practices.

BUDGETARY IMPACT:

1. The Community Tree Ordinance does not require additional spending.
2. The Community Tree Ordinance is not the only requirement for Tree City USA recognition. In addition to adoption of the Ordinance, the Town will have to show that it spends a minimum of \$2 per capita on “the planting, care, and removal of city trees – and the planning efforts to make those things happen.” Existing Town practices satisfy this requirement.

ATTACHMENTS:

- A. Staff Report
- B. Proposed Ordinance 2021-05
- C. 2020 Tree Care Expenditures
- D. November 4 Study Session Presentation
- E. Written Comments from Public Works

ORDINANCE NUMBER 2021-05

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA, AMENDING THE TOWN CODE TO ESTABLISH TREE PLANTING AND MAINTENANCE STANDARDS, AND TO EMPOWER THE PUBLIC WORKS DIRECTOR TO MANAGE TREE PLANTING AND MAINTENANCE ON PUBLIC PROPERTY, BY ADOPTING BY REFERENCE THE “PARADISE VALLEY COMMUNITY TREE ORDINANCE;” PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the proper planting and care of trees on public property is known to enhance the quality of life, as well as the present and future health, safety, and welfare of all citizens; and

WHEREAS, trees on public property require the attention of a knowledgeable Town official, who should also be empowered to respond when trees on private property create a risk to health, safety, or other trees; and

WHEREAS, it is appropriate for the Town to adopt official standards for tree planting and care to govern all public or community trees within the Town.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Paradise Valley, Arizona, as follows:

Section 1. The recitals above are hereby incorporated as if fully set forth herein.

Section 2. That certain document known as the “Town of Paradise Valley Community Tree Ordinance,” of which one paper copy and one electronic copy are maintained, in compliance with A.R.S. § 44-7041, on file in the office of the Town Clerk as required by A.R.S. § 9-802, and available for public use and inspection during normal business hours, is hereby declared to be a public record, which is hereby referred to, adopted, and made a part hereof as if fully set forth herein, and said copies thereof are hereby ordered to remain on file with the Town Clerk.

Section 3. A violation of this ordinance shall be punishable as a misdemeanor, and shall also constitute a civil offense, pursuant to Sections 1-9-1 and 1-9-2 of the Town Code.

Section 4. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this ordinance.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this ordinance or any part of the amendments to the Town Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Town Council of the Town of Paradise Valley this _____ day of _____ 2021.

Jerry Bien-Willner, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew McGuire, Town Attorney

Town of Paradise Valley Community Tree Ordinance

Section 1. Chapter 8, Safety, Health, Sanitation and Nuisance is hereby amended to include a new Article 8-12, Community Trees, to read as follows:

Article 8-12 Community Trees

| | |
|--------|---|
| 8-12-1 | Purpose |
| 8-12-1 | Definitions |
| 8-12-3 | Responsibility and Authority for Public Trees |
| 8-12-4 | Tree Planting and Care Standards |
| 8-12-5 | Prohibition Against Harming Public Trees |
| 8-12-6 | Adjacent Owner Responsibility |
| 8-12-7 | Certain Trees Declared a Nuisance |
| 8-12-8 | Violations and Penalty |

Section 8-12-1 Purpose

The purposes of this Article are to enhance the quality of life and the present and future health, safety, and welfare of all citizens, to enhance property values, and to ensure proper planting and care of trees on public property, by delegating the authority and responsibility for managing trees on public property, establishing practices governing the planting and care of trees on public property, and making provision for the emergency removal of trees on private property under certain conditions.

Section 8-12-2 Definitions

The following definitions shall apply to this Article:

“Damage” means any injury to or destruction of a tree, including but not limited to: uprooting; severance of all or part of the root system or main trunk; storage of material on or compaction of surrounding soil; a substantial change in the natural grade above a root system or around a trunk; surrounding the tree with impervious paving materials; or any trauma caused by accident or collision.

“Director” means the Public Works Director and/or his/her designee.

“Nuisance Tree” means any tree, or limb thereof, that has an infectious disease or insect; is dead or dying; obstructs the view of traffic signs or the free passage of pedestrians or vehicles; or threatens public health, safety or welfare.

“Public Property” means all grounds and rights-of-way owned or maintained by the Town.

“Public Tree” means any tree or woody vegetation on Town-owned or Town-maintained property or rights-of-way.

“Top” or “Topping” means the non-standard practice of cutting back limbs to stubs within a tree’s crown to such a degree as to remove the normal canopy and disfigure the tree.

Section 8-12-3 Authority and Responsibility for Public Trees

- A. The Director shall have full authority and responsibility to cause the planting, pruning, maintaining and removing of trees and woody plants growing in or upon all municipal streets, rights-of-way, Town parks, and other public property. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease. The Director shall develop and implement an appropriate procedure to document annual tree care activities by the Town.
- B. All Town departments will coordinate as necessary with the Director and will provide services as required to ensure compliance with this Article as it relates to streets, alleys, rights-of-way, drainage, easements and any public properties not under direct jurisdiction of the Director.
- C. No person shall hinder, prevent, delay, or interfere with the Director or his/her agents while engaged in carrying out the execution or enforcement of this Article.

Section 8-12-4 Tree Planting and Care Standards

- A. All planting and maintenance of public trees shall conform to the American National Standards Institute (ANSI) A-300 “Standards for Tree Care Operations” and shall follow all tree care Best Management Practices (BMPs) published by the International Society of Arboriculture.
- B. The Director shall develop and maintain an official list of desirable tree species for planting on public property in two size classes: Ornamental (20 feet or less in height at maturity) and Shade (greater than 20 feet at maturity). Only trees from this list may be planted on public property without written approval from the Director.
- C. The maintenance of public trees for utility clearance shall conform to all applicable utility industry standards. Only trees listed as Ornamental trees on the official Town tree species list may be planted under or within fifteen (15) lateral feet of any overhead utility wire.
- D. The Director shall develop and maintain an official set of spacing requirements for the planting of trees on public property. No tree may be planted within the visibility triangle of a street intersection or within ten (10) feet of a fire hydrant.
- E. Any person, firm, corporation, or Town department performing construction near any

public tree must employ appropriate measures to protect the tree, including, but not limited to, placing barriers around the tree to prevent damage.

Section 8-12-5 Prohibition against harming public trees

- A. It shall be unlawful for any person, firm or corporation to damage, remove, or cause the damage or removal of a tree on public property without written permission from the Director.
- B. It shall be unlawful for any person, firm or corporation to attach any cable, wire or signs or any other object to any public tree.
- C. It shall be unlawful for any person, firm or corporation to “top” any public tree. Trees severely damaged by storms or other causes, where best pruning practices are impractical, may be exempted from this provision at the determination of the Director.

Section 8-12-6 Adjacent Owner Responsibility

- A. The owner of land adjacent to any Town street or highway, when acting within the provisions of this Article and subject to the prior approval of the Director, may plant and maintain trees in the area between the property line and the curb, and to the pavement where no curb exists, in compliance with standards and restrictions established pursuant to Section 8-12-4 of the Town Code. Property owners are responsible for the reasonable and routine maintenance of trees and other landscaping in the area between the property line and the curb, and to the pavement where no curb exists.
- B. Pursuant to Section 8-1-13 of the Town Code no property owner shall allow a tree, or other plant growing on his or her property or in the area between the property line and the curb, and to the pavement where no curb exists, to obstruct or interfere with pedestrians or the view of drivers, thereby creating a hazard. If an obstruction persists, the Director shall notify the property owner to prune or remove the tree or plant. If the owner fails to comply with the notice, the Town may undertake the necessary work and charge the cost to the property owner, pursuant to the provisions of Sections 8-5-2 or 8-6-12 of the Town Code, at the discretion of the Town.

Section 8-12-7 Certain Trees Declared a Nuisance

- A. Any tree, or limb thereof, on public or private property, which is determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or to threaten public health, safety, or welfare is declared a nuisance and the Town may require its treatment or removal pursuant to the provisions of Section 8-5-2 of the Town Code.
- B. Private property owners have the duty, at their own expense, to remove or treat nuisance trees on their property. The Town may remove such trees at the owner’s expense if the

owner does not comply with treatment and/or removal, pursuant to the provisions of Section 8-5-2 of the Town Code.

Section 8-12-8 Violations and Penalty

A violation of any provision of this Article shall be punishable as a misdemeanor, and shall also constitute a civil offense, Pursuant to Sections 1-9-1 and 1-9-2 of the Town Code.

Tree City USA Application Expenditures 2020

| Activity | Amount Spent |
|---|---------------------|
| Tree Planting | |
| 50 ea. trees were planted on Lincoln medians due to re-construction of medians. | \$ 31,122.00 |
| Equipment installed on Lincoln medians improvements to provide irrigation. | \$ 122,993.00 |
| 13 ea. trees were planted on medians and R.O.W.s to replace failed trees. | \$ 1,885.00 |
| | |
| Tree removals account for 6 at the Lincoln medians due to re-construction of medians. | \$ 2,475.00 |
| Also 16 other trees removed from medians or R.O.W. due to storm or pest damage. | \$ 1,600.00 |
| | |
| Biomass recycling | \$ 1,000.00 |
| Tree Maintenance (Labor Hours) | \$ 100,000.00 |
| Pruning Equipment purchases/repairs | \$ 1,000.00 |
| Irrigation Repairs | \$ 6,741.00 |
| Irrigation costs | \$ 22,000.00 |
| Tree fertilization, materials | \$ 300.00 |
| Education | \$ 55.00 |

Total

\$ 291,171.00



Paradise Valley Community Tree Ordinance:

Adapted from the Tree City USA Model Ordinance

Tree City USA

Four “Standards” for a Tree City USA Community

- **Tree Board or Department**
 - “Someone must be legally responsible for the care of all trees on town-owned property”
- **Tree Care Ordinance**
 - Establish the tree department and delegate public tree care authority
 - Assign the task of documenting tree care expenses
 - Set standards for tree care and management
- **\$2 per capita on public trees**
 - Planting, care, and removal of public trees
- **Arbor Day Observance and Proclamation**

Model Ordinance

Provisions removed

- **Special Tree Care Appeals Process**
 - Would conflict with existing nuisance and criminal appeal provisions
- **Repeal of Conflicting Ordinances**
 - Would have the effect of elevating tree care provisions over existing code

Model Ordinance

Provisions amended

- **Language harmonized with existing code**
 - Example: “Parkway” definition was removed as inconsistent with existing Town Code
- **New provisions tied to existing code**
 - Example: Nuisance tree abatement tied to existing Town Code § 8-5-2 and 8-16-12

Community Tree Ordinance

Impact of Ordinance

- **Codified responsibilities for Public Works**
 - Maintaining all trees on public property
 - Identifying diseased or other nuisance trees
 - Authorizing any exceptions from tree rules
 - Documenting tree care expenditures
 - Establishing official spacing requirements
 - Establishing a list of trees for public property:
 - Category 1: Ornamental (less than 20 feet)
 - Category 2: Shade (greater than 20 feet)

Community Tree Ordinance

Impact of Ordinance

- **Codified rules related to damaging public trees**
 - No “topping,” or cutting the crown back to stubs
 - No surrounding with pavers
 - No attaching cables, wires, or signs
 - Must take steps to protect trees during construction

Community Tree Ordinance

Impact of Ordinance

- **Codified standards for public tree management**
 - American National Standards Institute ANSI A-300 “Standards for Tree Care Operations”
 - International Society of Arboriculture “Best Management Practices”

Community Tree Ordinance

Impact of Ordinance

- **Emphasizes or clarifies existing rules when applied to trees**
 - Example: Prohibition of dead/dying/diseased trees (*see* Town Code § 8-6-1 and 8-6-2)
 - Example: Responsibility for area between property line and curb (*see* Town Code § 8-1-1 and 8-1-13)

Example: Nuisance Trees

Existing Code (will not change)

- **Town Code § 8-1-9:** It is unlawful for any person to maintain or allow any tree, hedge, billboard, or other obstruction which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- **Town Code § 8-4-1:** Nuisances include conditions that “contribute to or cause injury or endangerment to the Health, safety or welfare of others.”
- **Town Code § 8-6-2:** Considered public nuisance:
 - (G) To cause or permit any object, debris, building, tree, bush or landscaping to interfere with, obstruct, tend to obstruct, or render dangerous the free passage, use or vision in the customary manner of any sidewalk, street, or right of way or in violation of the Town Code.
 - (H) To cause or permit any vegetation or landscaping, that is visible from public property, that is substantially dead or damaged, characterized by uncontrolled growth or lack of maintenance, or any other deteriorated condition.

Example: Nuisance Trees

Proposed Additional Code § 8-12-7

- Any tree, or limb thereof, on public or private property, which is determined by the Director to have contracted a lethal, communicable disease or insect; to be dead or dying; to obstruct the view of traffic signs or the free passage of pedestrians or vehicles; or to threaten public health, safety, or welfare is declared a nuisance

Response From Public Works

Response to November 4 Presentation

- After reviewing the proposed Ordinance, and the information presented on November 4, 2021, Public Works Director Skoglund was not able to identify any responsibility, duty, or practice that Public Works has not already undertaken. He was also not able to identify any increase in cost or staffing that would be necessitated by adoption of the Community Tree Ordinance.

Questions?

Re: Study Session regarding proposed Ordinance No. 2021-05, The Paradise Valley Community Tree Ordinance.

I have reviewed the Staff Report, and the PowerPoint Presentation, that was presented to the Town Council on November 4, 2021, regarding the proposed Ordinance No. 2021-05, The Paradise Valley Community Tree Ordinance. My notes below follow the presentation and address current Public Works practices and responsibilities in relation to the *Four Standards for a Tree City USA Community* and the *Impact of the Ordinance* slides.

After reviewing the information, I did not identify any new responsibilities, duties, or practices that Public Works is currently not performing. I also do not see any increase in costs or staffing for Public Works that would be associated with adopting the proposed Paradise Valley Community Tree Ordinance. It is my recommendation that the Town continues to participate in the Tree City USA program, as we have for approximately the last 25 years, and adopt the new ordinance because it shows a commitment to the environment, it is a source of pride for the Public Works department staff and includes the best practices that we currently follow.



Four Standards for a Tree City USA Community:

- **Standard 1: Establish a Tree Board or designate a Department**
The Public Works Director currently has full authority and responsibility over all vegetation, including trees, on public property in the Town. The designation of the Public Works Director, with the assistance of the Town Superintendent and Town Certified Arborist, as the responsible department would satisfy Tree City Standard 1 with no additional duties or responsibilities added to the Public Works department.
- **Standard 2: Adopt a Tree Care Ordinance**
I have reviewed the proposed Town of Paradise Valley Community Tree Ordinance detailed in the November 4, 2021, Staff Report, and found no additional responsibilities or changes to existing tree and planting standards, practices, and procedures in the Public Works Department except for one area. Regarding, proposed section 8-12-6 Adjacent Owner Responsibility, Section B, of the proposed

new Article 8-12, I propose that the language should read “the Director, or designee (which would be the Code Compliance Officer) shall notify the property owner” so the Code Compliance Officer can issue a notice of violation if necessary.

- **Standard 3: Document at least \$2 per capita on annual tree care expenditures**

The Public Works Department all landscaping, vegetation, and irrigation costs annually and uses this information to create the Tree City USA Annual Expenditures Report every year. The Town has consistently exceeded the \$2 per capita minimum Tree City USA requirement on tree care, maintenance, irrigation, and management.

- **Standard 4: Arbor Day Observance and Proclamation**

The Town has been observing Arbor Day every year, except for 2020 and 2021 due to the COVID-19 pandemic, with a proclamation by the Mayor and a tree planting ceremony with the Town Council.

The infographic consists of a large orange rectangle on the left with the text "Community Tree Ordinance" in white. To its right is a white box with an orange border. Inside this box, at the top, is an orange header with the text "Impact of Ordinance" in white. Below the header is a bulleted list of responsibilities for Public Works.

Community Tree Ordinance

Impact of Ordinance

- **New responsibilities for Public Works**
 - Maintaining all trees on public property
 - Identifying diseased or other nuisance trees
 - Authorizing any exceptions from tree rules
 - Documenting tree care expenditures
 - Establishing official spacing requirements
 - Establishing a list of trees for public property:
 - Category 1: Ornamental (less than 20 feet)
 - Category 2: Shade (greater than 20 feet)

Impact of Ordinance

To clarify, there are no new responsibilities for Public Works with the proposed ordinance. Public Works has always been responsible for:

- **Maintaining all trees on Public Property**

Public Works is responsible for all the vegetation, including trees, on Town public property.

- **Identifying diseased or other nuisance trees**

Public Works continuously identifies trees and vegetation that require treatment, removal or cause a nuisance and takes the appropriate actions, which may include reporting the nuisance to the Code Compliance Officer.

- **Authorizing any exceptions from tree rules**

The Public Works Director and designee would follow Town Code and Town of Paradise Valley Landscaping Guidelines when making decisions about trees.

- **Documenting Tree Care expenses**

Expenses are documented and reported in the Tree City USA Application each year.

- **Establishing official spacing requirements**

Typically, trees are spaced out in consideration of the tree species and mature potential growth not to overcrowd or have interference with one another in accordance with the Town of Paradise Valley Landscaping Guidelines.

- **Establishing a list of trees for Public property**

- Category 1: Ornamental (less than 20 feet)
- Category 2: Shade (greater than 20feet)

There is an established list of trees, and spacing requirements, included in the Town of Paradise Valley Landscaping Guidelines, established in 1996.

Community Tree Ordinance

Impact of Ordinance

- **Explicit rules related to damaging public trees**
 - No “topping,” or cutting the crown back to stubs
 - No surrounding with pavers
 - No attaching cables, wires, or signs
 - Must take steps to protect trees during construction

Regarding the explicit rules related to damaging public trees in the presentation:

- **No “topping,” or cutting the crown back to stubs.**

Trees are not topped, nor is the crown reduced to stubs. Trees are trimmed and pruned to allow proper growth of trees and to maintain safe clearance of traffic lanes and pedestrian paths.

- **No surrounding with pavers**

Generally, tree trunks are not surrounded by pavers, concrete or metal plates that prevent trunk growth and root development.

- **No attaching cables, wires, or signs**

Trees are not used in any scenario to hold signs, nor are wires and cables attached to a tree. At times, tree staking is used to anchor, support, and protect newly planted trees until the tree can stand on its own.

- **Must take steps to protect trees during construction**

Public Works takes the proper steps to protect, or relocate, trees during construction projects.



Action Report

File #: 21-364

TO: Mayor Bien-Willner and Town Council Members

FROM: Jill B. Keimach, Town Manager
Duncan Miller, Town Clerk

DEPARTMENT: Town Manager

AGENDA TITLE:
Consideration of Requests for Future Agenda Items

Council Goals or Other Policies / Statutory Requirements:
Resolution 2018-09: Town Council Rules of Procedure

RECOMMENDATION:
Review the current list of pending agenda topics.

SUMMARY STATEMENT:
Attached is the most recent Town Council Study Session Topic Schedule. Pursuant to the Council's Rules and Procedures, as adopted by Resolution Number 2018-09, any member of the Council may move to have the Town Manager add an item to a future agenda. Upon concurrence of two or more Council Members, which may include the Mayor, the item will be added to the pre-business meeting study session agenda within the next two regularly scheduled Town Council meetings.

Discussion on the motion to add an item to a future agenda shall be limited to the propriety of placing the item on an agenda and shall not include discussion on the merits of the topic itself.

BUDGETARY IMPACT:
None

ATTACHMENT(S):
Future agenda topics schedule

TOWN COUNCIL STUDY SESSION TOPIC SCHEDULE

November 12, 2021

| 12/2 | 12/16 TBD | 01/13 | 01/27 |
|--|---|--|--|
| 3 PM EXECUTIVE SESSION <ul style="list-style-type: none"> Code Enforcement Amendments 4 PM STUDY SESSION <ul style="list-style-type: none"> Code Enforcement Amendments Mockingbird Ln from Lincoln Dr to McDonald Dr Improvement Project Water Conservation (Colorado River) Ordinance Amending Walls and Fences Code PRESENTATION CONSENT <ul style="list-style-type: none"> Cancel December 16 Council Meeting Statement of Direction for Private Roadway gate SUP 5000 E Cottontail Run Rd Agreement with Super Bowl Host Committee PUBLIC HEARING <ul style="list-style-type: none"> Sanctuary on Camelback Mountain Liquor License Transfer ACTION ITEMS <ul style="list-style-type: none"> Photo enforcement contract STUDY SESSION CONTINUED <ul style="list-style-type: none"> Committee Reappointment Process General Plan Update | 3 PM EXECUTIVE SESSION 4 PM STUDY SESSION PRESENTATION CONSENT PUBLIC HEARING ACTION ITEMS STUDY SESSION CONTINUED | 3 PM EXECUTIVE SESSION 4 PM STUDY SESSION <ul style="list-style-type: none"> Committee Volunteer Interviews Amend Council Rules – meeting dates in November & December Mockingbird Ln and 56th St Storm Drainage Improvement ROI Study PRESENTATION CONSENT PUBLIC HEARING <ul style="list-style-type: none"> Ordinance Amending Walls and Fences Code ACTION ITEMS <ul style="list-style-type: none"> Street Maintenance Contract Code Enforcement Amendments STUDY SESSION CONTINUED | 3 PM EXECUTIVE SESSION 4 PM STUDY SESSION <ul style="list-style-type: none"> Committee Volunteer Interviews PRESENTATION CONSENT PUBLIC HEARING ACTION ITEMS STUDY SESSION CONTINUED |

| 02/10 | 02/24 | 03/10 | 03/24 |
|--|---|--------------------------------|--------------------------------|
| 3 PM EXECUTIVE SESSION <ul style="list-style-type: none"> Committee Volunteers | 3 PM EXECUTIVE SESSION | 3 PM EXECUTIVE SESSION | 3 PM EXECUTIVE SESSION |
| 4 PM STUDY SESSION | 4 PM STUDY SESSION | 4 PM STUDY SESSION | 4 PM STUDY SESSION |
| PRESENTATION | PRESENTATION | PRESENTATION | PRESENTATION |
| CONSENT | CONSENT | CONSENT | CONSENT |
| PUBLIC HEARING | PUBLIC HEARING | PUBLIC HEARING | PUBLIC HEARING |
| ACTION ITEMS | ACTION ITEMS <ul style="list-style-type: none"> Appointment of Committee Volunteers | ACTION ITEMS | ACTION ITEMS |
| STUDY SESSION CONTINUED | STUDY SESSION CONTINUED | STUDY SESSION CONTINUED | STUDY SESSION CONTINUED |

| | |
|---|---|
| <p><u>Items to be scheduled*</u></p> <ol style="list-style-type: none"> 1. SUP Guidelines (Community Development) 2. Cell Service Task Force Update (Mayor / Manager) 3. Cell Infrastructure on SUP 4. Ordinance – Amending Chapter 12 Municipal Court (Court fees after close of fiscal year) 5. Investment Policy (Finance) 6. Crown Castle Agreement (Attorney) | <ol style="list-style-type: none"> 7. Alarm Ordinance (Police Department) 8. Sanitary Sewer – Executive Session (Attorney) 9. Council Minutes Policy (Town Clerk) 10. Mockingbird Lane Realignment 56th St to Invergordon 11. Cell Tower Lease on Public Works Building |
|---|---|

*Numbering does not reflect priority or order in which items will be scheduled