



ZONING EXAMINER

REPORT TO MAYOR AND COUNCIL

February 13, 2014

**C9-13-13 Schneider – Speedway Boulevard
Rezoning RX-1 to R-2 (amended to RX-1 to R-1)
Public Hearing: January 30, 2014**

BACKGROUND

This is a request to rezone approximately 12.46 acres from RX-1 to R-2 zoning. (At the January 30th hearing, this request was amended to R-1 zoning.) The rezoning site is located on the south side of Speedway Boulevard, adjacent to the east bank of Robb Wash and approximately 120 feet east of Button Willow Road.

Land use policy direction for this area is provided by the *Pantano East Area Plan* and *Plan Tucson*.

PUBLIC HEARING SUMMARY (Minutes Attached)

Carolyn Laurie, Planning and Development Services Department, presented the staff report with a recommendation for approval. Ms. Laurie also commented that no written approvals and nine written protests were received.

Michael Grassinger, the applicant's agent, presented the rezoning request and agreed to the recommended staff conditions of rezoning.

The applicant, Mr. Schneider, and several neighbors also testified, including residents and board members of the Carriage Park Neighborhood Association. The public hearing was closed on January 30, 2014.

FINDINGS OF FACT

This is a request by Michael Grassinger of the Planning Center, on behalf of the property owner, Ray Schneider, to rezone approximately 12.46 acres from RX-1 to R-2 zoning. (At the January 30th hearing, this request was amended to R-1 zoning.) The rezoning site is located on the south side of Speedway Boulevard, adjacent to the east bank of Robb Wash and approximately 120 feet east of Button Willow Road. The preliminary development plan proposes a residential subdivision consisting of 64 one and two-story, single-family residences. The proposed lots range in size from 4,710 to 9,226 square feet, with a proposed density of 5.1 residences per acre (RAC).

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To the north of the proposed rezoning site are single family residential and multi-family residential developments, zoned R-1, R-2, and RX-1. To the south is a single family residential development zoned R-1. To the east is Magee Middle School, zoned RX-1. To the west is the Robb Wash and associated open space parcels with three-story multi-family residential development, and one-story single family residential development beyond, zoned OS, R-1, and C-1.

The City of Tucson *Major Streets and Routes Plan* map identifies Speedway Boulevard as an arterial street. The Pima Association of Governments, Transportation Planning Division (PAG-TPD) estimates that the proposed development will generate 640 vehicle trips per day. The previous use generated 10 trips per day.

Land use policy direction for this area is provided by the *Pantano East Area Plan* and *Plan Tucson*.

The proposed development is consistent with land use, transportation, and urban design policies guidelines for Development Review (LT) of *Plan Tucson*. *Plan Tucson* also supports integrated site design, and supports the conservation and enhancements of natural habitats and the protection of healthy urban vegetation.

The *Pantano East Area Plan* outlines residential policies for reviewing proposed land use changes. Residential policy 2, promotes residential infill of vacant land where adequate provision of streets and utilities are available and compatibility with existing land uses can be accomplished. The *Plan* supports medium to high density residential developments along arterial streets by promoting clustering of lots and allowing for design flexibility. The *Plan* also requires that residential development be located outside of designated 100-year floodplain and goes further to promote the integration of open space along washes. The *Plan* recommends that new development preserve and protect remaining natural riparian habitats along all named watercourses. Designated trail corridors are to be recognized for their multiple community values including recreation, flood control, wildlife habitat, and open space. The Robb Wash is identified in the *Pima Regional Trail System Master Plan* and *Plan Tucson* as an urban greenway and trail.

At the January 30, 2014 hearing testimony regarding the proposed development focused, among other subjects, on the density and compatibility of the development, drainage, grading, and vegetation issues, and vehicular circulation.

The residential density proposed in the preliminary development plan is 5.1 RAC. This is greater than the Carriage Hill subdivision to the south and the residential subdivision to the west, which consists of single-story and split-level residential. However, the proposed RAC is less than the multi-family residential development, also located to the west. Additionally, the proposed 5.1 RAC is consistent with the density goals of the *Pantano East Area Plan*. With appropriate mitigation techniques, the density of the proposed plan might thus be compatible with both the plan and neighboring properties.

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However, neighbors expressed concern that approval of R-2 zoning might ultimately allow more density than the applicant proposed in the PDP. Applicant thus agreed to amend his request to an R-1 zone, which would cap the density at 5.14 RAC. Further, to ensure compatibility with neighboring residential properties to the south of the proposed development, there should be a twenty-foot landscape buffer, measured from the property line, and residences on parcels with a south boundary should be limited to one-story. Applicant agreed to such limits at the hearing.

The center of the parcel contains a significant ridge line which will require substantial earth moving activities. The grading plan for the project proposes mass grading (95% of the site) with cut and fills to minimize existing grade change. *Plan* policy supports sensitivity to the conservation and enhancement of natural habitat areas as open space connected to surrounding public natural open spaces.

At the January 30th hearing, neighbors echoed the intent of *Plan Tucson* policy regarding the impact of developing the site. Additional engineering studies will be required to allow this area to be developed. Five percent of the site is to remain as open space including the centralized open space that will have to accommodate both Unified Development Code open space amenity requirements and those of a drainage basin. The northwest portion of the site contains natural habitat areas that should be conserved and connected to the open space along Robb Wash. The applicant reported that this might be accomplished by maintaining the floodplain zone in its natural condition as a common area for the subdivision.

The existing native vegetation is of high quality and contains large stands of native plant species referred to as Sonoran Desert Scrub. Preservation or restoration of a percentage of this vegetation will be required by the Native Plant Preservation Ordinance (NPPO). It is recommended that in reconfiguring the preliminary development plan for R-1 zoning, the applicant work with staff to reevaluate the proposed grading plan and design the site to maximize sensitivity to existing the grade and vegetation, to the extent feasible. With reconfiguration of the PDP it may also be possible to integrate the existing 1942 Robb Family Ranch into any new site design.

Speedway Boulevard, adjacent to the rezoning site, is six lanes wide with a median. The PDP shows internal pedestrian system connections to Speedway Boulevard, Sarnoff Drive, and two gated access points to Magee Middle School. The access gates will follow “safe by design” guidelines and be visible from adjacent lots, contain a locking mechanism, include security lighting after dusk, and meet ADA requirements. The internal sidewalks will be five-feet wide and shall be located along both sides of the internal roadways. An emergency access is also proposed in the southeast corner of the site which will contain sidewalks along both sides of the access point. Applicant has agreed to work with emergency services and TUSD to try to relocate this emergency access so that ingress is from the Magee Middle School property.

Additionally, there is an informal trail built by the previous property owner in the 70-foot wide open space strip between the Robb Wash and the subject property, providing wash

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access and opportunities for hiking and wildlife viewing. A trail easement from the functional open space of the proposed development is recommended.

CONCLUSION

The proposed rezoning is consistent with, and supported by, the policy direction provided in *Plan Tucson* and the *Pantano East Area Plan*. Subject to compliance with the attached preliminary conditions, approval of the requested rezoning is appropriate.

RECOMMENDATION

The Zoning Examiner recommends approval of R-1 zoning.

Respectfully Submitted,



Linus Kafka
Zoning Examiner

ATTACHMENTS:

Public Hearing Minutes
Rezoning Staff Report



MEMORANDUM

DATE: February 13, 2014

TO: Ernie Duarte
Director, Planning and Development Services

FROM: Linus Kafka
Zoning Examiner

SUBJECT: C9-13-13 Schneider – Speedway Boulevard Preliminary Conditions

The Zoning Examiner's Preliminary Report in the above-referenced case included attached preliminary conditions recommended by staff. This set of conditions was erroneously attached rather than a revised version. The revised version specifies additional conditions that were addressed in the Preliminary Report and agreed to by applicant at the hearing. The revised preliminary conditions are attached herein.

ATT: Preliminary Conditions C9-13-13 Schneider – Speedway Boulevard RX-1 to R-1

Preliminary Conditions

PROCEDURAL

1. A development package in substantial compliance with the preliminary development plan dated October 24, 2013, and the Design Compatibility Report dated October 2013, is to be submitted and approved in accordance with Section 2-06 and Table 6.4.5.C-1 and Table 6.3-2. of the Unified Development Code.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment". The fully executed Waiver must be received by the Planning & Development Services Department before the item is scheduled for Mayor and Council action.
3. A Class III Archaeological Assessment and survey shall be performed by a qualified archaeologist and submitted as part of the Development Plan Package for review. No grading or other ground modification will take place until the Class III is approved. If cultural features or remains are located during the survey, testing and data recovery shall be completed as needed. Two copies of testing plans, testing reports, data recovery plans and final reports shall be submitted to and approved by the City Historic Preservation Office prior to construction work commencing. If, during construction, human remains and/or associated burial items are discovered, ground disturbing activities in the vicinity of the discovery will cease, the discovery site will be secured, and the Arizona State Museum will be immediately notified as required under A. R. S. 41-865.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. "Safe by Design" concepts shall be incorporated in the development plan for review by the Tucson Police Department.
6. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation District (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
7. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

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LAND USE COMPATIBILITY

8. Density for the project is limited to 5.14 RAC (Residential Units per Acre).
9. Two (2) on-site pedestrian gates shall provide direct access to Magee Middle School. The pedestrian gates maybe located on the eastern boundary of the project, one toward the center of the site and the second near the southern most cul-de-sac. The gates shall be visible from adjacent lots, accessible, include security lighting if accessible after dusk, and meet ADA requirements.
10. The southern twenty-foot buffer area shall be measured from the property line and revegetated with native plantings.
11. All parcels along the southern boundary shall be limited to one-story, compatible with the height of adjacent properties to the south.
12. All walls visible from a public right-of-way and/or adjacent to existing residential development, are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments, such as the use of two (2) or more decorative materials like stucco, tile, rustic metal, stone, or brick; a visually interesting design on the wall surface; varied wall alignments, (jog, curve, notch, setback, etc.); and/or trees and shrubs in voids created by the wall variations.
13. The centralized open space/pocket park shall include a mix of passive and active recreation amenities, such as but no limited to; Ramada, table, BBQ grill, trash bins, benches, tot-lot/play-equipment/turf area, canopy trees, and exercise-station(s). Pedestrian paths used for recreation amenities in the centralized park shall meet ADA requirements.
14. Six (6) inch wide masonry block or greater shall be used for perimeter walls.
15. All single family dwellings will have approved automatic fire sprinklers installed or an alternative access point for emergency access as shown on the preliminary development plan per the 2012 International Fire Code Section D107.

DRAINAGE/GRADING/VEGETATION

16. The submittal of a drainage report that addresses onsite and offsite drainage and its impact on the proposed new lots and improvements. The report shall determine the erosion hazard setback and recommend the locations of the new parcels accordingly. The drainage report shall also address the provision of runoff retention basins in accordance with the requirements and recommendations of the Stormwater Detention/Retention Manual. Runoff detention is required and the detention basin design shall provide a 10% decrease in the site 100-year post

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development runoff compared to the existing site 100-year runoff. Runoff detention requirement may be waived or modified if it can be verified that the project satisfies the requirements of Criterion #2, specified in the City of Tucson Stormwater Detention/Retention Manual.

17. If bleed pipes are used to drain the retention basin(s), the basin(s) floors shall be graded to drain either toward the outlet structure or other logical point. Basin floors shall not be flat.
18. The NPPO plan and landscape plan shall indicate an enhanced 20 foot screening and buffering setback on the eastern border of the rezoning site associated with the u shaped road. Sidewalks are not required along this the eastern edge, standard width transition, wheelchair access ramps and striping shall be provided to connect the internal sidewalks system.
19. Owner/applicant is responsible for providing a special inspection and delivering results to the PDSD rezoning division for the following condition. Prior to the issuance of a grading permit, a registered land surveyor (RLS) shall survey the site to determine property boundaries and install temporary fencing to protect the Open Space (OS) parcel to the west. The temporary fencing shall create a durable and highly visible barrier to identify the protected Open Space parcel boundary. Temporary fencing to remain in place until all required grading and site improvements are completed.
20. Retention basins shall be located adjacent to a street or accessible common area. Basin side slopes in the adjacent area(s) shall be designed and constructed in accordance with the requirements of the Detention/Retention Manual for human activity zones.
21. Owner/applicant is responsible for providing a special inspection and delivering results to City for the following condition. Provide materials with building permit application and reference rezoning case number C9-11-11. New and replacement roofing material shall be Energy Star rated, or cool roof rated with Initial Solar Reflectance Greater than or equal to 0.65, and minimum infrared emittance to be 85% or more. Placement of and utilization of energy from solar panels on roofs is an acceptable alternative.

ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

22. A traffic impact analysis shall be submitted during the review process providing an analysis for potential offsite improvements. Dedication or verification of existence of right of way per Major Streets and Routes plan along Speedway frontage shall be included. A private improvement agreement is required for these improvements in the right of way including any new roadway for the development.

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23. A right turn deceleration lane will be required into the development. Any new sidewalk shall require a 6 foot width and ADA accessible facilities along the Speedway Boulevard frontage.
24. A private improvement agreement is required for improvements in the right of way including any new roadway for the development.
25. The developer shall design and construct Greenway improvements on the east bank of the Robb Wash as defined in the "Pima Regional Trails System Master Plan" (Pg. 61-64). Greenway improvements shall include a continuous 12 foot wide (minimum) all-weather (constructed higher than the 100 year floodplain elevation) ADA-accessible asphalt-paved multi-use path, and a separated 8 foot wide (minimum) decomposed granite "soft path". The Greenway improvements shall be constructed west of the project area within 50 feet of the property line. All grading and construction associated with the Robb Wash Greenway is to be located outside of the mapped "Critical Habitat" area. All drainage from the adjacent lot development is to be accommodated through scuppers or drainage pipes under both paths. If the Greenway corridor is left undisturbed and grading and path improvements are constructed with a minimum of native plant removal, no irrigation system will be required. If any portion of the Greenway corridor is cleared, the native vegetation will be replaced with a like-cover of native landscaping including a new water meter and irrigation system installed to City of Tucson Parks Standards.
26. The site developer has the option to negotiate an in lieu fee for the development of the Greenway Improvements. Grading and development work should follow condition 23.

AGREEMENT TO WAIVE ANY CLAIMS
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ("**Agreement**") is entered into between _____, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(I).

The Owner is the holder of fee title to the property located at _____, Tucson, Arizona, (the "Property") which is more fully described in the Owner's application to the City in Case XXXXXX and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City rezone the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the rezoning. The Owner believes that the rezoning of the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the zoning amendment in Case XXXXX.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested zoning that limit the potential development of the Property. The Owner acknowledges that the rezoning and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the rezoning application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the zoning if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested zoning. If the Owner withdraws the application or does not effectuate the new zoning, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.

The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify

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and hold the City of Tucson, its officers, employees and agents harmless from any and all claims, causes of action, demands, losses, costs and expenses based upon an alleged reduction of value of the Property as a result of the City's action in Case XXXXX.

Dated this _____ day of _____, 20__.

Owner: _____
(Name of Individual, Corporation, Partnership, or LLC, as applicable)

Owner: _____
(Name of Individual, Corporation, Partnership, or LLC, as applicable)

By: _____
(Signature of Owner or Authorized Representative, if applicable)

By: _____
(Signature of Owner or Authorized Representative, if applicable)

Its: _____
(Title of Individual Signing in Representative Capacity)

Its: _____
(Title of Individual Signing in Representative Capacity)

State of Arizona)
)
County of _____)

On this _____ day of _____, 20__, before me personally appeared _____ on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.

Notary Public

My Commission expires:

City of Tucson, an Arizona municipal Corporation:

By: _____
Planning & Development Services Department

This form has been approved by the City Attorney.