

TOWN *Of* **PARADISE VALLEY**



STAFF REPORT

TO: Mayor Bien-Willner and Town Council Members

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

DATE: June 9, 2022

AGENDA TITLE: Discussion and Action of Ordinance 2022-02, a new Special Use Permit for a private roadway gate on East Cottontail Run Road (5000 E Cottontail Run Rd & 7117 N Tatum Blvd)

REQUEST

Jordan Rose of Rose Law Group, on behalf of Cottontail Run Road, LLC, an Arizona limited liability company, and CLT 7117, LLC, an Arizona limited liability company, request a new Special Use Permit application (SUP-21-02) for a private roadway gate located on 5000 East Cottontail Run Road and 7117 N Tatum Boulevard) (Maricopa County Tax Parcels 169-08-044D and 169-08-044J).

RECOMMENDATION:

Two motions are provided for Council consideration as the applicant at the time of writing this staff report needed to make an edit to the private agreement for a property owner and redistribute the agreement for signatures. The applicant expects the revised signed private agreement to be ready before the June 9th hearing.

Motion A. Motion to continue Ordinance 2022-02, a new Special Use Permit application for a private roadway gate located on 5000 East Cottontail Run Road and 7117 N Tatum Boulevard (Maricopa County Tax Parcels 169-08-044D and 169-08-044J) to September 8, 2022.

Or

Motion B. Motion to approve Ordinance 2022-02, a new Special Use Permit application for a private roadway gate located on 5000 East Cottontail Run Road and 7117 N Tatum Boulevard (Maricopa County Tax Parcels 169-08-044D and 169-08-044J), subject to the seven stipulations in this ordinance (refer to Attachment K.)

TOWN COUNCIL DISCUSSION

The Town Council continued this request at the public hearing on May 26th to the June 9th meeting date to allow the applicant additional time to gather signatures on the private agreement. Council also discussed this request on May 12th. The primary item was a suggestion by Council Member Moore agreed by the Council to modify Stipulation 7 that the owners submit for Town records duly recorded documents of the private agreement

between the owners of the Property and the Cottontail Properties regarding items such as a fully executed agreement from all owners of the Cottontail Properties stating full support of the proposed gate installation. The Town Attorney edited Ordinance 2022-02 to reflect this point along with other typographical edits. Also, the private agreement in Stipulation 7 addresses the Declaration of Easements from Stipulation 4 regarding granting ingress/egress access over the turnaround (avoiding the need for a separate document). A copy of the latest private agreement provided to the Town is attached (Attachment L).

The Town Council approved the required Statement of Direction (SOD) for this request on December 2, 2021 and amended the SOD on February 24, 2022 to grant the Planning Commission additional review time until no later than April 20, 2022 (Attachment H).

PLANNING COMMISSION RECOMMENDATION

The Planning Commission unanimously recommended (7 to 0) on April 19th that Town Council approve Ordinance 2022-02, a new Special Use Permit (SUP) application for a private roadway gate located on 5000 East Cottontail Run Road and 7117 N Tatum Boulevard (Maricopa County Tax Parcels 169-08-044D and 169-08-044J), subject to the seven stipulations in this ordinance (refer to Attachment K), along with an 8th stipulation that prior to Town Council approval a final gate design shall be presented in the packet. This is in reference to the residents' desire to remove much of the filigree on the gate as shown on the revised Gated Entry Conceptual Elevation sheet (Attachment C).

SUMMARY STATEMENT

Planning Commission Discussion

The Planning Commission discussed this request at its February 15, 2022; February 1, 2022 and December 21, 2021 work sessions. The Planning Commission found the request in compliance with the SOD and SUP Guidelines. The primary matter related to the operational, maintenance, and management details typically addressed outside the Town process through a Homeowners Association Declaration of Covenants, Conditions, and Restrictions which by the efforts of the homeowners and applicant have come up with a private agreement that addresses these matters. This neighborhood is unlike most in that there is no homeowner association and the private road that existed before annexation into the Town is owned by an individual. The owner of the private roadway also modified the name of the LLC in April 2022 to remove the "HOA" in the LLC name. Other matters that came up and were resolved during the Planning Commission review included re-evaluation of the proposed turn-around by the Town Engineer and Town Building Official/Fire Marshal who support the safety and design of this request (Attachment I), further setback of the 4-foot tall retaining wall from the back of curb in the proposed turnaround from 4 feet to 6 feet which creates a 46-foot radius similar to the 45-foot radius guideline, reduction of the gate height from 10-foot tall to 8-foot tall (revised to 7-foot tall) in compliance with the Town's gate guideline and removing the owner initials, a support email from the Paradise Valley Country Club with information that the club uses the gate that accesses onto Cottontail Run Road about 20 times per year for large deliveries (Attachment I), update to the traffic study to use 12 homes to address excess queuing potential (Attachment F), and modification of Figure 6 in the traffic study to show the truck with trailer making the turnaround stopped at the call box (Attachment F).

Location

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

Private Roadway Gate Process

The application request for installing new private roadway gate(s) follows Article XI, Special Uses and Additional Use Regulations, of the Town Zoning Ordinance. The Zoning Ordinance provides no requirements for private roadway gates and only outlines the approval process. This process requires Town Council issue a Statement of Direction (SOD) to the Planning Commission, Planning Commission review and make a recommendation to Town Council, the applicant hold a Citizen Review Session (neighborhood meeting) prior to Planning Commission recommendation, and Town Council review and take action. The Town Special Use Permit Guidelines offer suggested design standards, along with guidelines for lighting and signage as shown in Attachment D. Guidance via the SOD provides specific direction applicable to the proposed request.

Background

Additional information on items such as the General Plan, zoning, and prior application requests is attached (Attachment E).

Private Roadway Gate Details

The proposed gates are 222 feet 8 inches from the centerline of Tatum Boulevard (192 feet 7 inches from the back of curb and the call box is 128 feet 7 inches to the back of curb), with a turnaround easement slightly west of North Cottontail Run Road adjoining 7117 N Tatum Boulevard at a paved radius of 40 feet, and a radius of 46 feet to a 4-foot tall retaining wall for erosion protection of the turnaround. The Criteria Table in Attachment G outlines how the proposed private roadway gate application meets the Town Special Use Permit Guidelines and SOD provisions.

COMMENTS & NOTICING

Staff received comments on the application request in addition to the required Citizen Review Session (neighborhood meeting) held on January 31, 2022 in accordance with Section 2-5-2.F of Town Code. These early comments included general questions, improving the gate design and appearance, providing for liability insurance, understanding operational aspects of the gate (e.g., call box function, what happens during a power failure, etc.), and documenting the management structure since there is no homeowner association (e.g., financial obligations on maintenance, responsible parties, etc.). Based on the comments received to date, the homeowners behind the proposed private roadway gate support the gate and private agreement that will be in addition to the agreement between the Town and the owner of the private road /gate regarding items such as maintenance. (Attachments I and L).

All required noticing to date has been done. This application request required mailing notice to property owners within 1,500 feet of the subject site of the action meetings (work sessions do not require this noticing). Notice also included newspaper notice and property posting at least 15 days prior to meeting action.

ATTACHMENT(S):

- A. Staff Report
- B. Vicinity & Related Maps
- C. Application Packet & Plans
- D. Special Use Permit Guidelines Excerpt
- E. Background
- F. Traffic Study
- G. Criteria Table
- H. Statement of Direction
- I. Comments & Noticing
- J. Forms (Referenced in Ordinance)
- K. Draft Ordinance
- L. Private Agreement
- M. Presentation