

Minor General Plan Amendment (GPA-20-01) [Resolution 2021-03]

Approval of an amendment to the Town of Paradise Valley General Plan from "Public/Quasi Public" to "Low Density Residential" for the 1.0-net acre property.

No stipulations, effective date is the same as Rezoning (MI-20-03)

Rezoning (MI-20-03) [Ordinance 2021-02]

Approval a rezoning from "Special Use Permit - Religious Facility" to "R-43 Single-Family Residential District" for the 1.0-net acre area; subject to the following stipulations in Ordinance 2021-02:

1. Development of the Property shall comply with all applicable Federal, State of Arizona, and Town Ordinances, including the Zoning Ordinance and obtaining necessary building permits, as such requirements may be amended, for this R-43 Single-Family District property.
2. The property owner and Town shall sign and record a Waiver of Rights and Remedies agreement under A.R.S. § 12-1134 (Proposition 207 Waiver) in the form provided by the Town Attorney within 10 calendar days of passage of this ordinance.

Non-Administrative Land Modification (RP-20-01)

Approval of a non-administrative lot modification to map the 1.0-net acre lot for single-family use and the 5.3-net acre lot for continued church use; subject to the following conditions:

1. The plat map must be recorded with the Maricopa County Recorder's Office, in substantial compliance with the "Meadowlark Acres II" plan prepared by Land Development Group, date sealed by James Flack on January 30, 2021.
2. The property owner(s) or designee(s) of Lot 1B (single-family lot) shall demonstrate that the fire sprinkler system is in compliance with the National Fire Protection Association standard 13D or the current equivalent code requirement.
3. The property owner(s) or designee(s) of Lot 1B (single-family lot) shall provide a final grading and drainage plan with the building permit for the home that is in general compliance with the Preliminary Grading & Drainage Plan for Lot 1B, Sheet C-1 for Lot 1A prepared by Land Development Group, date sealed by Nickola J. Prodanov on January 30, 2021
4. Within 60 days of approval of the plat map, the applicant shall submit Mylars and an electronic version in a pdf format for the Town's permanent record.

Minor SUP Amendment (SUP-20-07) [Planning Commission April 6, 2021 Approval]

Approved of the reduction of area zoned SUP from 6.3-net acres to 5.3-net acres; subject to the following conditions:

1. All improvements shall be in substantial compliance with the following:
 - a) The application and narrative received on December 8, 2020;
 - b) The ALTA/NSPS Land Title Survey prepared by Land Development Group, date sealed by James B. Flack on March 15, 2020;
 - c) Special Use Permit Amendment Site Plan prepared by Land Development Group, date sealed by Nickola J. Prodanov on January 30, 2021;
 - d) Preliminary Grading & Drainage Plan for Lot 1A, Sheet C-1 for Lot 1A prepared by Land Development Group, date sealed by Nickola J. Prodanov on January 30, 2021; and
 - e) The Planting Plan for the 40-foot wide buffer area on the church property adjoining the north and east side of Lot 1B as shown on Meadowlark Acres II, Sheet L.1, prepared by DynaSCAPE, dated February 6, 2021 and reviewed by the Town dated March 23, 2021. Walls along the church property shall comply with Article XXIV, Walls and Fences, of the Town Zoning Ordinance, as may be amended (allows for walls between a residential property and an adjoining non-residential property, other than a right-of-way, up to 8-feet tall).
2. The remaining church property shall be brought into compliance with the current Town's Storm Water Design Manual requirements for storm water retention as shown on the Preliminary Grading & Drainage Plan referenced in Stipulation 1, with the completion of these improvements within 12 months of a grading permit on the residential lot and no later than 18 months from the effective date of the Rezoning (MI-20-03) of Ordinance No 2021-02.
3. The Planting Plan referenced in Stipulation 1 shall be completed within 12 months of a grading permit on the residential lot and no later than 18 months from the effective date of the Rezoning (MI-20-03) of Ordinance No 2021-02.
4. The Owner shall improve the landscaping on the church site so it is in substantial compliance with the Landscape Plan dated May 28, 2002, prepared by Laskin and Assoc., Inc-sheets LA-1 to LA-6, within 12 months of a grading permit on the residential lot and no later than 18 months from the effective date of the Rezoning (MI-20-03) of Ordinance No 2021-02. The Certificate of Occupancy will not be issued by the Town until the landscaping conforms to the May 2002 approved landscape plan. The Owner must notify the buyer of Lot 1B of this condition.
5. The property owner and Town shall sign and record a Waiver of Rights and Remedies agreement under A.R.S. § 12-1134 (Proposition 207 Waiver) in the form provided by the Town Attorney within 10 calendar days of the effective date of this amendment to the Special Use Permit.
6. The effective date of SUP-20-07 shall be the same as the effective date of Ordinance 2021-02 that changes the zoning of the one-net acre property from "Special Use Permit - Religious Facility" to "R-43 Single-Family Residential District."
7. All existing Special Use Permit stipulations for Ascension Lutheran Church shall remain in full force and effect, unless changed or modified by this Minor SUP Amendment (SUP-20-07).

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

RESOLUTION NUMBER 2021-03

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF PARADISE VALLEY, ARIZONA ADOPTING GPA-20- 01, A MINOR AMENDMENT TO THE TOWN OF PARADISE VALLEY 2012 GENERAL PLAN

WHEREAS, Arizona Revised Statutes § 9-461.06 provides for the adoption and amendment of a general plan; and

WHEREAS, the 2012 General Plan for the Town of Paradise Valley was adopted by the Paradise Valley Town Council (“Town Council”) via Resolution 1243 on November 10, 2011, and was ratified by the Paradise Valley voters on March 13, 2012; and

WHEREAS, Section 9.4 of the 2012 General Plan addresses amendments to the General Plan and states a change in the land use designation on the General Plan Land Use Map from “Public/Quasi Public” to “Low Density Residential” is considered a minor amendment and is subject to the lessor standard of procedural review and public scrutiny; and

WHEREAS, Thomas Mueller, on behalf of Ascension Lutheran Church, Inc., an Arizona Corporation, (the “Applicant”) submitted a Minor General Plan Amendment application, GPA-20-01 (the “Application”) that was deemed complete on February 8, 2021, to change the land use designation of a 1.0-net acre property located on the land legally described as that portion of the Southwest quarter of Section 3, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County; Arizona, more particularly described on Exhibit A, attached hereto (the “Property”) from “Public/Quasi Public” to “Low Density Residential”; and

WHEREAS, on April 6, 2021, the Paradise Valley Planning Commission held a public hearing, as required by law, and forwarded the Application to the Town Council with a recommendation for approval; and

WHEREAS, the Town Council, in consideration of the Planning Commission's recommendation of approval, obtained further public comment on the Application at a public hearing on May 27, 2021; and

WHEREAS, the Town Council finds that the Applicant voluntarily met the requirements of Section 2-5-2.F, Citizen Review Process, including holding a Citizen Review Session on March 1, 2021, to provide a reasonable opportunity for the Applicant, adjacent landowners, and other potentially affected citizens to discuss issues or concerns they may have with the Application; and

WHEREAS, the Town Council finds that the goals of the General Plan are being fostered by the Application related to the Property, specifically Policy 2.1.1.1, Preserve Residential Character, which states "The Town shall preserve and maintain the community's primarily one-acre-lot, single-family residential character" that this Application furthers by creating a residential lot.

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

SECTION 1. The Town of Paradise Valley hereby amends the General Plan by directing the Town Clerk to amend Figure 2-2, the Land Use Map in the General Plan, to reflect the change in land use designation on the Property from "Public/Quasi Public" to "Low Density Residential."

SECTION 2. Effective Date. This resolution shall be effective on Effective Date of Ordinance 2021-02, which changes the zoning of the Property from “Special Use Permit - Religious Facility” to “R-43 Single-Family Residential District.” If the Ordinance 2021-02 becomes effective, but then is subsequently determined to be invalid in accordance with Section 3 of such Ordinance, then this resolution shall be void and of no further force and effect as of one day prior to the Effective Date of Ordinance 2021-02, and the Town Clerk shall, without the need for any further action by the Town Council and to avoid an inconsistency between the applicable zoning and the General Plan land use designation, amend Figure 2-2 back to reflect a designation of “Public/Quasi Public.”

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Paradise Valley, Arizona, this ____ day of _____, 2021.

Jerry Bien-Willner, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM

Andrew J. McGuire, Town Attorney

EXHIBIT "A"
TO
RESOLUTION NUMBER 2021-03
ASCENSION LUTHERAN CHURCH
7100 N. MOCKINGBIRD LANE
LEGAL DESCRIPTION

That portion of Lot 1, of "Meadowlark Acres", according to the plat of record in the office of the county recorder of Maricopa County, Arizona, recorded in book 194 of maps, page 11, and lying in the southwest quarter of Section 3, Township 2 north, Range 4 east of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

Commencing at the southeast corner of said Lot 1, said point being a rebar with cap RLS# 35694;

Thence south 88 degrees 35 minutes 06 seconds west, along the south line of said Lot 1, a distance of 286.98 feet to a rebar with cap RLS# 35694, said point being the point of beginning;

Thence continuing south 88 degrees 35 minutes 06 seconds west, along said south line, a distance of 170 feet to the southwest corner of said Lot 1 being marked by rebar with cap RLS# 35694;

Thence north 00 degrees 59 minutes 05 seconds west, along the west line of said Lot 1, a distance of 256.47 feet;

Thence north 88 degrees 35 minutes 06 seconds east, a distance of 170.00 feet;

Thence south 00 degrees 59 minutes 05 seconds east, a distance of 256.47 feet to the point of beginning.

CERTIFICATION

I, Duncan Miller, Town Clerk, certify that this is a correct copy of Resolution Number 2021-03 adopted by the Town Council of Paradise Valley at a meeting held on this _____ of _____, 2021. This Resolution appears in the minutes of the meeting, and has not been rescinded or modified and is now in effect. I further certify that the municipal corporation is duly organized and existing, *and* has the power to take the action called for by the foregoing Resolution.

Duncan Miller, Town Clerk

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

ORDINANCE NUMBER 2021-02

AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA, AMENDING THE ZONING ORDINANCE AND ZONING MAP OF THE TOWN OF PARADISE VALLEY PROVIDING FOR THE REZONING OF 1.0 ACRE OF PROPERTY LOCATED ON THE NORTH SIDE OF MEADOWLARK LANE APPROXIMATELY 450 FEET WEST OF THE MOCKINGBIRD LANE AND MEADOWLARK LANE INTERSECTION FROM SPECIAL USE PERMIT - RELIGIOUS FACILITY, TO R-43 SINGLE FAMILY RESIDENTIAL DISTRICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in accordance with Article II, Sections 1 and 2, constitution of Arizona, the Town Council has considered the individual property rights and personal liberties of the residents of the Town of Paradise Valley (the “Town”) before adopting this ordinance; and

WHEREAS, Thomas Mueller, on behalf of Ascension Lutheran Church, Inc., an Arizona Corporation, (the “Applicant”) submitted four applications to create a single-family lot from the church property, being a Minor General Plan Amendment from the “Public/Quasi Public” designation to the “Low Density Residential” designation (GPA-20-01), a rezoning from “Special Use Permit - Religious Facility,” to “R-43 Single-Family Residential District” (MI-20-03), a Minor Special Use Permit to allow for the reduction of the church property zoned “Special Use Permit - Religious Facility” (SUP-20-07), and a non-administrative land modification to plat the single-family lot (RP-20-01); and

WHEREAS, the applications were deemed complete on February 8, 2021, including the rezoning application MI-20-03 (the “Application”) to change the zoning district of 1.0-net acres of the 6.3-net acre church property on the land legally described as that portion of the Southwest quarter of Section 3, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described on Exhibit A, attached hereto (the “Property”) from “Special Use Permit - Religious Facility” to “R-43 Single-Family Residential District;” and

WHEREAS, on April 6, 2021, the Town of Paradise Valley Planning Commission (the “Commission”) held a public hearing, in the manner prescribed by law, for the purpose of considering Resolution 2021-03, a minor amendment to the Town of Paradise Valley 2012 General Plan to change the land use designation on the Property from “Public/Quasi Public” to “Low Density Residential,” and recommended approval to the Town Council with an effective date being the same as Ordinance 2021-02; and

WHEREAS, the Commission held a public hearing on April 6, 2021, in the manner prescribed by law, for the purpose of considering Ordinance 2021-02, a conditional rezoning of the Property from “Special Use Permit - Religious Facility” to “R-43 Single-Family Residential District,” and recommended approval to the Town Council with the conditions outlined in Section 2 of this ordinance; and

WHEREAS, the Commission held a public hearing on April 6, 2021, in the manner prescribed by law, for the purpose of considering the Minor Special Use Permit to allow for the reduction of the church property zoned “Special Use Permit - Religious Facility” (SUP-20-07),

and approved said Minor Special Use Permit subject to conditions of approval with an effective date being the same as Ordinance 2021-02; and

WHEREAS, the Commission held a public hearing on April 6, 2021, in the manner prescribed by law, for the purpose of considering the Non-Administrative Land Modification (RP-20-01) to plat the single-family lot, and recommended approval to the Town Council with an effective date being the same as Ordinance 2021-02; and

WHEREAS, the Mayor and Town Council of the Town (the “Council”) held a public hearing on May 27, 2021, in the manner prescribed by law, for the purpose of considering Resolution 2021-03, a minor amendment to the Town of Paradise Valley 2012 General Plan to change the land use designation on the Property from “Public/Quasi Public” to “Low Density Residential,” and *[insert action]* said resolution with an effective date being the same as Ordinance 2021-02; and

WHEREAS, the Council held a public hearing on May 27, 2021, in the manner prescribed by law, to hear and take action on Ordinance 2021-02, the conditional rezoning of the Property from “Special Use Permit - Religious Facility” to “R-43 Single-Family Residential District,” amending the Zoning Ordinance and Zoning Map; and

WHEREAS, the Council, concurrently held a public meeting on May 27, 2021, in the manner prescribed by law, to hear and take action on the Non-Administrative Land Modification (RP-20-01) to plat the single-family lot, and *[insert action]* said plat map with an effective date being the same as Ordinance 2021-02; and

WHEREAS, the rezoning to “R-43 Single Family Residential District” is consistent with and conforms to the “Low Density Residential” designation of the Land Use Map of the Town’s adopted General Plan in accordance with Section 306, Amendments, of the Town Code and Arizona Revised Statutes §9-462.01(F).

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

SECTION 1. Rezoning. The parcel of land legally described under Exhibit A (the “Property”) is hereby rezoned from “Special Use Permit - Religious Facility” to “R-43 Single-Family Residential District”, subject to the conditions set forth in Section 2, and subject to Sections 3 and 4 of this ordinance. Promptly after the effective date, the Town’s Official Zoning Map shall be amended to reflect the new “R-43 Single Family Residential District” Zoning District; if such zoning is later invalidated, then the Official Zoning Map will be changed back from “R-43 Single Family Residential District” to “Special Use Permit - Religious Facility.”

SECTION 2. Conditions.

1. Development of the Property shall comply with all applicable Federal, State of Arizona, and Town Ordinances, including the Zoning Ordinance and obtaining necessary building permits, as such requirements may be amended, for this R-43 Single-Family District property.
2. The property owner and Town shall sign and record a Waiver of Rights and Remedies agreement under A.R.S. § 12-1134 (Proposition 207 Waiver) in the form provided by the Town Attorney within 10 calendar days of passage of this ordinance.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance or any part of the amendments to the Town Zoning Ordinance 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 4. Effective Date. This ordinance shall become effective at the time and in the manner prescribed by law.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Paradise Valley, Arizona, this ____ day of _____, 2021.

Jerry Bien-Willner, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney

CERTIFICATION

I, Duncan Miller, Town Clerk, certify that this is a correct copy of Ordinance Number 2021-02 duly adopted by the Town Council of Paradise Valley at a meeting held on the this ____ of _____ 2021. This Ordinance appears in the minutes of the meeting, and has not been rescinded or modified and is now in effect. I further certify that the municipal corporation is duly organized and existing, *and* has the power to take the action called for by the foregoing ordinance.

Duncan Miller, Town Clerk

EXHIBIT A: PROPERTY DESCRIPTION

That portion of Lot 1, of "Meadowlark Acres", according to the plat of record in the office of the county recorder of Maricopa County, Arizona, recorded in book 194 of maps, page 11, and lying in the southwest quarter of Section 3, Township 2 north, Range 4 east of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

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Thence continuing south 88 degrees 35 minutes 06 seconds west, along said south line, a distance of 170 feet to the southwest corner of said Lot 1 being marked by rebar with cap RLS# 35694;

Thence north 00 degrees 59 minutes 05 seconds west, along the west line of said Lot 1, a distance of 256.47 feet;

Thence north 88 degrees 35 minutes 06 seconds east, a distance of 170.00 feet;

Thence south 00 degrees 59 minutes 05 seconds east, a distance of 256.47 feet to the point of beginning.

EXHIBIT B: WAIVER OF RIGHTS AND REMEDIES (PROP 207 WAIVER)