



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Meeting Notice and Agenda Planning Commission

Tuesday, December 1, 2020

6:00 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

2. ROLL CALL

THIS MEETING WILL BE HELD BY REMOTE PARTICIPATION ONLY

PUBLIC PARTICIPATION IN THE MEETING

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 Planning Commission 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*
 - 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 pmichaud@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 Planning Commission will attend by audio/video conference call.*

Notice is hereby given that members of the Public Body will attend either in person or by telephone conference call, pursuant to A.R.S. §38-431(4).

3. EXECUTIVE SESSION

The Public Body may convene into an 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. PUBLIC HEARINGS

The Public Body may take action on this item.

- A. [20-451](#) **Public Hearing for Commission Recommendation regarding referral from the Town Council of an amendment to the Town Zoning Ordinance to prohibit recreational marijuana establishments.**

Staff Contact: Andrew Miller, 480-348-3691

Attachments: [102020 Resolution 2020-30 & Exhibit A](#)

5. STUDY SESSION ITEMS

Work/Study is open to the public however the following items are scheduled for discussion only. The Public Body will be briefed by staff and other Town representatives. There will be no votes and no final action taken on discussion items. The Public Body 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 is subject to change.

- A. [20-452](#) **Discussion of a minor amendment request to the R-18 CP SUP for Lot 3 Cheney Estates (SUP-20-08). 7171 E. Paradise Canyon Road (APN: 174-40-004)**

Staff Contact: Loras Rauch, Special Projects Planner, 480-348-3595

Attachments: [A. Vicinity Map & Aerial Photo](#)
 [B. Application](#)
 [C. Narrative & Plans](#)
 [D. Cheney Estates R-18 CP SUP](#)
 [E. Cheney Estates Subdivision Plat](#)

6. ACTION ITEMS

The Public Body may take action on this item.

7. CONSENT AGENDA

All items on the Consent Agenda are considered by the Public Body to be routine and will be enacted by a single motion. There will be no separate discussion of these items. If a Commissioner or member of the public desires discussion on any item it will be removed from the Consent Agenda and considered separately.

- A. [20-449](#) **Approval of the November 2, 2020 Special Meeting Planning Commission Minutes**

Attachments: [110220 MN Draft](#)

8. STAFF REPORTS

9. PUBLIC BODY REPORTS**10. FUTURE AGENDA ITEMS****11. ADJOURNMENT***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 Planning Commission 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 Planning Commission meeting.



Action Report

File #: 20-451

TO: Chair and Planning Commission

FROM: Andrew Miller, Town Attorney

DATE: December 1, 2020

CONTACT:

Andrew Miller, 480-348-3691

AGENDA TITLE:

Public Hearing for Commission Recommendation regarding referral from the Town Council of an amendment to the Town Zoning Ordinance to prohibit recreational marijuana establishments.

BACKGROUND:

The statewide ballot measure I-23-2020, known as "Smart and Safe Arizona Act" (relating to the legalization of retail marijuana sales and consumption) was on the November 3, 2020 general election ballot as Proposition 207. The voters largely voted in support of Proposition 207 and it has now passed. It will take effect once the Governor has signed the legislation, which may be late December or early January. Once enacted, Proposition 207 contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; allows a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allows the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants. Proposition 207 also permits cities and towns to enact ordinances prohibiting [recreational] "marijuana establishments" and "marijuana testing facilities."

Based on the lack of any appropriate retail zoning districts in the Town, the potential high-volume quick trip traffic that might be generated from a marijuana establishment or marijuana testing facility, and in order to protect public health, safety, and welfare of the Town, the Town staff recommended to the Town Council that the Town should consider adopting revisions to the Town Zoning Ordinance that would prohibit marijuana establishments and/or marijuana testing facilities in the Town. Staff prepared a draft ordinance for the Council to review, with a recommendation that the Council provide input on any suggested changes to the terms of the draft ordinance and adopt a resolution that would

request that the Commission review the draft ordinance and have the hold the required citizen review session and public hearing on the draft ordinance in a timely manner.

The Council did review the draft ordinance in a study session at its October 8, 2020 meeting and requested a few changes to the draft ordinance. Thereafter, at its October 8, 2020 open meeting the Council approved Resolution No. 2020-30 (copy attached), which refers the review of the draft ordinance to the Planning Commission. The Resolution requests that the Commission review the draft ordinance, consider modifications that are consistent with the intent to prohibit marijuana establishments and testing facilities, and hold a citizen review session and public hearing on the draft ordinance, with a final recommendation to be made by the Commission by December 8, 2020.

Regarding the draft ordinance itself, to complete the Council's desire to prohibit [recreational] marijuana establishments and testing facilities in the Town a change in Section 1027 of the Town Zoning Ordinance is recommended. Existing Section 1027 prohibits a number of types of marijuana-related uses and facilities such as: (1) Medical Marijuana Designated Caregiver Cultivation Sites; (2) Medical Marijuana Dispensary Offsite Cultivation Sites; and (3) Medical Marijuana Infusion Facilities. The amendment to Section 1027, along with new definitions in Section 201, will apply the same prohibition that exists for a number of medical marijuana related facilities and uses to "marijuana establishments" and "marijuana testing facilities."

If there are no significant concerns or changes suggested by the Commission, the Commission should send the final recommendation to the Council by December 8, 2020. Staff recommends that the Commission recommend approval of the Draft Ordinance as submitted.

NEXT STEPS

Review the Draft Ordinance changes and send the final recommendation to the Council by December 8, 2020.

ATTACHMENTS:

Resolution No. 2020-30

Exhibit A to Resolution 2020-30 - Draft Ordinance Provisions

RESOLUTION NUMBER 2020-30

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA, REQUESTING THAT THE TOWN OF PARADISE VALLEY PLANNING COMMISSION REVIEW PROPOSED REVISIONS OF THE ZONING ORDINANCE RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA AND A DRAFT ORDINANCE WITH SAID REVISIONS; AND RECOMMEND APPROVAL, DENIAL, OR MODIFICATIONS TO THE DRAFT ORDINANCE; AND PROVIDING A DATE CERTAIN FOR SAID RECOMMENDATION

WHEREAS, the statewide ballot measure I-23-2020, known as “Smart and Safe Arizona Act” has been certified as Proposition 207 and placed on the November 3, 2020 general election ballot and contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over 21 years of older; allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allowing the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants; and,

WHEREAS, in the event that Proposition 207 passes, the Town desires to prohibit recreational marijuana establishments and testing facilities; and,

WHEREAS, changes to the Zoning Ordinance are necessary in order to enact such a prohibition; and,

WHEREAS, the Town Council desires to have the Town of Paradise Valley Planning Commission (Commission) review and make recommendations to the Town Council in the form of a proposed ordinance, a draft of which is attached hereto as Exhibit A, including the holding of any necessary citizen reviews and public hearings; and,

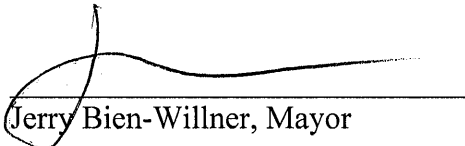
WHEREAS, the Commission is required complete such review, hearings, and final recommendation by December 8, 2020;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA THAT:

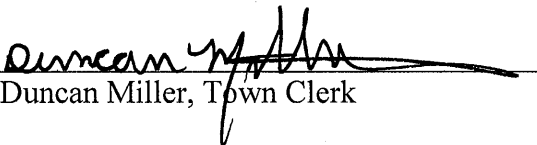
Section 1. The Commission review the draft ordinance attached hereto as Exhibit A relating to Article II – Definitions and Section 1027 of the Zoning Ordinance and recommend approval, denial, or approval with modifications that are consistent with prohibiting recreational marijuana establishments.

Section 2. That the Commission complete such recommendation by December 8, 2020.

PASSED AND ADOPTED by the Town Council this 8th day of October, 2020.


Jerry Bien-Willner, Mayor

ATTEST:


Duncan Miller, Town Clerk

APPROVED AS TO FORM

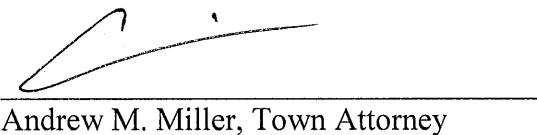

Andrew M. Miller, Town Attorney

Exhibit A

Attached: Draft Ordinance to Amend the Zoning Ordinance

When recorded, return to:
Paradise Valley Town Attorney
6401 East Lincoln Drive
Paradise Valley, Arizona 85253

ORDINANCE NUMBER 2020-_____

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA RELATING TO THE REGULATION OF RECREATIONAL MARIJUANA; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROHIBITING MARIJUANA ESTABLISHMENTS AND/OR MARIJUANA TESTING FACILITIES; AMENDING THE ZONING ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARTICLE II – DEFINITIONS AND SECTION 1027; SETTING FORTH VIOLATIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; AN DECLARING AN EMERGENCY

WHEREAS, marijuana contains tetrahydrocannabinol (“THC”), which remains on Schedule I of the Controlled Substances Act pursuant to 21 U.S.C. § 811 et al. and any possession and use is a violation of federal law pursuant to 21 U.S.C. § 841 et. al.;

WHEREAS, the Arizona Medical Marijuana Act, Arizona Revised Statutes Sections § 36-2801 et al., and Title 9, Chapter 17 of the Arizona Administrative Code allow the establishment and operation of nonprofit medical marijuana dispensaries in Town according to a prescribed statutory and regulatory process;

WHEREAS, the statewide ballot measure I-23-2020, known as “Smart and Safe Arizona Act” has been certified as Proposition 207 and placed on the November 3, 2020 general election ballot and contains provisions authorizing the possession, consumption, purchase, processing, manufacturing or transporting of marijuana by an individual who is at least twenty-one (21) years of age; authorizing possession, transport, cultivation or processing of marijuana plants in a primary residence by adults over 21 years of older; allowing a nonprofit medical marijuana dispensary or other non-dispensary applicant to apply to the Department of Health Services to become a licensed marijuana establishment authorized to engage in the retail sale, cultivation and manufacturing of marijuana; and allowing the Department, or another entity designated by the Department, to become a marijuana testing facility to test the potency of marijuana and detect any harmful contaminants;

WHEREAS, the Town finds that Proposition 207 authorizes marijuana establishments to use chemical extraction or chemical synthesis, including butane and other flammable gases, to extract marijuana concentrate, which poses a threat to the health, safety and security of the community and increases the responsibilities of law enforcement and other

Town departments to respond to violations of state and local laws, including building, electrical and fire codes;

WHEREAS, the Town seeks to protect public health, safety, and welfare by prohibiting marijuana establishments and/or marijuana testing facilities in the Town;

WHEREAS, this ordinance is adopted to protect the health, safety, and welfare of the community. Except as allowed by law for personal, private use, the Town prohibits the retail sale, cultivation, and manufacturing of marijuana or marijuana products in the Town. Nothing in this ordinance is intended to promote or condone the sale, cultivation, manufacture, transport, production, distribution, possession, or use of marijuana or marijuana products in violation of any applicable law.

WHEREAS, the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, and this ordinance shall be in full force and effective from and after its passage by the Council.

BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA:

Section 1. Article II of the Zoning Ordinance is hereby amended as follows with deletions shown as ~~strike throughs~~ and additions shown in **bold type**:

Article II. DEFINITIONS

Section 201.

For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural, the singular; the word "building" shall include the word "structure;" the word "lot" shall include the word "plot;" and the word "shall" is mandatory.

Accessory Building / Structure⁵⁶⁴: A subordinate building, the use of which is incidental to that of the dominant use of the main building, or premises, including residential staff quarters; provided, however, that neither a building nor an enclosure for horses is an accessory building.

Alley: A public thoroughfare which affords only a secondary means of access to abutting property.

Anomaly: ⁵⁴⁸ A natural occurring, localized surface deviation from the natural land contour. Anomalies may include outcroppings, ridges, craters, or washes. When an anomaly affects the Open Space Criteria measurement for a building or structure, the Town Manager or designee shall eliminate the anomaly from the calculation and interpolate a simulated natural grade between the contour on each side of the anomaly for use when measuring the height of the building or structure.

Apartment House: See "Dwelling, Multiple."

Area of Jurisdiction: The boundaries of Paradise Valley.

Assisted Living Home: A dwelling shared as a primary residence by persons who are disabled, as defined in Arizona Revised Statutes §41-1491, who do not meet the definition of "family" as set forth in this section, who live together as a single housekeeping unit in an environment in which staff persons provide supervisory care, personal care and/or custodial care for the residents. This definition shall not apply to a home for the developmentally disabled as regulated by Arizona Revised Statutes §36-582.

Basement: A story having more than one-half (1/2) its height below natural grade.

Building: Any structure for the shelter, support or enclosure of persons, animals, or property; and when separated by dividing walls without openings, each portion of such building, so separated, shall be deemed a separate building.

Camper: A camper is a unit designed for travel, recreational, and vacation uses, which may be placed upon or attached to a vehicle.

Cluster Plan (CP) District: A development approach that may be used in the R-43 or R-35 Cluster Plan zoning district that retains the same house per acre ratio as the R-43 or R-35, zoning districts permitting reduced lot sizes in order to allow undeveloped land to be preserved as open space. This approach may be utilized to preserve natural features or provide greater than normal setbacks from heavily traveled thoroughfares.

Country Club: A use of land, with traditional accessory uses, the primary purpose of which is for playing golf, tennis, handball or other similar recreational activities. Memberships or fees may be required for participation.

DHS: The Arizona Department of Health Services.

DHS Rules and Regulations: The adopted regulations of DHS relating to the provisions of Title 36, A.R.S. § 36-2801 et seq.

Dwelling: Any building, or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling, Single-Family: A building designed for occupancy by one (1) family.

Dwelling, Two-Family: A building designed for occupancy by two (2) families.

Dwelling, Multiple: A building or portion thereof designed for occupancy by three (3) or more families.

Dwelling Unit: One (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having its own cooking and sanitary facilities.

Elevation: Height above mean sea level (MSL) as established by the United States Coast and Geologic Survey.

Encroachment Line: Boundaries shown on Plates 7 & 8 of Volume I, Indian Bend Wash Report prepared by the U. S. Army Corps of Engineers which show lateral limits or lines along streams within which in the direction of the stream no structure or fill may be added without reducing the natural flood carrying capacity of the stream and its flood plain. Their location should be such that the natural floodway between them will handle a designated floodflow. The encroachment lines will be based upon the volumetric flow rate of a 100-year flood.

Family: An individual or two (2) or more persons related by blood or marriage or a group of not more than five (5) persons, excluding residential staff, who need not be related by blood or marriage living together as a housekeeping unit.

Fifty-year Flood: A flood that has a two percent (2%) chance of occurring in any one year based upon the criteria established by the Arizona Water Commission.

Finished Grade: The prepared elevation of the ground surface under a structure and within the lot setback lines.

Flood or Flood Waters: A temporary overflow of water on lands not normally covered by water.

Flood Plain: The relatively flat areas or low lands adjoining the channel of a watercourse, or areas where drainage is or may be restricted by manmade structures which have been or may be covered partially or wholly by floodwater, but shall compose an area not less than that area contained between the fifty-year flood line and the one hundred year flood line.

Floodplain Board: The Town Council of the Town of Paradise Valley.

Floodplain Regulations: The codes, ordinances, and other regulations relating to the use of land and construction within the channel and floodplain areas, including zoning ordinances, subdivision regulations, building codes, setback requirements, open area regulations and similar methods of control affecting the use and development of the areas.

Floodway: The channel of the stream or body of water and that portion of the flood plain that is inundated by a flood and therefore used to carry the flow of the flood.

Floor Area, Total: The area under roof added to the floor area of any second story. The total floor area also includes any courtyard areas, the solid portion(s) of trellises and/or open weave roofs, and all area under roof in accessory buildings such as gazebos, ramadas and other accessory buildings. The total floor area excludes the floor area of any fully subterranean portions of a building.

Floor Area Ratio: The total floor area divided by the total lot area.

Frontage: All property on one (1) side of a street between two (2) intersecting streets (crossing or terminating) measured along the line of the street, or, if the street is dead end, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street including property fronting on a cul-de-sac.

Garage, Private: Any accessory building designed or used for the storage of motor-driven vehicles.

Garage, Public: A building or portion thereof, other than a private or storage garage, designed or used for servicing, repairing, equipping, hiring, selling or storing motor-driven vehicles.

Garage, Storage: A building or portion thereof designed or used exclusively for housing of four (4) or more motor-driven vehicles.

Golf Course: A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse and associated uses.

Grade Slope: The degree of rise or descent of the ground surface. Please refer to illustration 201.

Guardgate: A manually, mechanically, or electrically controlled gate device built as a free-standing structure or in conjunction with a guardhouse in compliance with all the terms granted in a special use permit, and located on a private road as shown on the site plan approved with the special use permit, for the purpose of regulating and monitoring pedestrian and/or vehicular traffic into a subdivision or neighborhood and promoting security within the subdivision or neighborhood.

Guardhouse: A building built in compliance with all building codes of the Town of Paradise Valley and all the terms granted in a special use permit and located on a private road or on private property adjacent to a private road as shown on the site plan approved with the special use permit, for the purpose of manually or electronically regulating and monitoring pedestrian and/or vehicular traffic into a subdivision or neighborhood and promoting security with the subdivision or neighborhood; provided, however, a guardhouse shall not be designed or used for sleeping or living purposes.

Guest Ranch: A building or group of buildings containing two (2) or more guest units, other than a hotel, motel or resort hotel, and having outdoor recreational facilities such as horseback riding, swimming, tennis courts, shuffleboard courts, barbecue and picnic facilities.

Guest House: An accessory building of one or more rooms designed for occupancy by not more than one family. A guest house shall have its own sanitary facilities.

Height Measurement: The height of a building or structure is measured based on the following criteria: 1) The vertical distance from the lowest point of the natural grade below the structure to the highest point of the structure. Maximum building height varies with lot size. See Article X for detail; and 2) The Open Space Criteria which limits allowable building height near the perimeter of the lot. See definition of Open Space Criteria.

Hillside Development Area: Any parcel of land in which any portion of the parcel lies within the areas marked in Figure II and any other parcel with a building site slope of ten percent (10%) or greater, measured as a vertical rise of ten (10) feet in a horizontal distance of 100 feet.

Home Occupation: An occupation, profession, or other business activity conducted at a residence.

Hotel: A building in which lodging is provided and offered to the public for compensation and which is open to transient guests.

Institution: A building or buildings occupied by a non-profit corporation or a non-profit establishment for public use.

Loading Space: A permanently-maintained space on the same lot as the main building accessible to a street or alley and not less than ten (10) feet in width, twenty (20) feet in length, and fourteen (14) feet in height.

Lot: A parcel of land occupied or intended for occupancy by one main building, together with any accessory buildings including the open spaces required by this Ordinance and having either:

- a. adequate frontage upon a public street, or
- b. adequate and recorded access to a public street by a private road as defined by this ordinance.

Lot Area: The area bounded by the recorded property description of a lot, excluding any dedicated right of way, street or alley, and excluding any private road for which a Special Use Permit has been granted.

Lot, Corner: A lot adjoining two (2) or more streets at their intersection.

Lot, Depth of: The main horizontal distance between the front and rear lot lines.

Lot, Double Frontage: A lot having a frontage on two (2) non-intersection streets, as distinguished from a corner lot.

Lot, Interior: A lot other than a corner.

Lot, Key: A lot adjacent to a corner lot having its side lot line in common with the rear lot line of the corner lot and facing on the street which forms a side boundary of the corner lot.

Lot Lines: The lines bounding a lot.

Lot of Record: A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Clerk of Maricopa County Recorder's office; or parcel of land, the deed of which is recorded in the office of the County Recorder.

Lot Width: The diameter of the circle described in Section 6-3-5.G of the Town Code. Minimum lot widths are shown on Table 1001-A1.

Marijuana Establishment: A an entity licensed by DHS, or any other authority, to operate any or all of the following:

- (1) A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.
- (2) A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.
- (3) A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

Marijuana Testing Facility: DHS or its successor agency or any other entity that is licensed by DHS or any other authority to analyze the potency of marijuana and test marijuana for harmful contaminants.

Medical Marijuana: Marijuana or cannabis, including all parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant, approved under state law for treatment of persons suffering from debilitating medical conditions, as designated in A.R.S. § 36-2801 et seq. and the DHS rules and regulations.

Medical Marijuana Cultivation: The process by which a person grows a medical marijuana plant as allowed by A.R.S. § 36-2801 et seq. and the DHS rules and regulations.

Medical Marijuana Designated Caregiver Cultivation: The cultivation of medical marijuana by a designated caregiver, as defined in A.R.S. § 36-2801 et seq. and 36-2804 et seq.

Medical Marijuana Dispensary: A non-profit entity, as defined in A.R.S. § 36-2801(11), that acquires, possesses, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to qualifying patients, caregivers or dispensary agents, as defined in A.R.S. § 36-2801(2).

Medical Marijuana Dispensary Offsite Cultivation Site: A building, dwelling, or structure used for the cultivation or storage of medical marijuana for use by a medical marijuana dispensary, as designated in Arizona Revised Statutes, Title 36, A.R.S. § 36-2801 et seq. or DHS rules and regulations.

Medical Marijuana Infusion Facility: A facility that incorporates medical marijuana into consumable/edible goods by means of cooking, blending or incorporation.

Medical Marijuana Qualifying Patient Cultivation: Cultivation of medical marijuana by a qualifying patient, as defined in A.R.S. § 36-2801(13), who is authorized to cultivate marijuana plants pursuant to the provisions of A.R.S. § 36-2801 et seq. and 36-2804 et seq.

Microwave Antenna: A device for the reception and amplification of microwave frequency electromagnetic energy, typically in the shape of a shallow dish, and which may be mounted on a permanent, temporary, or portable structure.

Mobile Home: A mobile home is a unit which : a) is not self-propelled, b) may be placed upon or attached to a vehicle, c) is constructed in such a manner as to permit occupancy as a dwelling or sleeping place for one or more persons, and d) is or may be used as a conveyance upon streets or highways.

Motel: Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot and designed, used, or intended wholly or in part for the accommodation of automobile transients. Motel includes motor court, motor lodge, and tourist court, but not trailer court, guest ranch or resort hotel.

Motor Home: A self-propelled vehicle capable of being used for the living, sleeping, eating, or accommodation of persons.

Natural Grade: The elevation of the ground surface in its natural state before man-made alterations.

One-hundred-year Flood: A flood that has one per cent chance of occurring in any one year based upon the criteria established by the Arizona Water Commission.

Open Space: Land and water areas retained for active or passive recreation purposes or for essentially undeveloped areas retained for the purpose of resource protection or preservation.

Open Space Criteria: This criterion maintains view corridors around the perimeter of the lot by further limiting building height near property lines. Maximum allowable structure height shall not exceed a plane beginning at 16 feet above the natural grade, at 20 feet setback from all property lines and sloping upward at a 20% angle, perpendicular to the nearest property line. See Article X for detail and refer to Figure 1001-2 for example.

Open Space Preserve District (OSP): This Zoning District is intended to preserve and protect in perpetuity undeveloped real property and developed real property that can be returned to its natural state, , including scenic and conservation easements, on and around the Mountain Preserve in the Town of Paradise Valley, with the goal of preserving the natural landscape, desert plants, wildlife, and the scenic beauty of mountain areas of the Town.

Parking Lot: A parcel of land devoted to unenclosed parking spaces.

Parking Space: A permanently surfaced area, enclosed or unenclosed, having an area of not less than one hundred eighty (180) square feet, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Person: Any individual or his agent, firm, partnership, association, corporation, or agent of the aforementioned groups, or the state or any agency or political subdivision thereof.

Private Road: Where this Ordinance refers to the term “Private Road” any such Private Road shall meet and be in compliance with the following criteria:

- (1) The minimum right-of-way width shall be fifty (50) feet.
- (2) Where the said private road is to provide access to one or two residences, driving surface shall not be less than 16 feet in width and shall be covered at a minimum with a 4-inch depth of aggregate base course meeting Town Standards (Article 5-6 of the Town Code) or a minimum of a 4-inch depth of decomposed granite.
- (3) Where access to a public road for three (3) or more residences is to be provided by way of a private road, all standards and requirements for subdivisions as contained in the Code and Ordinances of the Town of Paradise Valley shall apply, and such private road shall be subject to those conditions imposed by reason of the issuance of a use permit in accordance with the Code and Ordinances of the Town of Paradise Valley.
- (4) All private roads, for so long as they shall remain private, shall be maintained to the foregoing standards, and in the event the Town of Paradise Valley is required to perform any maintenance upon the same for the health and welfare of the people of the Town of Paradise Valley, the said Town may assess the cost thereof against the party, his heirs, executors, administrators, legatees and assigns, having applied for a residential building permit utilizing the provisions of this sub-paragraph (b); agreement thereto by such applicant shall be a condition of issuance of any residential building permit.

Public/Quasi Public: Structures and uses principally of an institutional nature and serving a public need, such as religious institutions, schools, libraries, governmental offices, museums, post offices, police and fire stations, public utilities, and other public services that provide governmental, educational, institutional, cultural, recreational, religious, or

other similar types of public services, but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

Resort: A resort is a facility, operated under a single unified management structure, containing guest units primarily for the temporary residency of persons in a physical setting that provides a high level of guest amenities, recreational opportunities and a quality of design that may include architectural features, extensive open space and landscaping.

R-175 District: This district is intended to promote and preserve—a very low-density residential character and maintain open space and natural features. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 175,000 sq. ft. is required in this District.

R-43 District: This district is intended to promote and preserve a low-density residential character and maintain open space and natural features. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 43,560 sq. ft is required in this district.

R-35 District: This district is intended to promote and preserve residential development associated with the desert landscape. The minimum size, although less than one acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 35,000 sq. ft. is required in this district.

R35A District: This district only applies to portions of previously annexed subdivisions known as Firebrand Ranch and Mountain View Estates Replat, as shown on the Zoning Map. This district is intended to promote and preserve residential development associated with the desert landscape. The minimum size, although less than one acre, still results in a low density of population. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 35, 000 sq. ft. is required in this District.

R-18 District: This district is intended to promote and preserve residential development associated with the desert landscape. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 18,000 sq. ft is required in this district.

R-18 A District: This district applies to previously annexed subdivisions known as Arcadia Square, Orange Valley Estates No. 3, Grosse Point Two, Quail Vista and to certain portions of Firebrand Ranch and Mountain View Estates Replat, as shown on the Zoning Map. The principal land use is single-family dwellings and uses incidental or accessory thereto. Lot size of at least 18,000 sq. ft. is required in this district.

R-10 District: This district applies to previously annexed subdivisions known as Mountain Shadows East, Mountain Shadows West, and Colonia Miramonte. This district is intended for single-family dwellings and uses incidental or accessory thereto, with a lot size of at least 10,000 square feet.

Residential Staff: An accessory building occupied only by a person employed for a substantial portion of his time in the performance of domestic or agricultural tasks on the premises, and by the immediate family of such person. Residential staff quarters may have cooking facilities, and may not be rented for profit.

School: Unless otherwise specified, the term "school and college" shall be limited to private or public places of general instruction and shall not include nursery schools, dancing schools, riding academies, or trade or specialized vocational schools.

Service Station: Any building or premises used principally for the storing, dispensing or offering for sale at retail of automobile fuels or oils.

Shopping Center: A group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking provided on the property as an integral part of the unit.

Sign: Any device for visual communication including political handbills and posters but not including any flag, badge or insignia of a government or governmental agency, nor of any civic, charitable, religious, patriotic, fraternal or similar organization.

a. Area of Sign:

(1) Free-standing Letters Sign: The area of such sign is ninety percent (90%) of the area enclosed within the smallest regular geometric figure needed to encompass all letters, insignias or symbols.

(2) Other Signs: The area of other signs is the total area within the outer edge of the sign.

(3) Computations: In every event, computation of all allowable sign area includes

all existing signs on the premises, whether such signs be conforming or valid nonconforming under the terms of this Ordinance. Identifying street numbers shall not be computed as part of the total sign area.

b. Banner sign: Means a canvas, flexible plastic device or other cloth material which can be supported and mounted by the use of ropes and intended for visual communication, and directly related to activities on site.

c. Double-faced sign means a sign with two faces; in computing the number of signs, a double-faced sign shall be considered as two (2) signs.

d. Free-standing Letters Sign: A sign composed of letters superimposed on a wall.

- e. Indirect lighting means a source of external illumination located a distance away from the sign which lights the sign, but which is itself not visible to persons viewing the sign from any ordinary position of view.
- f. Internal lighting means a source of illumination which is entirely within the sign and is not visible.
- g. Non-commercial sign means a sign for the expression of a personal communication such as religious, philosophical, or political views.
- h. Permanent Sign: Any sign which is intended to be of a lasting and enduring nature, remaining unchanged in character and position and affixed in a permanent manner to the ground, wall or building; made of or composed of materials of such quality that the sign will not deteriorate in appearance due to exposure to wind, rain, sun or the passage of time.
- i. Temporary Sign: Any sign not permanently attached to the ground, wall, or building; made of or composed of materials of such quality that the sign will not deteriorate in appearance due to exposure to wind, rain, sun or the passage of time.

Stable: Any building or structure used to house or provide shelter for horses, provided that when a stable building is used for additional purposes, including by way of example, but not limited to, housing of horse attendants, etc., only the portions of the building used for the housing of horses and/or the keeping of feed or tack shall be deemed stable area; remaining portions of the building shall be deemed accessory building area. The term, "stable", shall not include within the scope of its definition what is commonly referred to as a corral.

Story: That portion of a building, other than a basement included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor is finished off for use. The half story containing independent apartment or living quarters shall be counted as a full story.

Street, Public: A passageway for general use of pedestrian or vehicular traffic, established as such by governmental authority.

Street, Private: Any other passageway for pedestrian or vehicular traffic.

Street Line: A dividing line between a lot, tract or parcel of land and a contiguous street (right-of-way).

Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground.

SUP District R-18 CP Single-Family Residential District: A residential subdivision approved by prior Special Use Permit only and applicable only to those subdivisions known as Cheney Estates (and only a portion thereof) and Via Vista.

Time-Share Project: A project in which a purchaser receives the right in perpetuity, for life or for a term of years to the recurrent, exclusive use or occupancy of a lot, parcel, unit or segment of real property, annually or on some other periodic basis for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided.

Trailer, Transport: Any vehicle so constructed that is suitable for being attached to a motor vehicle and capable of being used for transporting goods, materials, equipment, boats, vehicles, or livestock.

Use: The purpose for which land or a building is occupied, maintained, arranged, designed or intended.

Use, Accessory: A subordinate use customarily incident to and conducted on the same lot with the principal use or building including bona fide residential staff quarters.

Watercourse: Any lake, river, stream, wash, arroyo, channel or other body of water having banks and bed through which waters flow at least periodically. The term may include specifically designated areas in which substantial flood damage may occur.

Yard: An open space at grade level between the setback line and the nearest parallel lot line, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

Yard, Front: A yard extending across the front width of a lot and being the minimum horizontal distance between the right-of-way line and the front setback line.

Yard, Rear: A yard extending across the rear width of a lot and being the minimum horizontal distance between the rear lot line and the rear setback line. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Side: A yard between the side setback line and the side lot line of a lot and extending from the front yard to the rear yard, and being the minimum horizontal distance between a side lot line and the side setback line. An interior side yard is defined as the side yard adjacent to a common lot line.

ZONING ORDINANCE

Figure 201
Grade Slope



Section 2. Article X, Section 1027, of the Zoning Ordinance is hereby amended as follows with deletions shown as ~~striketroughs~~ and additions shown in **bold type**:

Section 1027. Prohibition of Specific Types of Medical Marijuana Facilities **and Other Marijuana-related Facilities or Uses.**

The following specified types of medical marijuana facilities, as defined in Article II, Section 201, are hereby prohibited within any use district within the Town of Paradise Valley and are specifically excluded from being considered an allowed home occupation under Article XVI of this Zoning Ordinance: (1) Medical Marijuana Designated Caregiver Cultivation Site; (2) Medical Marijuana Dispensary Offsite Cultivation Site; and (3) Medical Marijuana Infusion Facility. Medical Marijuana Qualifying Patient Cultivation with the Town of Paradise Valley shall be prohibited if a Medical Marijuana Dispensary receives a registration certificate from DHS for any location within the Town of Paradise Valley or within twenty-five (25) miles of the residence of a Qualifying Patient living in the Town of Paradise Valley. **Except as otherwise required by law, (1) Marijuana Establishments; and (2) Marijuana Testing Facilities, as defined in Article II, Section 201, are hereby prohibited within any use district within the Town of Paradise Valley and are specifically excluded from being considered an allowed home occupation under Article XVI of this Zoning Ordinance.**

Section 3. Any person violating any provision of this Ordinance shall be guilty of a Class 1 misdemeanor, and may be fined an amount up to \$2,500, or imprisoned for a period up to 6 months, or both. Each day that any violation continues shall be a separate offense punishable as above-described or by civil sanction.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these 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.

Section 5. Emergency. Whereas the immediate operation of the provisions of this ordinance is necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, and this ordinance shall be in full force and effective from and after its passage by the Council.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this _____ day of _____, 2020.

Jerry Bien-Willner, Mayor

SIGNED AND ATTESTED TO THIS _____ DAY OF _____, 2020.

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew M. Miller, Town Attorney



Action Report

File #: 20-452

TO: Chair and Planning Commission

FROM: Paul Michaud, Planning Manager
Loras Rauch, Special Projects Planner

DATE: December 1, 2020

DEPARTMENT: Community Development

AGENDA TITLE:

Discussion of a minor amendment request to the R-18 CP SUP for Lot 3 Cheney Estates (SUP-20-08). 7171 E. Paradise Canyon Road (APN: 174-40-004)

REQUEST:

The owner of Lot 3 Cheney Estates, Mr. Joel Schaller, is requesting that the Commission consider their request to amend the R-18 Cluster Plan Special Use Permit as a Minor Amendment as outlined in Section 1102.7 B. of the Zoning Code.

BACKGROUND:

Specifics of Request:

The applicant is seeking a minor amendment to the SUP only for Lot 3 in order to allow an accessory shade structure to be built at a 15 foot rear setback and maintaining a 10 foot side setback.

The applicant has already constructed the desired shade structure (cantilevered lid) to cover their new outdoor kitchen and seating area adjacent to the new pool. This was done as part of their larger backyard landscape remodel. Although the rest of the backyard improvements were done with building permits and inspections by the Town, this shade structure was built without a building permit. The applicant is seeking to rectify their permitting mistake through the SUP minor amendment process followed by the building permit process and payment of fines.

The shade structure was built in the southeastern corner of the lot and does not abut any neighbor, building or lot. Rather, the shade structure was built on the side of the property which is adjacent to subdivision Tract C; with Scottsdale Road +135 away to the east and Cheney Drive 42 feet away to the south.

History

- 03/12/92: Town approved the preliminary plat Cheney Estates which shows Lots 1-14 and Tract C as R-18 Cluster Plan and Lots 15-72 and 6 tracts as R-35 Cluster Plan zoning.

- 03/12/92: Ordinance 337 approved conditional zoning provided the stipulations are met prior to final plat approval. Stipulation 4.4 required obtaining a Special Use Permit for the R-18CP.
- 03/26/92: Town grants the SUP for R-18CP.
The requirements in the R-18CP SUP specifically outline that the property shall be used for an R-18 CP only, in full compliance with all applicable provisions of the Zoning Ordinances of the Town and the terms as follows:
 - ✓ Setbacks: Front setback 35 feet
 Side setback 10 feet
 Rear setback 35 feet
 - ✓ Each main residence shall have a minimum footprint area livable space of 2,000 square feet, and a maximum footprint area livable space of 5,000 square feet.
 - ✓ All structures shall be limited to one story, no higher than 22 feet.
- 05/28/92: Ordinance 347 approves the final zoning of R-35CP and R-18CP SUP and approves the Final Plat.
- 07/22/92: Final Plat for Cheney Estates is recorded.
- 06/25/97: Planning Department Policy/Procedure #14 further clarifies Floor Area Ratios for the two subdivisions that have R-18 CP zoning (Via Vista and Cheney Estates). For Cheney Estates the policy states that the square feet areas (min. 2,000 and max. 5,000) excludes accessory buildings, garage, covered patio, pool etc. Such exclusions are allowed and the only limiting factors are the setbacks and that accessory buildings shall not exceed 50% of the main residence.

History on Lot 3 - The Town has issued the following permits for the property:

- 10/10/95: Single-family Residence
- 07/09/96: Certificate of Occupancy on SF Home
- 09/11/19: Pool demo permit
- 09/26/19: New swimming pool permit
- 12/05/19: Outdoor kitchen permit
- 01/21/20: Final Inspection new pool permit
- 03/26/20: Outdoor kitchen inspection failed due to no one on property & no inspection recall has been made.

DISCUSSION/FACTS:

Minor Amendment Criteria

Per Section 1102.7 of the Zoning Ordinance, a Minor Amendment to a Special Use Permit shall include any proposal which is not a Managerial Amendment and does not:

1. Change or add any uses; or
 - ✓ *The addition of the shade structure does not change or add any uses that were not there before (outdoor kitchen, fireplace, seating and pool) and an accessory structure for shade is a permissible use within residential districts (including R-18 CP SUP).*
2. Increase the floor area of the project by more than 5,000 square feet or constitute an increase of more than 15% upon the existing or, if still under construction, approved floor area square

footage of the affected SUP property, whichever is less, with any such increase to be measured cumulatively over a sixty-month period; or

- ✓ *The shade structure is 360 square feet in size (18'X20'). The shade structure represents an increase of 9.7% and the SUP does not stipulate floor areas for accessory structures or total lot coverage.*
3. Have any material effect on the adjoining property owners that is visible, audible, or otherwise perceptible from adjacent properties that cannot be sufficiently mitigated; or
- ✓ *The location of the shade structure is not on the shared property line with the adjacent residence (Neighboring Lot 2 is located on the opposite side of the subject lot). The shade structure was built at the southeast corner of the lot adjacent to Tract C which is a landscape tract that provides more than 135 feet distance from Scottsdale Road and more than 40 feet from Cheney Drive. This location does the most to ensure that the shade structure itself and the subsequent use of the area does not impact upon the use and enjoyment of any other residential lot.*
4. Change the architectural style of the existing Special Use Permit.
- ✓ *The shade structure maintains the architectural style, stucco finish and paint color of the existing house and the location adjacent to the open space & landscape tracts of the subdivision help to minimize the visual appearance from outside the property.*

Zoning Ordinance Compliance:

The shade structure as built has varying degrees of zoning compliance.

1. SUP Amendment: The strategical location, size and architectural style of the shade structure is compliant with the Minor Amendment SUP criteria outlined above. With the lot being adjacent to an open space landscape tract on two (2) sides, strategically positioning the shade structure as the applicant has, provides the best mitigation for any potential visual and noise impact to adjoining properties. Therefore, all four (4) of the Minor Amendment SUP criteria have been complied with by the applicant. In the narrative submitted the applicant states that if needed or directed by the Commission they would be open to property line screening or planting.
2. The Special Use Permit for the R-18CP approved in 1992 states: 2) The property shall be used for an R-18 Cluster Plan only, in full compliance with all applicable provisions of the Zoning Ordinances of the Town of Paradise Valley and the terms of this Special Use Permit. Given this broad statement and the fact that accessory structures are not specifically addressed in the Special Use Permit there is some rational for applying the development standards outlined in Section 912 of the Zoning Code when considering this application for Minor Amendment.
3. Section 912 Cluster Plan Adjacent to Major Streets and Floodways: This section of the Zoning Code was adopted 11/16/2017 and became effective 08/02/2019. Section 912 was created specifically for the Ironwood Golf Villas north of Cheney Estates. The provisions of Section 912 shall apply only to parcels of eight (8) acres or more that meet the following criteria: 1) the parcel is

adjacent to a major arterial roadway with average daily traffic greater than 35,000 vehicles per day; 2) the parcel is adjacent to the Indian Bend Wash; and 3) the parcel is not adjacent to an R-43 zoned area or lot.

Looking at the entire R-18CP SUP portion of Cheney Estates it could be argued that it loosely fits the Section 912 criteria and that it might be reasonable to apply the development standards (setbacks), specifically for accessory structures, for the Minor Amendment requested by the applicant. The following two standards apply to setbacks for accessory structures:

- 8. Rear yard setbacks (with or without street frontage) for accessory buildings and structures and pools shall be 10 feet. Front yard setbacks for accessory buildings and structures and pools shall be 20 feet.
- 9. Side yard setbacks (with or without street frontage) for accessory buildings and structures and pools shall be 7 feet. The maximum height of accessory buildings and structures shall be 16 feet.

Public Comment

Public notification is not required for the work study session.

Next Steps

The public hearing is scheduled for December 15, 2020. During the public hearing, the Planning Commission will take two actions:

1. Determine if the scope of the request constitutes a Minor SUP Amendment in accordance with the Minor Amendment Criteria.
2. If deemed a Minor SUP Amendment, the Commission may approve the request subject to stipulations, deny the request, or continue the request for further review.

ATTACHMENT(S):

- A. Vicinity Map & Aerial Photo
- B. Application
- C. Narrative & Plans
- D. Cheney Estates R-18CP SUP
- E. Cheney Estates Subdivision Plat



Vicinity Map & Aerial Photo

2020 Aerial

Subject Property



2019 Aerial



Lot 3 – Cheney Estates
7171 E. Paradise Canyon Drive



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

☐ Managerial Amendment

☐ Intermediate Amendment

☒ Minor Amendment

☐ Major Amendment/New SUP

Project Name: SCHALLER SHADE STRUCTURE

Date: 8/25/2020

Existing Zoning: R-18 CLUSTER PLAN SUP

Proposed Zoning: _____

Net Acres: _____

Property Address: 771 EAST PARADISE CANYON RD, PV 85253

Assessor's Parcel Number: 174-40-004

Owner: JOEL SCHALLER

Address: 771 EAST PARADISE CANYON RD, PV 85253

Phone number: (518) 369-3622

E-mail address: JSCALLER247@GMAIL.COM

X Signature: _____

(Or provide a separate letter of authorization)

Applicant/Representative: KEN LARKINS

Company Name (if Applicable): PAX PAVERS & LANDSCAPING

Address: 21230 NORTH 22ND STREET, PAX AZ 85024

Phone number: (602) 710-7072

E-mail address: KEN@PAXPAVERS.COM

Signature: [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: _____

TOWN OF PARADISE VALLEY
APPLICATION FOR MINOR AMENDMENT TO SPECIAL USE PERMIT

PARCEL NO.: 174 - 40 - 004
(County Tax Assessor Number)

DATE: 8/25/2020

NAME OF SUBDIVISION OR PARCEL: CHENEY ESTATES LOT 3

ADDRESS OR LOCATION OF PROPERTY: _____

7171 EAST PARADISE CANYON RD, PV 85853

OWNER: JER SCHALLER (SAME ADDRESS AS ABOVE)
NAME

7171 EAST PARADISE CANYON RD, PV (518)369-3622
ADDRESS PHONE #

SIGNATURE OF OWNER

AUTHORIZED AGENT: KEN LARKINS
NAME
21230 N 122ND STREET, PHX, AZ 85024 (602) 710-7072
ADDRESS PHONE #


SIGNATURE OF AUTHORIZED AGENT

September 29, 2020

Loras Rauch,

We are seeking a Minor SUP Amendment for the shade structure at the property located at 7171 East Paradise Canyon Rd.

It is our understanding that the setback, that requires us to seek this Minor SUP Amendment, was put in place to assure that the neighbors abutting our property and the community at large would not have the enjoyment or use of their property impeded by any structure within the setback. The shade structure (lid) we built is on the most South/ East border of our backyard property and does not abut any neighbor or building on either side. The shade structure was intentionally designed on the side of the property that only has Scottsdale Road and Cheney Drive as its neighbors ... and our property line is in excess of 135' from Scottsdale Road to the East (with a large retention area within that space) and 42' from Cheney Drive to the South.

This structure does not change or add any uses that we were afforded previously with the outdoor kitchen, fireplace and pool.

The area of coverage for the shade structure is only 9.7% of the existing living area coverage and 2.1% of the total lot size.

Because of the location chosen, as stated above, we have minimized the impact on the sole neighbor to this property on the west side. This allows for the use of this space with the lighting facing down and noise from conversation and the games on the TV to be at a lessor impact than if located at the shared property line. If needed, this can be mitigated buy use timing, property line screening and/or planting if need be.

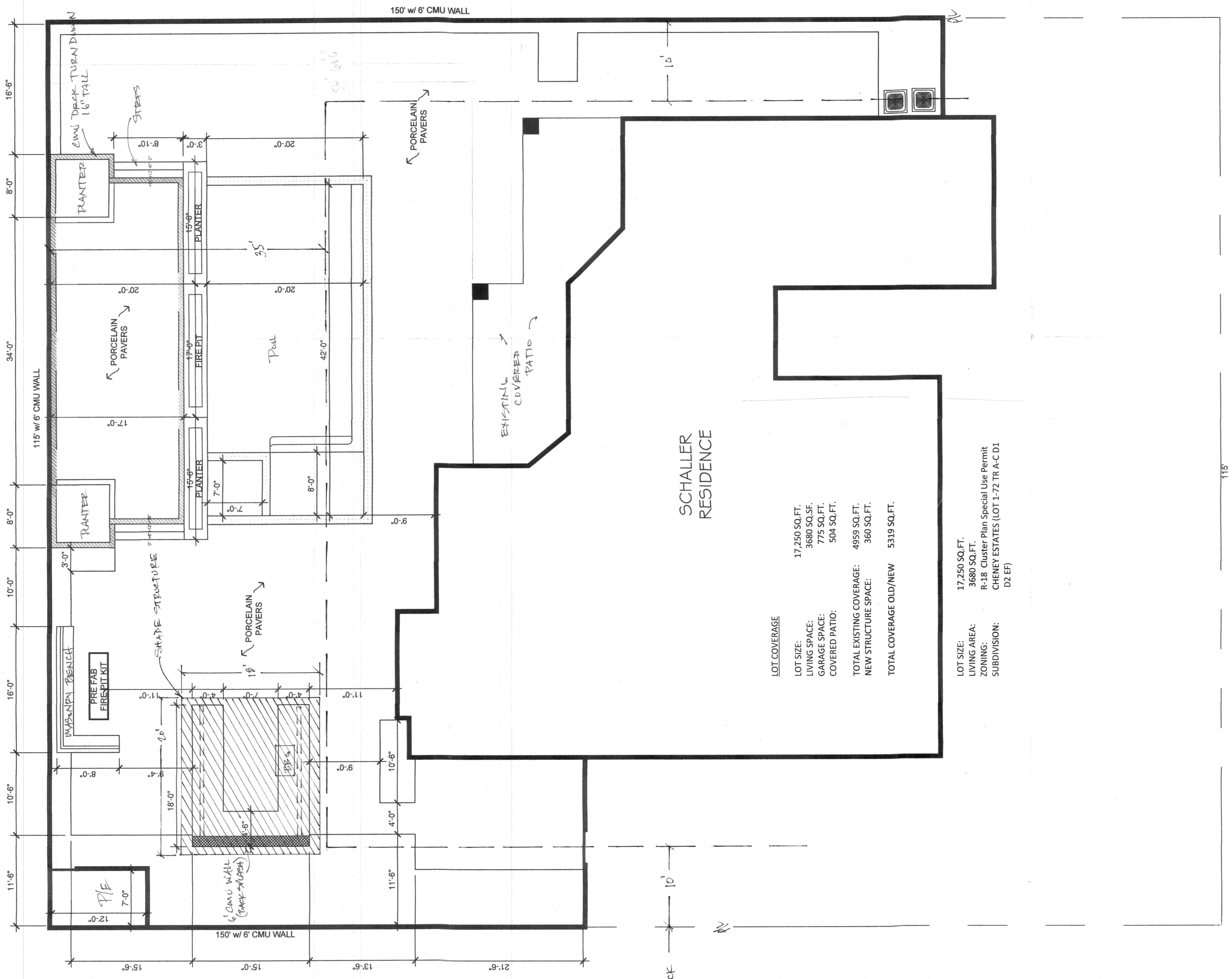
Visually we have maintained the architectural style by the texture and color of the lid to be the same as the existing house and minimize the visual appearance from outside the property. This is done with the stucco finish and matching paint color.

The need for this lid is not one of convenience; rather, as you know, a large part of the use and enjoyment of our property in this magnificent community of Paradise Valley is predicated upon the outdoor living opportunity we are afforded by our beautiful weather and climate. However, given the strength and frequency of our sunshine and heat, assuring cover and protection from the heat and rays from the sun is imperative to allow us to enjoy our home and remain healthy.

Our request for a SUP is consistent with the spirit and intent of the Town Code that established this setback-as mentioned above- we have strategically built this lid to assure that it does not impact upon the use or enjoyment of any neighbors or adjacent properties... and the unique positioning of our property- and the positioning of the lid structure within our property - warrants the granting of the Minor SUP Amendment.

Thank you for your consideration.
Sincerely,

Ken Larkins
(For Joel Schaller - Homeowner)



SCHALLER RESIDENCE

LOT COVERAGE	
LOT SIZE:	17,250 SQ. FT.
LIVING SPACE:	3680 SQ. FT.
GARAGE SPACE:	775 SQ. FT.
COVERED PATIO:	504 SQ. FT.
TOTAL EXISTING COVERAGE:	4959 SQ. FT.
NEW STRUCTURE SPACE:	360 SQ. FT.
TOTAL COVERAGE OLD/NEW	5319 SQ. FT.

LOT SIZE:	17,250 SQ. FT.
LIVING AREA:	3680 SQ. FT.
ZONING:	R-18 Cluster Plan Special Use Permit
SUBDIVISION:	CHENEY ESTATES (LOT 1-72 TR A-C D1 D2 EF)

Resubmitted September 29, 2020

COPYWRITE NOTICE
ALL RIGHTS RESERVED. NO PART OF THIS DRAWING IS TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF PHOENIX PAVERS & LANDSCAPING. ANY VIOLATION OF THIS NOTICE WILL BE PROSECUTED TO THE FULL EXTENT OF THE LAW.

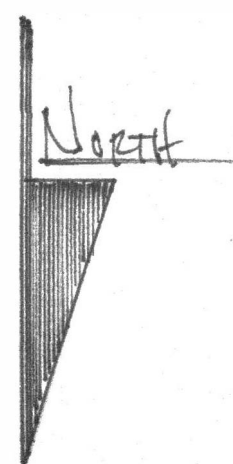
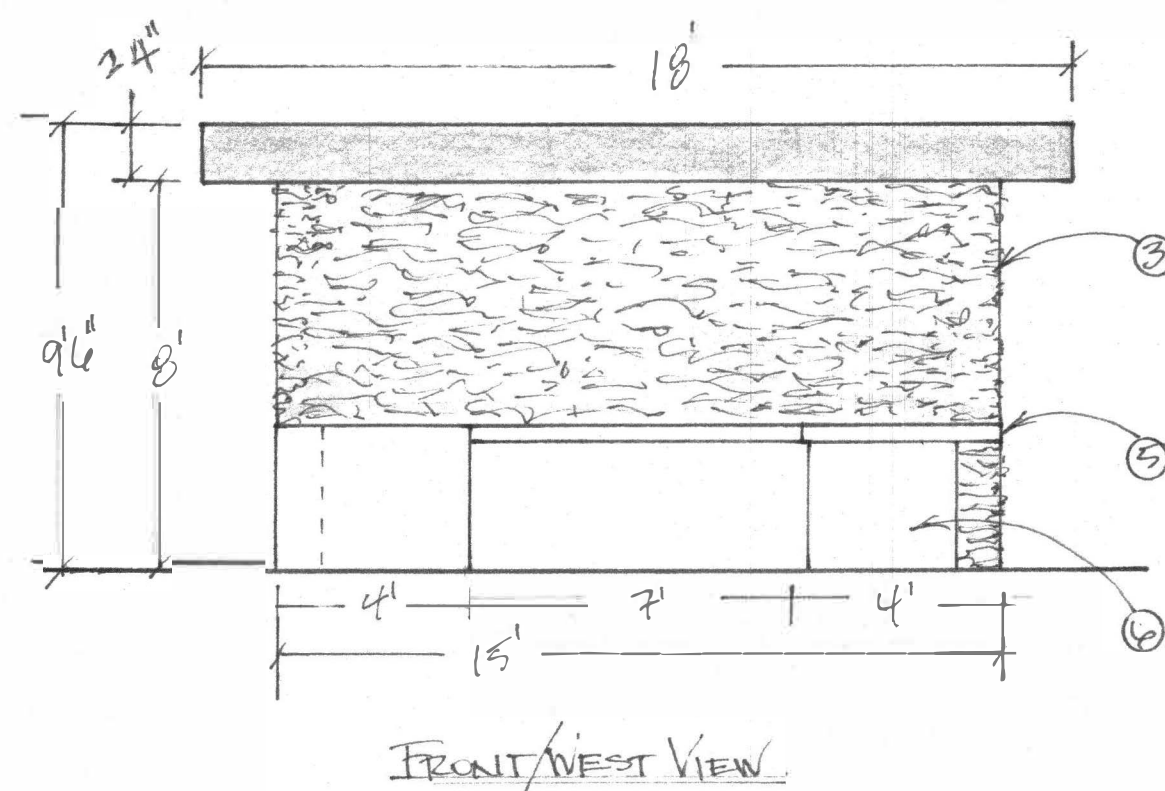
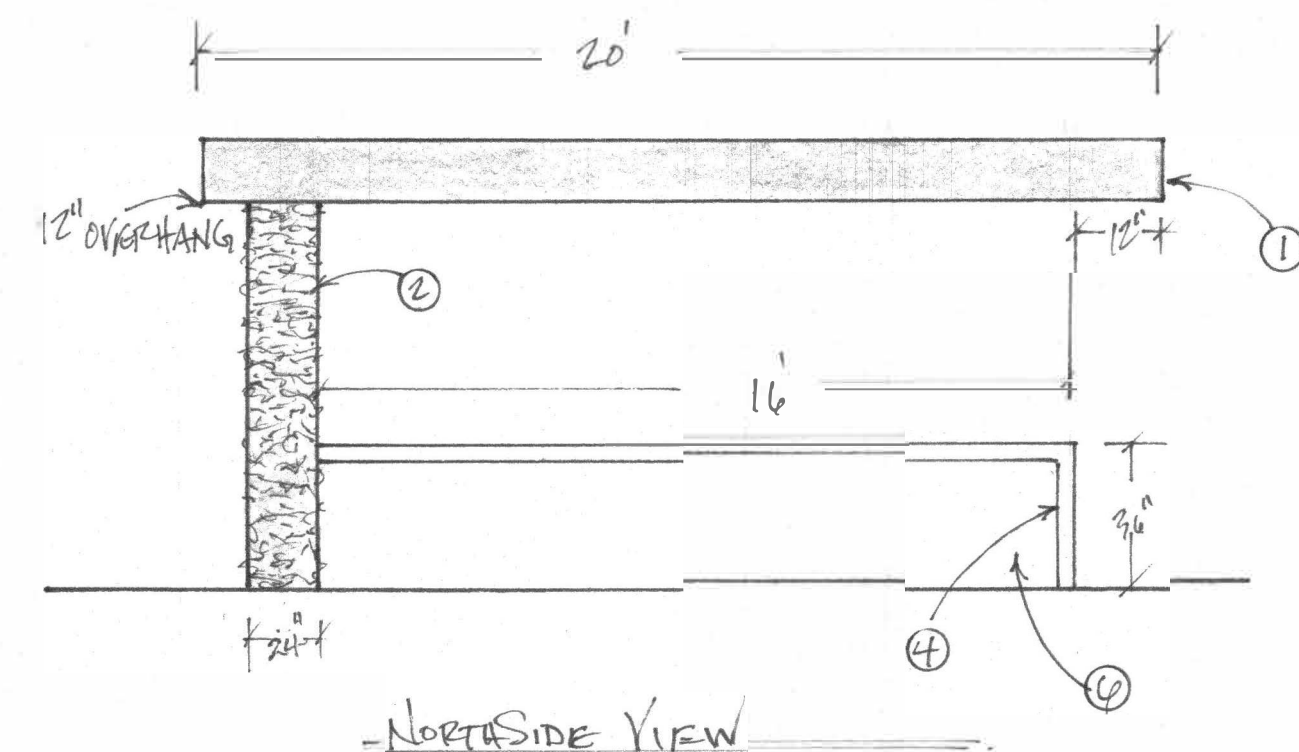
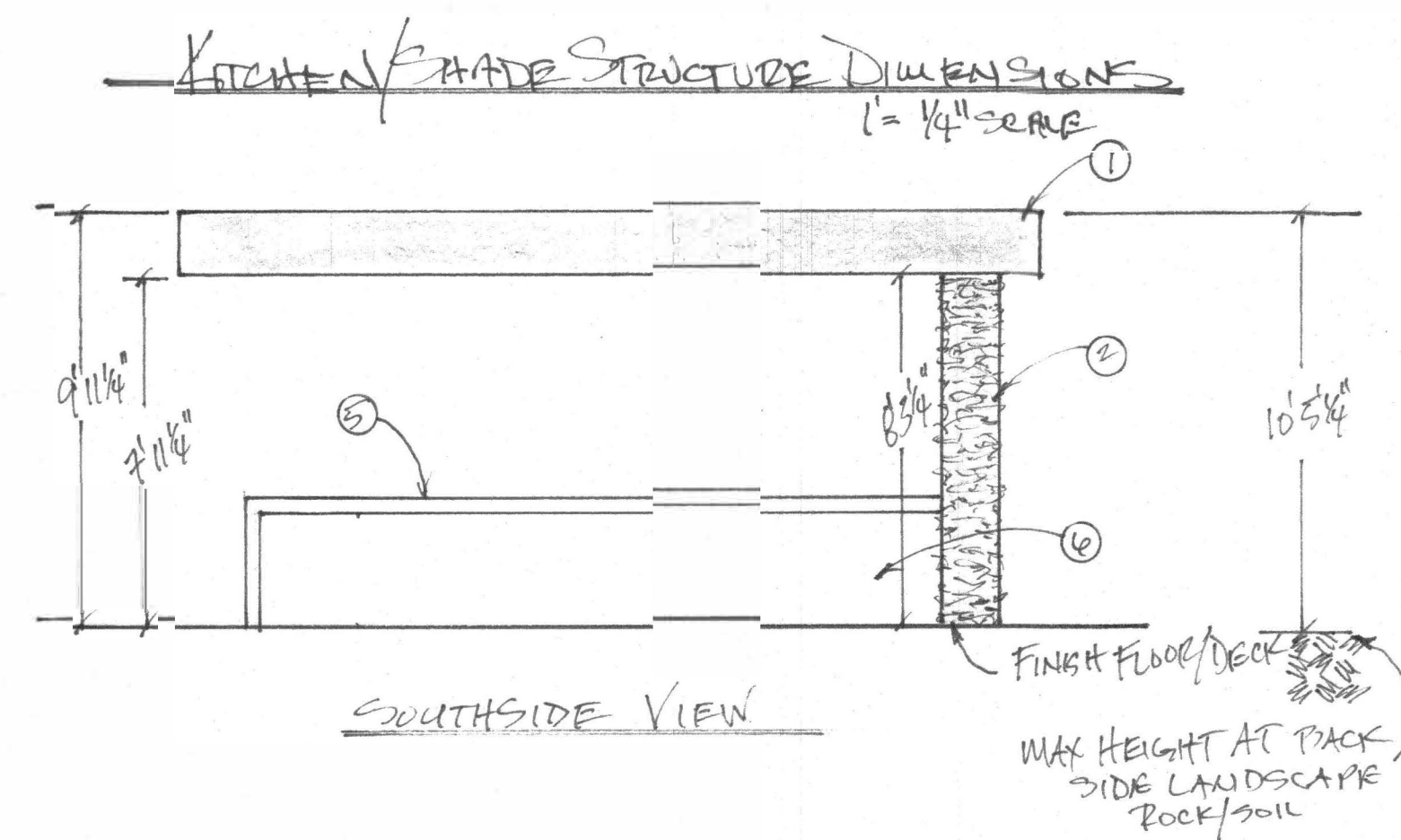
PHOENIX PAVERS & LANDSCAPING
WWW.PHYPAVERS.COM
400 E. PINNACLE PEAK
PHOENIX, ARIZONA 85024
PHONE: 623-434-5908

PHX PAVERS & Landscaping

SCHALLER RESIDENCE
7171 E. PARADISE CANYON RD.
PARADISE VALLEY, AZ 85253

DRAFT	APPROVED	DATE:	DESIGNER:
#	#	1	2
1	2	XX/XX/2016	XX/XX/2016
2	3	XX/XX/2016	XX/XX/2016
3		XX/XX/2016	XX/XX/2016

L-1



Notes:

- ① Cantilever Lid – welded steel interior frame structure with main vertical post beams within the masonry back wall and the horizontal roof beams in the boxed lid frame. Perimeter face of the lid to be stucco finish and paint to match the existing house. The ceiling to be trimmed and painted. Roof to be rolled roofing just as the flat roof portions of the existing house.
- ② CMU at the east side to be the backsplash and house the steel structure support for the lid. Front and side faces to have stone veneer/panels. The back side to be stucco finish and painted to match the house.
- ③ Porcelain tile matching the decking/patio will also be veneered to the knee wall side of the counter support wall.
- ④ Counter top/bar to have a waterfall edge at the pool end to better finish the ends.
- ⑤ Counter top/bar to have a 12" overhang at both the north and south sides for seating.
- ⑥ Porcelain tile/pavers matching the decking/patio veneer here.

Schaller Residence

7171 East Paradise Canyon Road, Paradise Valley 85253
Cheney Estates Lot 3 174-40-004

Resubmitted September 29, 2020

RETURN TO HAWKINS AND CAMPBELL
VIA 24 HOUR TURN AROUND 23

04/30/92 04:01

5 of 5 LARRY

When recorded, return to:

Paradise Valley Town Attorney
6401 East Lincoln Drive
Paradise Valley, Arizona 85253

TOWN OF PARADISE VALLEY
SPECIAL USE PERMIT

GRANTOR: TOWN OF PARADISE VALLEY, ARIZONA, A MUNICIPAL CORPORATION

GRANTEE: DMB/PIVOTAL GROUP, A GENERAL PARTNERSHIP

USE: R-18 CLUSTER PLAN

PROPERTY: CHENEY ESTATES SUBDIVISION

BE IT RESOLVED that this Special Use Permit is Issued to the Grantee under Section 1101 paragraph W of the Zoning Ordinance of the Town of Paradise Valley.

1. The property which is subject to this Special Use Permit consists of approximately 8.729 acres within the Cheney Estates Subdivision and is more fully described in the attached exhibit entitled "Legal Description R-18 C.P."

2. The property shall be used for an R-18 Cluster Plan only, in full compliance with all applicable provisions of the Zoning Ordinances of the Town of Paradise Valley and the terms of this Special Use Permit.

3. The following setbacks as measured from the nearest property line shall be:

Front setback 35 feet

Side setback 10 feet

Rear setback 35 feet

1 4. Each main residence shall have a minimum footprint area live-
2 able space of 2000 square feet, and a maximum footprint area of 5000
3 square feet of liveable space.

4 5. All structures shall be limited to one story, no higher than
5 22 feet.

6 6. Walls, fences, common areas and landscaping shall be as shown
7 on the Final Plat of Cheney Estates Subdivision.

8 7. The common area and appurtenant landscaping shall be main-
9 tained by Grantee, its successors or assigns or pursuant to an agree-
10 ment between Grantee and other property owners in the area. The Town
11 shall have no responsibility or obligation to maintain the common ar-
12 ea. In the event the Town of Paradise Valley determines that it is
13 necessary to perform any maintenance upon the common area for the
14 health, safety or welfare of the people of Paradise Valley, or to ob-
15 tain compliance with Town law, the Town shall give the grantee a notice
16 to cure. If the grantee fails to perform acceptable maintenance within
17 ten days of the mailing of the notice, then the Town may perform such
18 maintenance as it decides is necessary. The Town may assess the costs
19 and related expenses thereof against the grantee, or its assignees and
20 successors-in-interest, who, by their acceptance of this Special Use
21 Permit, assume liability for such costs and related expenses.

22 8. This Special Use Permit shall be binding on Grantee, its
23 assigns or successors-in-interest. Grantor acknowledges and agrees to
24 the future transfer of the Property to Cheney Estates Homeowners Associ-
25 ation.

26 9. If the Property is used, developed or maintained in a manner
27 inconsistent with the terms of this Special Use Permit, the Council
28

1 may, upon determination after notice and hearing that a violation has
2 taken place, assess a sanction against the Grantee in an amount not to
3 exceed two thousand five hundred dollars (\$2,500.00) for each viola-
4 tion. Any day or portion thereof that a violation continues may be
5 deemed a separate violation.
6

7 10. The rights and obligations set forth herein, including with-
8 out limitation the obligation relating to maintenance, shall run with
9 the Property and shall be binding thereon. This instrument shall be an
10 equitable servitude running with the land. (Lots 1 through 14) of the
11 Cheney Estates Subdivision benefit directly from this Special Use Per-
12 mit and this instrument shall be an equitable servitude on each such
13 lot.

14 11. If any part of this Unofficial Document Special Use Permit is held invalid by the
15 final decision of any court of competent jurisdiction, such decision
16 shall not affect the validity of the remaining portions.

17 12. Grantee shall execute this Special Use Permit within thirty
18 (30) days of Council approval of the final plat for Cheney Estates.
19 Failure to do so will be considered as an abandonment of this applica-
20 tion.

21 GRANTED by the Mayor and Council of the Town of Paradise Valley,
22 Arizona, this 26th day of March, 1992.

23
24
25 
26 Kent D. Wick, Mayor
27
28

1
2 ATTEST:

3
4 
5 Lenore P. Lancaster, Town Clerk

6 APPROVED AS TO FORM:

7
8 
9 Charles G. Ollinger, Town Attorney

10 ACCEPTED AND AGREED TO BY:

11 DMB/PIVOTAL GROUP, A GENERAL PARTNERSHIP

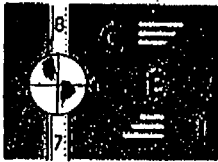
12
13 
14 By  Unofficial Document
15 F. Francis Najafi, Managing Partner

16 /la

17
18 91P&Z.180/P&Z
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92 234754

March 11, 1992
Job No. 891001



CLOUSE ENGINEERING, INC. 5
ENGINEERS AND SURVEYORS

3815 NORTH 32ND STREET

PHOENIX, ARIZONA 85018

TEL. 955-4690

LEGAL DESCRIPTION

R-18 C.P.

That part of the E.½ N.E.¼ Section 3, T. 2 N., R. 4 E., G. & S. R. B. & M., Maricopa County, Arizona, described as follows.

From the S.E. corner of the said E.½ N.E.¼ Section 3 (E.½ corner) measure thence N. 89° 13' 50" W. along the South line of the said E.½ N.E.¼ Section 3, a distance of 85.83 feet; thence N. 00° 46' 10" E. perpendicular to the said South line, a distance of 40.00 feet to the point of beginning; thence N. 89° 13' 50" W. 437.80 feet; thence N. 00° 46' 10" E. 230.00 feet; thence N. 22° 36' 55" W. 135.54 feet; thence N. 32° 23' 22" W. 84.18 feet; thence N. 41° 53' 14" W. 238.79 feet; thence N. 46° 53' 17" E. 144.21 feet; thence S. 89° 39' 30" E. 606.12 feet to a point 65.00 feet Westerly from the East line of the ^{Unofficial Document} E.½ N.E.¼ Section 3; thence S. 00° 01' 00" E. parallel to the said East line, a distance of 684.77 feet to the beginning of a curve to the right having a radius point bearing S. 89° 59' 00" W. 20.00 feet; thence Southeasterly 31.69 feet along the arc of this curve through 90° 47' 11" of central angle to the point of beginning.

Note: The above described parcel contains 380,236 square feet or 8.7290 acres.

FINAL PLAT OF CHENEY ESTATES

A SUBDIVISION OF A PORTION OF THE E1/2 OF SECTION 3, T.2N., R.4E.,
G. & S. R. B. & M. MARICOPA COUNTY, ARIZONA.

STATE OF ARIZONA
County of Maricopa
I hereby certify that the within
instrument was filed and recorded
at request of
Clouse Engineering, Inc.
7-27-92 1:37
in Book 352
on page 20
Witness my hand and official
seal this day and year above said.
Notary Public
County of Maricopa
By: James C. Abraham
92-917982
RECORDING NUMBER

DEDICATION
State of Arizona
County of Maricopa, S.S.

KNOW ALL MEN BY THESE PRESENTS: That DMB/Pivotal Group, an Arizona General Partnership, as legal owner of said real property by F. Francis Najafi for Pivotal Paradise Valley Group, an Arizona general partnership, its Managing Partner, has subdivided under the name of CHENEY ESTATES, a subdivision of a portion of the E. 1/2 Section 3, T. 2 N., R. 4 E., G. & S. R. B. & M., Maricopa County, Arizona, as shown and platted hereon and hereby publish this plat as and for the plat of CHENEY ESTATES and hereby declares that said plat sets forth the location and gives the dimensions of the lots, streets, tracts, private roads and easements, constituting same and that each lot, street, tract and private road, shall be known by the number, name or letter given to each respectively on said plat, and hereby dedicates to the public for use as such the streets known as Scottsdale Road, Cheney Drive & 70th Street, as shown on said plat and included in the above described premises. Easements are hereby dedicated for the purposes shown. Tracts "A" thru "F" are not to be construed to be dedicated for the use of the general public but are declared as common areas for the use and enjoyment of the Home owners in CHENEY ESTATES as more fully set forth in the Declaration of Covenants, Conditions and Restrictions. Tract "F" is hereby declared as a private road over which is hereby dedicated to the public, a public utility easement, an easement for refuse collection and emergency and service type vehicles, as shown hereon, and grants to the Town of Paradise Valley the right to allow or prohibit and otherwise control the location and construction of all utility installations, located within on or under the private road (Tract "A") within the above described premises. Tract "F" is hereby declared for open space purposes, such as tennis courts, etc., landscaping, pedestrian access, drainage, and no dwelling units shall be allowed or constructed on said tract. Tracts "B" thru "E" are hereby declared for landscaping purposes and no dwelling units shall be allowed or constructed on said tracts.

IN WITNESS WHEREOF: DMB/Pivotal Group, an Arizona General Partnership, as owner, by F. Francis Najafi for Pivotal Paradise Valley Group, an Arizona general partnership, its Managing Partner, has hereunto affixes its signature this 22nd day of JULY, 1992.

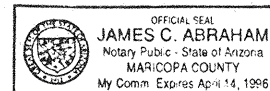
DMB/Pivotal Group, an Arizona General Partnership,
by F. Francis Najafi for Pivotal Paradise Valley
Group, an Arizona general partnership, its Managing
Partner

By: F. Francis Najafi
Managing Partner

ACKNOWLEDGMENT
State of Arizona
County of Maricopa, S.S.

On this, the 22nd day of JULY, 1992, the following person personally appeared before me, the undersigned notary public: F. Francis Najafi for Pivotal Paradise Valley Group, an Arizona general partnership, its Managing Partner of DMB/Pivotal Group, an Arizona general partnership, who acknowledged himself to be the legal owner of the property platted hereon, and acknowledged that he as legal owner, executed this instrument for the purposes herein contained.

IN WITNESS WHEREOF: I hereunto set my hand and official seal. My commission expires: 4-14-96



James C. Abraham
Notary Public

APPROVALS

Approved by the Town Council of the Town of Paradise Valley, Arizona, this 28 day of May, 1992.

By: [Signature]
Mayor

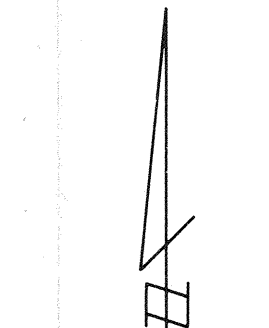
Attest: Senora Lancaster
Town Clerk

Approved by: William C. Mead
Town Engineer/Planning Director

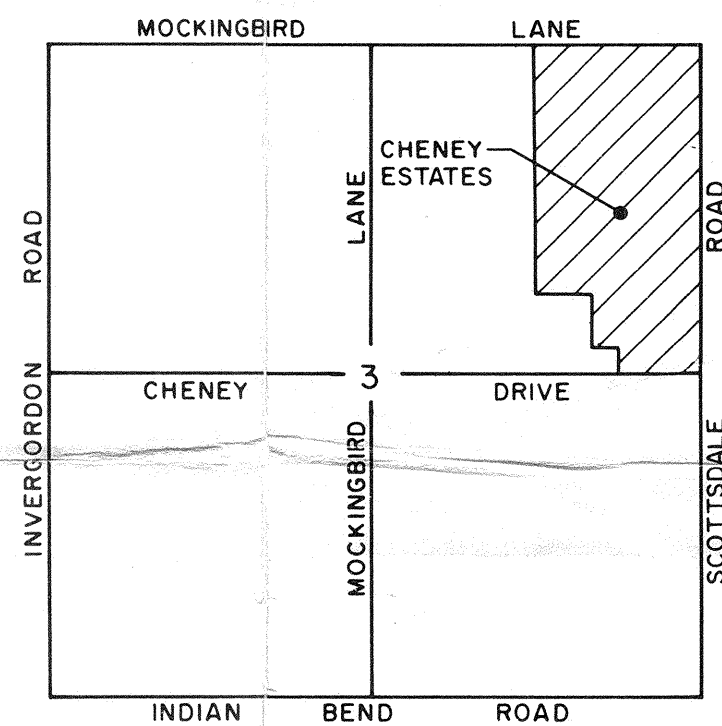
Date: 7/27/92

NOTICE REGARDING WATER SUPPLY

The Arizona Water Commission determined that the available underground water supply for this plat, as provided by the City of Phoenix, was adequate for a period of 100 years, pursuant to A.R.S. 45-513. The Arizona Water Commission considered an underground water supply to be adequate if it would be expected to last for at least one hundred years.



JOB NO. 891001



VICINITY MAP

CERTIFICATION

This is to certify that the survey of the premises described and platted hereon was made during the month of April, 1992, and this plat is correct and accurate and the monument or monuments shown hereon have been checked and have been located as described.



Registered Land Surveyor No. 4369

NOTES

Indicates corner of this subdivision. Set 1/2" rebar unless otherwise noted.

Indicates minimum building setback lines.

Indicates public utilities easement.

Indicates vehicular non-access easement.

Construction within utility easements shall be limited to utilities, and wood, wire, or removable section type fencing.

All utilities and single phase electric lines are to be installed underground.

All finished floor elevations are to be a minimum of 12" above the surrounding terrain as per Section 1024 of the Town of Paradise Valley zoning ordinance.

All communication lines are to be constructed underground as required by the Arizona Corporation Commission General Order R-14-2-133.

*Setback requirements for the yard(s) of a corner lot that are not adjacent to a street are established by first determining which yard the "front of the house" is adjacent to. See Sections 201 (Subsections 70, 71, 72, and 73), and 405, of the Zoning Ordinance of the Town of Paradise Valley, to establish rear and side yard setback requirements for a corner lot such as this.

A Homeowners Association, including all lot owners in Cheney Estates, will be formed and have the responsibility for maintaining all common areas, to be noted as tracts, including private accessways, landscaped areas, and drainage facilities, in accordance with approved plans.

NO BUILDING PERMIT WILL BE ISSUED ON LOTS 40 THRU 51 PRIOR TO APRIL 8, 1993

1. Lots 54, 55, 59, 60, 63, 64, 68 and 69 along 70th Street shall be limited to one-story in height.

2. That the height of the wall along the perimeter of the project along 70th Street shall not exceed 4.5 feet, and that at least 36% of the perimeter wall be wrought iron.

3. The exit on Foothills Drive, where it intersects 70th Street, shall be for emergency use only.

DRAINAGE EASEMENT RESTRICTIONS

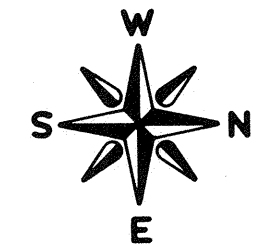
Pursuant to A.R.S. 9-463.01 (C), and Article 6-4 (E) (J) and Section 6-3-8 of the Code of Ordinances of the Town of Paradise Valley, drainage easements are for the purpose of allowing storm, flood, and other waters to pass over, under, or through the land set aside for such easements, and nothing which may, to any degree, impede the flow of such waters shall be constructed, placed, planted, or allowed to grow on or in such easements. The maintenance and clearing of these drainage easements shall be the sole responsibility and duty of the owner of the property on which said easements are platted. However, the Town of Paradise Valley, a municipal corporation, may if the Town deems it to be in the best interests of the health, safety, or welfare of the Town of Paradise Valley, construct and/or maintain drainage facilities on or under such easements. Agents and employees of the Town of Paradise shall have free access to and from all portions of such easements at all times.

DEVELOPER AND OWNER
D.M.B./Pivotal Group
3636 North Central Avenue
Suite 390
Phoenix, AZ 85012
Phone: (602) 264-9722

ENGINEER
Clouse Engineering, Inc.
3815 North 32nd Street
Phoenix, AZ 85018
Phone: (602) 955-4690

FINAL PLAT OF CHENEY ESTATES

A SUBDIVISION OF A PORTION OF THE E1/2 OF SECTION 3, T.2N., R.4E.,
G. & S.R.B. & M. MARICOPA COUNTY, ARIZONA.



JOB NO. 891001
SCALE: 1" = 80'

STATE OF ARIZONA
County of Maricopa
I, the undersigned, being a duly qualified and licensed Surveyor, do hereby certify that the within instrument was filed and recorded at the request of
Cheney Estates, Inc.
7-28-98 1:37
in Book 352
on page 20
Witness my hand and official seal the day and year aforesaid.
County Recorder
98-419973
RECORDING NUMBER

CASAS
BK. 170

NORTE
PG. 29

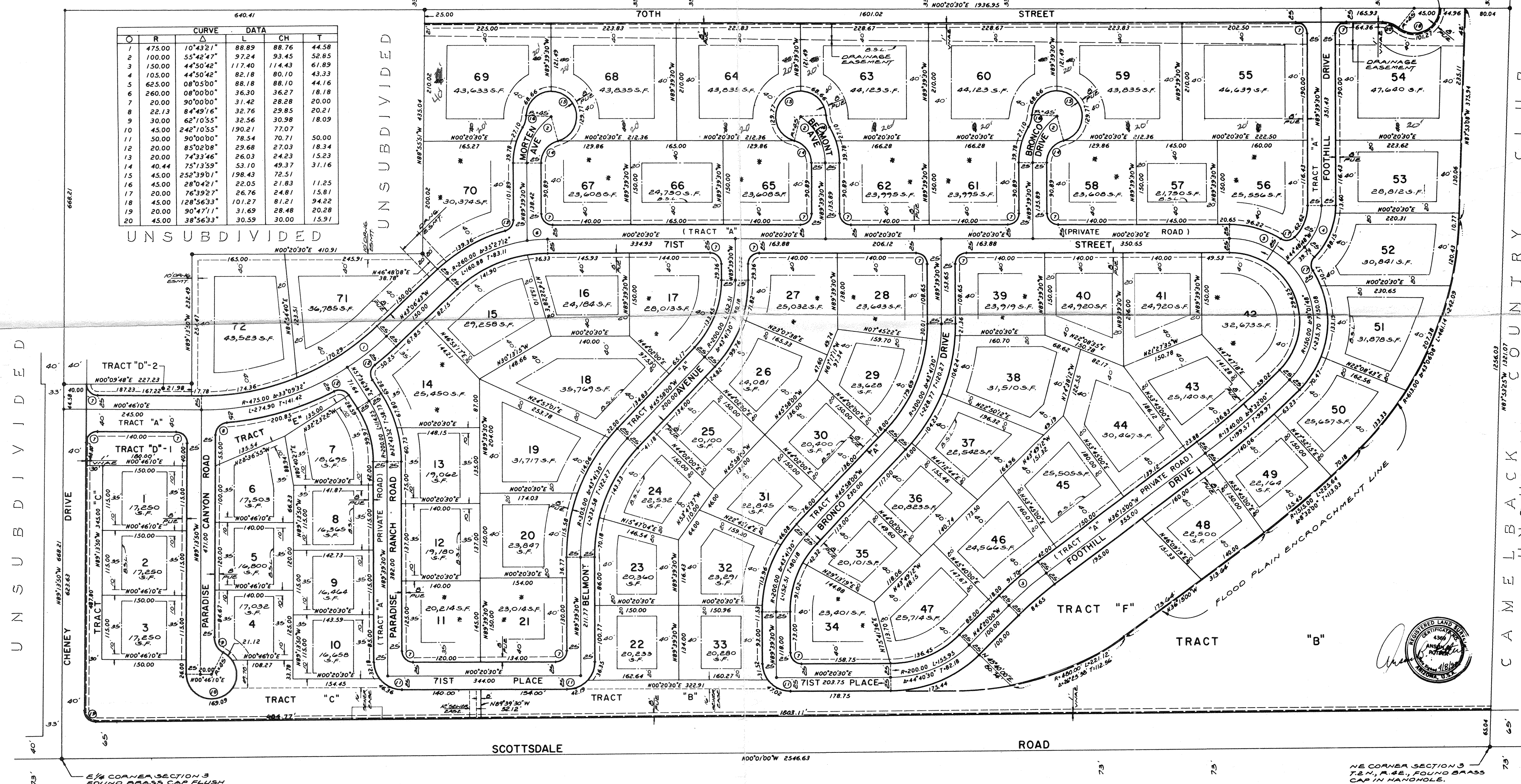
CHENEY
BK. 135

HEIGHTS
PG. 17

UNSUBDIVIDED

CURVE DATA		CH		T	
R	Δ	L	CH	T	
1 475.00	10°43'21"	88.89	88.76	44.58	
2 100.00	55°42'47"	97.24	93.45	52.85	
3 150.00	44°50'42"	117.40	114.43	61.89	
4 105.00	44°50'42"	82.18	80.10	43.33	
5 260.00	08°05'00"	88.18	88.10	44.16	
6 20.00	90°00'00"	36.30	36.27	18.18	
7 20.00	90°00'00"	31.42	31.42	20.00	
8 22.13	84°49'16"	32.76	29.85	20.21	
9 30.00	62°10'55"	32.56	30.98	18.09	
10 45.00	24°10'55"	190.21	77.07		
11 50.00	90°00'00"	78.54	70.71	50.00	
12 20.00	85°02'08"	29.68	27.03	18.34	
13 20.00	74°33'46"	26.03	24.23	15.23	
14 40.44	75°13'59"	53.10	49.37	31.16	
15 45.00	252°39'01"	198.43	72.51		
16 45.00	28°04'21"	22.05	21.83	11.25	
17 20.00	76°39'27"	26.76	24.81	15.81	
18 45.00	128°56'33"	101.27	81.21	94.22	
19 20.00	90°47'11"	31.69	28.48	20.28	
20 45.00	38°56'33"	30.59	30.00	15.91	

UNSUBDIVIDED



NE CORNER SECTION 3
T.2N., R.4E., FOUND BRASS
CAP IN HANDHOLE.



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Action Report

File #: 20-449

Approval of the November 2, 2020 Special Meeting Planning Commission Minutes



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Minutes - Final

Planning Commission

Monday, November 2, 2020

6:00 PM

Council Chambers

**SPECIAL MEETING - 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

Chairman Wainwright called the meeting to order at 6:00 p.m.

STAFF MEMBERS PRESENT

Town Attorney Andrew M. Miller
Planning Manager Paul Michaud
Senior Planner George Burton
Town Engineer Paul Mood (attended remotely)

2. ROLL CALL

Present 7 - Commissioner Jonathan Wainwright
Commissioner Charles Covington
Commissioner Pamela Georgelos
Commissioner Daran Wastchak
Commissioner Orme Lewis
Commissioner Thomas G. Campbell
Commissioner James Rose

3. EXECUTIVE SESSION

None

4. STUDY SESSION ITEMS

- A.** [20-418](#) Continued Discussion of a Major Special Use Permit Amendment
(SUP-18-05) - 7101 E Lincoln Drive - Smoke Tree Resort
- Paul Gilbert, legal counsel for the applicant, asked that they be allowed to review the latest renderings.
- Erik Peterson, architect for the applicant, reviewed new renderings that were provided to the Commission. The first rendering was of the pavilion area that would be open to the public unless it was rented out. He showed the view of the

northeast corner of the site from Lincoln Drive with the addition of the proposed landscaping.

Commissioner Lewis inquired if they planned to go with disproportionately heavy landscaping.

Mr. Peterson replied that he did not know if it was disproportionate. He noted that the number of trees matched what was found on the other side of the street on the Five Star - Ritz property.

Commissioner Georgelos asked if the trees depicted were at their mature state and not what they would be at the time of construction.

Mr. Peterson shared that the proposed trees are fast growing and guessed they would have their full growth within a year.

Commissioner Covington asked if this had been cross referenced with the landscape plan.

Mr. Peterson indicated it was.

Commissioner Georgelos asked if the pavilion had air conditioning capabilities and the location of any HVAC units.

Mr. Peterson replied it that the pavilion would have air-conditioning. He shared that these units would be located near the kitchen with the rest of the mechanical equipment.

Commissioner Rose inquired if there would be screening to darken the pavilion.

Mr. Peterson explained they would have blackout shades.

Chairman Wainwright inquired if the rendering of the pavilion was the same as at Silver Leaf.

Mr. Peterson responded it was not and clarified it was specific to this project.

Paul Michaud commented that the landscaping tree in the parking lot was Mulga Acacia and the one along the street was Desert Museum Palo Verde. He added that the landscape plan called for almost all the trees to be a 24-inch box size.

Commissioner Lewis asked about the major tree types.

Mr. Michaud stated there was different types of Acacia, Willow, Date Palm, and Live Oak, among others. He noted most are desert tolerant.

Mr. Michaud provided an overview of the project which consisted of hotel rooms, restaurant, third-story amenity, accessory uses, and indoor and outdoor event space. He noted that there was a lot of discussion on the third-floor communal area as well as the event areas and exterior lighting at their last meeting and pointed out changes that were made regarding those items. He reviewed the

updated stipulations that were made.

Mr. Michaud presented information regarding density on the site which included a proposed density of 26 units per acre. He pointed out the Special Use Permit (SUP) Guidelines suggest 20 acres for the proposed 122 units, but the net acreage for the site is 4.6 acres. He explained that the Commission needed to determine if the proposed use for the site was moderate intensity, context appropriate, and how the density would impact the safety and quality of life of the community.

Mr. Michaud explained the Statement of Direction (SOD) Analysis Table which listed each SOD item, what was required by code or policy, and how what was proposed was or was not meeting those guidelines. He pointed out the lot coverage exceeded the SUP Guideline, but could be allowed based on mitigation measures being proposed. Items on the SOD Analysis table included use, density, lot coverage, height, viewsheds, setbacks, impact to adjacent uses, landscaping, utilities, and exterior lighting, traffic, parking, access, and circulation, and signage.

Mr. Michaud reviewed input from the citizens which consisted of six comments in support and a forwarded article against the project. He shared that those that were opposed were typically concerned about density, traffic, and questions regarding the third-floor communal area.

Commissioner Wastchak inquired where things were with the neighbors on Quail Run Road.

Mr. Michaud replied that based on the prior Commission meeting the mitigation measures will be placed in the Development Agreement. He noted that the Development Agreement would be reviewed and approved by Council.

Commissioner Campbell stated he was concerned about having a revision date that was only five days old on each of the drawings.

Mr. Michaud explained many of the drawings had not been changed but the date had been updated.

Commissioner Georgelos pointed out that the definition of resort hotel on page 10 of the plans it describes a resort guest flex space, but the same space is referred to as a meeting room in the ordinance. She requested that staff verify there was consistency between the ordinance and the plan. She also noted they had previously discussed the development would not be done in phases, but page 14 of the ordinance indicated it would be done in phases. She added that in Stipulation 24 of the ordinance it talks about minor architectural modifications which she noted would be difficult to determine since there was not a lot of detail about the architecture. She expressed that she was still concerned about parking on the property and asked if there was any appetite for a 24/7 valet service.

Commissioner Covington commented that it was not a bad idea. He noted that the point at which valet parking was triggered seemed to be arbitrary and it may

be more efficient to have valet parking all the time.

Commissioner Rose agreed. He stated it would be difficult bouncing back and forth between valet parking and self-parking.

Chairman Wainwright indicated he was not inclined to require valet parking 24/7 all year.

Mr. Gilbert stated that conceptually he did not have a problem with a continuing valet service, but did not feel it was needed especially in the summer when they have few guests. He noted they would be receptive to having a full-time valet service during the prime season.

Commissioner Rose agreed with Mr. Gilbert.

Commissioner Georgelos stated she would be comfortable with Mr. Gilbert's recommendation to only have it full time during prime season.

Taylor Robinson, owner, clarified their plan was to have the valet service if they hit or anticipate going over the threshold of 153 cars.

Commissioner Lewis expressed he was concerned with the number of hotel units. He asked if the applicant would consider converting seven or eight into four or five larger units that would accommodate families.

Commissioner Georgelos indicated she would be willing to discuss the topic of density more. She noted the density was still greater than what is proposed on the guidelines.

Mr. Robinson commented that they had a series of extensive conversations with parking consultants in order to generate the performance level they wanted. He added that the amount of parking at the Hermosa Inn required them to use offsite parking for events even if there were no guests staying at the hotel. He stated that the rooms and the room count were integral to the overall design of the site. He noted that the room count was also related to the parking and size of the buildings and restaurants.

Commissioner Rose asked if they should use the Royal Palms as an example of the valet parking. He stated they are almost all valet parking, except the 20 spots to the left when you pull into the resort.

Commissioner Lewis replied that the unit ratio at the Royal Palms had to be taken into consideration. He added that further thought should be given into converting units into larger units. He suggested it would reduce parking but increase attendance.

Commissioner Wastchak pointed out the applicant used three parking studies to come up with several mitigation strategies and already discussed the 153 cars triggering the valet parking. He expressed that he would prefer using the specification the Commission already discussed in the stipulation.

Chairman Wainwright agreed.

Commissioner Rose stated that was a point well taken and agreed that it was not their job to manage the hotel for them. He clarified that he was comfortable with the stipulation as written.

Commissioner Campbell remarked he was comfortable with leaving Stipulation 53 as written.

Chairman Wainwright called for any public comments on the item.

Patty McCaleb commented that she did not understand why the Commission was considering such a high density for the project. She noted that there was not another resort in the Town that comes near this density.

Chairman Wainwright replied that they were simply considering the application that was submitted to them and they may choose to recommend it or not.

Ms. McCaleb recommended they lock down the density first and then work on the details such as parking or lighting. She reiterated this was a huge amount of density on a small plot of land.

Commissioner Covington stated he was still not comfortable with the density, but he was not sure how it should be addressed at this stage.

Commissioner Lewis repeated his previous suggestion to convert smaller units into larger ones.

Commissioner Georgelos reiterated that she felt the design was too dense for the property and the third story height will continue to be an issue. She expressed concern about people not being able to find the restaurant if there was not a sign on it.

Commissioner Rose agreed and felt they were trying to do too much on too small of a property. He added that he would be more comfortable if there was more green space

Commissioner Georgelos remarked the property was designed more for a hotel than a resort.

Mr. Michaud indicated this Item was set for a public hearing on November 17, 2020.

Paul Gilbert, legal counsel for the applicant, asked that they be allowed to review the latest renderings.

Erik Peterson, architect for the applicant, reviewed new renderings that were provided to the Commission. The first rendering was of the pavilion area that would be open to the public unless it was rented out. He showed the view of the northeast corner of the site from Lincoln Drive with the addition of the proposed landscaping.

Commissioner Lewis inquired if they planned to go with disproportionately heavy landscaping.

Mr. Peterson replied that he did not know if it was disproportionate. He noted that the number of trees matched what was found on the other side of the street on the Five Star - Ritz property.

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Mr. Michaud reviewed input from the citizens which consisted of six comments in support and a forwarded article against the project. He shared that those that were opposed were typically concerned about density, traffic, and questions regarding the third-floor communal area.

Commissioner Wastchak inquired where things were with the neighbors on Quail Run Road.

Mr. Michaud replied that based on the prior Commission meeting the mitigation measures will be placed in the Development Agreement. He noted that the Development Agreement would be reviewed and approved by Council.

Commissioner Campbell stated he was concerned about having a revision date that was only five days old on each of the drawings.

Mr. Michaud explained many of the drawings had not been changed but the date had been updated.

Commissioner Georgelos pointed out that the definition of resort hotel on page 10 of the plans it describes a resort guest flex space, but the same space is referred to as a meeting room in the ordinance. She requested that staff verify there was consistency between the ordinance and the plan. She also noted they had previously discussed the development would not be done in phases, but page 14 of the ordinance indicated it would be done in phases. She added that in Stipulation 24 of the ordinance it talks about minor architectural modifications which she noted would be difficult to determine since there was not a lot of detail about the architecture. She expressed that she was still concerned about parking on the property and asked if there was any appetite for a 24/7 valet service.

Commissioner Covington commented that it was not a bad idea. He noted that the point at which valet parking was triggered seemed to be arbitrary and it may be more efficient to have valet parking all the time.

Commissioner Rose agreed. He stated it would be difficult bouncing back and

forth between valet parking and self-parking.

Chairman Wainwright indicated he was not inclined to require valet parking 24/7 all year.

Mr. Gilbert stated that conceptually he did not have a problem with a continuing valet service, but did not feel it was needed especially in the summer when they have few guests. He noted they would be receptive to having a full-time valet service during the prime season.

Commissioner Rose agreed with Mr. Gilbert.

Commissioner Georgelos stated she would be comfortable with Mr. Gilbert's recommendation to only have it full time during prime season.

Taylor Robinson, owner, clarified their plan was to have the valet service if they hit or anticipate going over the threshold of 153 cars.

Commissioner Lewis expressed he was concerned with the number of hotel units. He asked if the applicant would consider converting seven or eight into four or five larger units that would accommodate families.

Commissioner Georgelos indicated she would be willing to discuss the topic of density more. She noted the density was still greater than what is proposed on the guidelines.

Mr. Robinson commented that they had a series of extensive conversations with parking consultants in order to generate the performance level they wanted. He added that the amount of parking at the Hermosa Inn required them to use offsite parking for events even if there were no guests staying at the hotel. He stated that the rooms and the room count were integral to the overall design of the site. He noted that the room count was also related to the parking and size of the buildings and restaurants.

Commissioner Rose asked if they should use the Royal Palms as an example of the valet parking. He stated they are almost all valet parking, except the 20 spots to the left when you pull into the resort.

Commissioner Lewis replied that the unit ratio at the Royal Palms had to be taken into consideration. He added that further thought should be given into converting units into larger units. He suggested it would reduce parking but increase attendance.

Commissioner Wastchak pointed out the applicant used three parking studies to come up with several mitigation strategies and already discussed the 153 cars triggering the valet parking. He expressed that he would prefer using the specification the Commission already discussed in the stipulation.

Chairman Wainwright agreed.

Commissioner Rose stated that was a point well taken and agreed that it was

not their job to manage the hotel for them. He clarified that he was comfortable with the stipulation as written.

Commissioner Campbell remarked he was comfortable with leaving Stipulation 53 as written.

Chairman Wainwright called for any public comments on the item.

Patty McCaleb commented that she did not understand why the Commission was considering such a high density for the project. She noted that there was not another resort in the Town that comes near this density.

Chairman Wainwright replied that they were simply considering the application that was submitted to them and they may choose to recommend it or not.

Ms. McCaleb recommended they lock down the density first and then work on the details such as parking or lighting. She reiterated this was a huge amount of density on a small plot of land.

Commissioner Covington stated he was still not comfortable with the density, but he was not sure how it should be addressed at this stage.

Commissioner Lewis repeated his previous suggestion to convert smaller units into larger ones.

Commissioner Georgelos reiterated that she felt the design was too dense for the property and the third story height will continue to be an issue. She expressed concern about people not being able to find the restaurant if there was not a sign on it.

Commissioner Rose agreed and felt they were trying to do too much on too small of a property. He added that he would be more comfortable if there was more green space

Commissioner Georgelos remarked the property was designed more for a hotel than a resort.

Mr. Michaud indicated this Item was set for a public hearing on November 17, 2020.

No Reportable Action

5. PUBLIC HEARINGS

None

6. ACTION ITEMS

None

7. CONSENT AGENDA

A. [20-421](#) Approval of the October 6, 2020 Planning Commission Minutes

A motion was made by Commissioner Campbell, seconded by Commissioner Wastchak, to approve the October 6, 2020 minutes. The motion carried by the following vote:

Aye: 7 - Commissioner Wainwright, Commissioner Covington, Commissioner Georgelos, Commissioner Wastchak, Commissioner Lewis, Commissioner Campbell and Commissioner Rose

8. STAFF REPORTS

Mr. Michaud reported there was a training on November 12, 2020. He stated the league was putting a training regarding Board and Commissioner Rules with Frank Cassidy as the speaker.

Andrew Miller, Town Attorney, shared a brief background on the presenter, Frank Cassidy. He suggested everyone do the training if they could.

Chairman Wainwright inquired who was signed up to attend.

Mr. Michaud stated from the Commission they had Chairman Wainwright, Commissioner Georgelos, Commissioner Rose, and Commissioner Covington. He noted that two Board of Adjustment members were planning to attend.

Commissioner Campbell asked what the format of the training would be.

Mr. Michaud explained that it would be held via Zoom from 10:00 a.m. to 11:30 a.m.

Commissioner Campbell requested he be added to the list of attendees.

9. PUBLIC BODY REPORTS

None

10. FUTURE AGENDA ITEMS

Mr. Michaud stated next meeting agenda included the public hearing for the Smoke Tree item and the citizen review work session for recreation marijuana text amendment discussed at their last meeting.

Chairman Wainwright asked if the text amendment would be taken off the agenda if it was not passed.

Mr. Miller replied that it possibly would.

Mr. Michaud noted that it had already been advertised for, so the item would need to remain on the agenda, to take public comment at a minimum.

Chairman Wainwright inquired which item would be first.

Mr. Miller indicated the Smoke Tree item.

Mr. Michaud added there would be at least two meetings in December.

11. ADJOURNMENT

A motion was made by Commissioner Georgelos at 7:30 p.m., seconded by Commissioner Covington, to adjourn the meeting. The motion carried by the following vote:

Aye: 7 - Commissioner Wainwright, Commissioner Covington, Commissioner Georgelos, Commissioner Wastchak, Commissioner Lewis, Commissioner Campbell and Commissioner Rose

Paradise Valley Planning Commission

By: _____
Paul Michaud, Secretary