



LAW OFFICES OF

Lazarus, Silvyn & Bangs, P.C.

A PROFESSIONAL CORPORATION

March 18, 2019

Board of Adjustment
c/o Planning & Development Services Department
City of Tucson
201 N. Stone Ave., 3rd Floor
Tucson, AZ 85701

Re: Case No. C10-19-08, Appeal of Zoning Administrator Determination

Dear Chairperson Shell and Members of the Board of Adjustment:

Our firm represents Rio West, Inc. (“Rio West”), owner of the real property at 3401 N. Fremont Ave., in the City of Tucson (“City”), Assessor Parcel Nos. (“APN”) 113-04-0380 and -039B (the “Property”). Rio West intends to develop the Property and two adjacent parcels¹ (collectively the “Site”) with 76 single-family homes in the Mountain Enclave subdivision (the “Subdivision”) using the City’s Flexible Lot Development option (“FLD”).² The Mountain View Neighborhood Association (“MVNA”) through its counsel has appealed the City Zoning Administrator’s (“ZA”) determination that found the Subdivision is in conformance with the Northside Area Plan (“NAP”). Specifically, the ZA found the Subdivision could offer more than six residences per acre (“RAC”) because a specific area plan policy cannot supersede the FLD regulations (the “Determination”).

The issue at the heart of this appeal is the meaning of the phrase “in conformance with” when used in the context of analyzing whether land-use regulations comply with general and specific plan (“Plans”). As described below, when such an analysis is required, Arizona law has long defined “in conformance with” to be a general compliance standard requiring land-use approvals be in “basic harmony” with the applicable Plans. As Arizona law has resolved this issue, we request the Board affirm the Determination and deny this appeal.

Below are the relevant facts and the following reasons to uphold the Determination:

- Arizona law requires the FLD to be in “basic harmony” with the NAP and Plan Tucson, not strict compliance, and the Subdivision meets this standard;
- The NAP has no 6 RAC requirement;
- Upholding the Determination will reiterate the proper standard for Plan analysis; and
- Upholding this decision will avoid the unintended consequence of a 94-unit apartment complex on the Site with access from Kleindale Rd., which is Rio West’s alternative plan.

¹ APNs 113-04 -269E and-2700. Rio West is under contract to purchase these parcels.

² Unified Development Code (“UDC”) § 8.7.3. The Subdivision’s permit number is DP18-0201.

I. Relevant Background Facts

A. Site and Surrounding Area Background.

The Site is in the Mountain View Neighborhood (“MVN”), which falls within the NAP. *See Enclosure 1*, Area Map. The Site is 6.29 acres and is mostly vacant with only a few structures.³ The adjacent properties are developed with mostly single-family and some multi-family residential densities ranging from 6 to 14 RAC. Specifically, to the south are higher density developments ranging between 12 to 14 RAC. To the north and east, densities range between 6 and 13 RAC, and to the west densities range from 6 to 8.5 RAC. *See Enclosure 2*, Adjacent Densities.

Most of MVN, including the Site, is zoned Residential R-2, a medium density single-family and multifamily urban residential district.⁴ R-2 allows single family residences at one per 5000 sq. ft. (i.e., 8.7 RAC), or multifamily residential projects at 15 RAC.⁵ Under R-2, Rio West could build 54 homes or 94 apartment units on the Site as-of-right without any UDC requirement to conform with the Plans/NAP.

B. The Subdivision’s use of the FLD.

The FLD allows additional density and lot coverage if a project meets certain criteria, such as providing at least 20 percent additional functional open space.⁶ Because this proposed Subdivision exceeds the open space criteria by providing 30 percent open space, the Subdivision is permitted to be developed at 22 RAC with 75 percent site coverage.⁷ After meetings with the neighbors and reviewing the Site and surrounding area, Rio West has designed the Subdivision at 12.1 RAC and 60 percent site coverage, much lower than permitted.⁸

Planning for the Site’s development began in early 2018.⁹ As part of the development process there were two formal neighborhood meetings (May 9, 2018 and August 1, 2018), one meeting more than required by the FLD. There were also had numerous individual communications with stakeholders about the project. Based on this outreach, Rio West now is incorporating numerous design features to the Subdivision in order to mitigate neighbor concerns, including:

- Opaque wall/fence along the Subdivision’s border to provide screenings for adjacent neighbors;

³ The Subdivision’s Tentative Plat establishes the Gross Site Area of 6.29 acres for the project, which is the Site’s correct area. *See Enclosure 3*, Tentative Plat Site Plans, p. 1, note 4. This Enclosure includes the Subdivision Site and Landscape Plans from the Tentative Plat, pp 1, 4-5, 15, 20-21. The full Tentative Plat is at: <http://tucson.siretechnologies.com/SIREPub/cache/2/4499071C2C32C3925D4533FEC333333737337545425545447/928296103172019072809847.pdf>.

⁴ UDC § 4.7.9.

⁵ UDC Table 6.3-2.A.

⁶ UDC § 8.7.3.C.3.b.5.

⁷ UDC Table 8.7.3-1, R-2 Zone Option B.

⁸ Tentative Plat, Enclosure 3, p. 1.

⁹ ME Ventures LLC was the initial developer for the project, with Rio West providing the construction services for the development. Rio West later became the primary developer of the project.

- Privacy mitigation adjacent to existing single-family residences, including bulk reduction, no second story balconies, and opaque or clerestory windows on second story elevations next to existing homes;
- Internal vehicle circulation, garages, and parking are generally at the center of the site, limiting the impact of Subdivision vehicles on surrounding properties;
- Kleindale Road will NOT be used for access. Instead, access was reconfigured to the Site's north and south;
- Drainage retention will capture the 100-year storm event;
- Homes will have three distinct architectural styles, each with three different models, creating nine different elevations;
- No elevation will repeat more than one in every four units, ensuring variation throughout the Subdivision; and
- Each elevation has a varied roofline with varied massing.

The above elements are memorialized in the Subdivision's Privacy Mitigation Plan ("Privacy Plan"), **Enclosure 4**, and Architectural Variation Plan ("Architectural Plan"), **Enclosures 5**.

C. The ZA Determination and Appeal.

On October 19, 2018, the MVNA requested a ZA determination to confirm that the NAP restricts "the allowable single-family residences within the planned [S]ubdivision to 6 RAC." The request acknowledged that Rio West can develop the Site as-of-right under R-2 with 54 homes (8.7 RAC) but left out the fact that Rio West can also develop the Site as-of-right with 94 apartments (15 RAC). The request also mischaracterizes the NAP reference to 6 RAC as being somehow regulatory in this instance. In fact, the 6 RAC reference is simply policy guidance from the NAP.

On January 10, 2019, the ZA issued the Determination that the Site is not limited to 6 RAC as the NAP's policies do not supersede the FLD regulations. MVNA appealed the Determination, claiming (in contravention to the body of law related to this issue), that the UDC/FLD language "in conformance with" required the Subdivision to strictly comply with the NAP.

II. The Board should uphold the Determination and deny the appeal.

A. The proper standard for analyzing conformance with the applicable Plans is basic harmony.

Arizona law is well settled that land-use approvals, when conformance is required, need only be in basic harmony with applicable Plans. The courts first addressed this issue in 1986 in *Haines v. City of Phoenix*, when the City granted a height waiver for a 500-foot building even though the property was in an area where the Plans limited building heights to 250 feet.¹⁰ The court recognized that the Arizona legislature had defined that land-use approvals had to be consistent

¹⁰ 151 Ariz. 286, 288 (App. 1986).

with and conform to Plans, and they held this meant “basic harmony” with the applicable Plans.¹¹ The court found that although the project height exceeded the Plan requirement, the project met numerous other plan policies and was in basic harmony with the Plans.¹²

The Determination is consistent with Arizona law, which is clear that “shall be in conformance with” does not require FLDs to strictly comply with each and every Plan policy. FLDs must be in basic harmony with the applicable Plans as a whole. The Determination correctly found that the Subdivision can have more than 6 RAC because one individual NAP policy statement cannot supersede the density allowed by the FLD.

The Determination, while correct, did not fully analyze the Subdivision’s conformance with the NAP’s and Plan Tucson’s policies and guidelines. We have provided the Board of Adjustment this analysis below.

B. The Subdivision conforms with the NAP and Plan Tucson.

i. The Subdivision is in basic harmony and consistent with the NAP’s residential and design standards.

The NAP “provides policy direction” for residential and other uses within its plan area. While the NAP provides policy guidance, it does not have any specific use, density, or intensity requirements for the plan area (i.e., no specific requirement for 6 RAC).¹³ The Subdivision is in basic harmony with the NAP’s relevant policies as required by law and as detailed in the Plan Conformance Matrix at **Attachment A**.

The following summarizes the Subdivision’s conformance with the NAP’s applicable policies:

- **Residential Policies:** The goal of the residential policies is to encourage new development that preserves and enhances the existing residential character of the area.¹⁴ The Subdivision accomplishes this by meeting all of the following Residential Policies within the NAP:
 - The Subdivision will preserve and enhance the neighborhood by adding 76 new individually owned, single-family homes to an existing residential area. (Policy 1)
 - The architectural quality of the Subdivision will provide appropriate infill and enhance the area. Design features are shown in the Architectural Plan, which shows the nine different styles that will be varied throughout the Site. (Policy 2 and 3)
 - The Subdivision design is sensitive to existing land-uses. It will have ample buffers, second-story privacy mitigation, and a masonry wall around the Site, as shown in the Privacy Plan. (Policy 3)

¹¹ *Id.* at 290; Arizona Revised Statutes (“ARS”) § 9-462.01(E) (1986). The Arizona legislature added the phrase “conform to” in 1998, but *Haines* uses consistent and conform synonymously throughout its decision. A.R.S § 9-462.01(F) (2018). This 1998 amendment also removed references to “specific plans” in the statute language.

¹² *Id.* See also *Ripps v. City of Tucson*, 153 Ariz. 344, 345 (*Ct. App.* 1987); *Litton v. City of Phoenix*, No. 1 CA-CV 12-0012, 2013 WL 1089084 (Ariz. App. March 14, 2013).

¹³ Some, but not all, of the NAP’s sub-areas have land-use maps, but the Site is not in any of these areas.

¹⁴ NAP, p. 10.

- The parking and vehicle circulation areas are mostly within the interior of the Site, reducing impact on surrounding areas. All units have garage parking, with 76 additional guest spaces to ensure all parking is provided on-site. The Site will also not access Kleindale at the request of the neighboring property owners. (Policy 3)

Just like the *Haines v. City of Phoenix* case, the NAP has many policies and the test is basic harmony, not strict conformance. While the NAP provides some guidance that low density is “generally appropriate” in interior neighborhoods and along local streets (Policy 2), there is also language in the applicable Plan Tucson policies, p. 3.154, stating that medium density may be appropriate in areas predominantly zoned R-2. In addition, the Subdivision is not the first medium-density residential in this area to connect to local streets. All of the development south of the Site is 12 to 14 RAC and connects onto Halcyon Rd., a local street. There are also several other medium density properties around the Site that connect to other local streets.

- **Drainage Policies:** The Subdivision meets the NAP’s drainage policy by providing drainage retention to capture the 100-year storm event and designing its drainage areas to be landscaped, functional open space.¹⁵
- **Buffering and Design Guidelines:** These guidelines help new development design projects that enhance the NAP area.¹⁶ Rio West will incorporate numerous design and buffering elements into the Subdivision, all that improve the development and allow it to fit within an existing residential area. Attachment A details the Subdivision’s conformance with these buffering and design policies, which include:
 - Screening such as a masonry wall with architectural variation on its exterior boundaries and exterior landscaping with tree canopies;
 - Enhanced architectural design, as shown in the Architectural Plan;
 - Privacy mitigation to adjacent single-family residences including elimination of balconies and clerestory or opaque windows on second story; vehicle circulation mostly on the Subdivision’s interior; and interior vehicle circulation and parking.

ii. The Subdivision is in basic harmony and consistent with Plan Tucson’s land-use elements for residential development.

Plan Tucson is a long-term policy document intended to guide future actions and decisions regarding housing, jobs, land use and transportation.¹⁷ In addition to the NAP compliance above, the Subdivision also complies with the following Plan Tucson Land Use, Transportation, and Urban Design Policies (“LT”) that apply to residential development (Attachment A provides a detailed description of compliance with the following policies):¹⁸

¹⁵ NAP, p. 17.

¹⁶ NAP, p. 25-28.

¹⁷ Plan Tucson, p. 1.2.

¹⁸ Plan Tucson, p. 3.153.

- The Subdivision will add medium density development in proximity to other commercial activity centers and transit (LT3).
- The Subdivision provides infill that reflects sensitivity to site and neighborhood conditions and adheres to relevant site and architectural guidelines (LT28.13).
- The Subdivision will protect established residential neighborhoods by providing compatible residential uses (LT28.2.14).
- The Subdivision’s medium-density infill complements the existing medium-density infill and will fit within the area’s mix of densities. (LT28.2.15).

Like the NAP, Plan Tucson provides only general density guidelines. Included is that in “areas already predominantly zoned R-2 additional medium-density residential may be appropriate.”¹⁹ As MVN is almost all R-2, the Subdivision complies with this guideline.

III. The NAP does not require 6 RAC within its land use planning area.

MVNA misrepresents that the NAP has a specific requirement for 6 RAC on any specific parcel within its plan area. The NAP provides policy guidance stating where density is “generally appropriate,” and it defines low density as the “average density up through” 6 RAC. It does not have language or provide a land-use map that limits specific properties anywhere within MVN to specific densities (e.g., 6 RAC). Instead, the NAP only provides general policy guidance, and Arizona law requires that an analysis of the NAP must consider all the NAP’s policies as a whole under the basic harmony test. As the Subdivision meets this test, the Determination is correct and the Board should affirm.

IV. Upholding the ZA’s Determination simply affirms the proper standard to review General and Area Plan conformance while still requiring this analysis to occur.

It is critical that the Board’s decision to uphold the Determination be based on current Arizona law. The UDC’s requirement to review for Plan conformance is clear and wide spread, applying to both administrative and legislative land-use approvals.²⁰ This Plan analysis is important, as these policy documents are meant to provide policy direction and guidance for large areas of the City. Upholding the Determination will not change the requirement to conduct this Plan analysis.

However, because Plans are policy they must be analyzed appropriately against land use regulations, as required by the courts and not by a strict compliance standard. Plans contain general policy guidance for the City or large areas within the City. They are not intended to regulate specific parcels of land. Area plans also vary widely in their policies, requirements, level of detail, and quality, and many of these area plans are over 30 years old and not regularly updated. Some areas of Tucson have no area plans. Basic harmony is not only the law for this analysis, but is the only logical means to bring appropriate meaning to the policy patchwork of area plans and Plan Tucson. Any other interpretation (like strict conformance) would contravene Arizona law and would create an administrative nightmare for staff by placing policy over the law, and forcing City

¹⁹ *Id.*

²⁰ See PDS Director and Zoning Examiner Special Exception Findings, UDC § 3.4.5.A; Rezoning, UDC § 3.5.3.D.3; Planned Area Developments, UDC § 3.5.5.C.1; and Urban Overlay Districts, UDC § 5.13.3.B.

staff and this Board to constantly interpret the legal meaning of policy statements rather than applying the policy to guide the regulations.

In addition, the basic harmony test is consistent with the 1998 updates to the municipal planning/zoning statutes that resulted from the Urban Planning–Growing Smarter Act.²¹ That initiative required that municipalities develop comprehensive general plans that have a land-use element.²² If the general plan land-use elements have specified uses, densities and intensities, the statute states that those policy provisions have to be analyzed for conformance (i.e., basic harmony) as part of a land-use approval.²³ The 1998 statute also eliminated the reference to specific plans (e.g., area plans), and focused its requirements on the general and comprehensive plans that were at the heart of the Growing Smarter Act. For situations where there are no specific land-use requirements, like here with the NAP and Plan Tucson, the basic harmony test applies to the overall policies in the applicable Plans.

By upholding the Determination, the Board will be upholding Arizona law for this analysis: that land-use approvals need to be in “basic harmony” with the applicable Plans. FLDs and other land-use decisions will still be reviewed, as they are today, for conformance and consistency with those Plans. Upholding the Determination simply affirms the proper standard for this review.

V. Conclusion

Based on the above, we respectfully request that the Board affirm the Determination that the Subdivision may have more than 6 RAC based on an analysis of conformance with the NAP and Plan Tucson. This is the correct legal decision, and it avoids the unintended consequence of a 94-unit apartment complex on the Site. As deemed necessary by this Board, it has the authority to modify/clarify this decision to find that this Subdivision is in conformance with the NAP and Plan Tucson because it is in basic harmony with those policies.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rory Juneman". The signature is stylized with a large "R" and "J".

Rory Juneman, Esq.

Attachment A and Enclosures

cc: Walter Hoge, Rio West
Brad Hoge, Rio West
Keri Silvyn, Esq.

²¹ See 1998 Ariz. Sess. Laws, ch. 204, §§ 1-4.

²² ARS § 9-461.05(C)(1) (2018).

²³ ARS § 9-462.01(F) (2018).

Attachment A – Plan Conformance Matrix

Mountain Enclave Subdivision analysis of conformance with the NAP and Plan Tucson

I. NAP Policies and Sub-policies

NAP Policy Guidance	Subdivision Conformance
Residential Policies	
<p>Policy 1: Preserve and enhance the integrity of the established neighborhoods. (p. 10)</p>	<p>The Subdivision will preserve and enhance the neighborhood because it is adding single-family, residential homes for sale to an existing residential neighborhood. The densities of these homes are similar to the existing densities around the Site. An influx of new homes into this established neighborhood will provide housing variety and bolster property values. New home ownership will preserve and enhance this area for decades to come.</p>
<p>a. Direct through traffic and traffic generated by more intense uses onto major streets.</p>	<p>The Subdivision will direct traffic to Mountain Ave. via Halcyon Rd. Mountain Ave., a major street, is <u>less than 700 ft.</u> from the Subdivision. The other medium density development around the Site are similarly situated, and all these projects including the Subdivision have close access to a major street.</p>
<p>b. Establish improvement districts to provide and/or upgrade lighting, streets, and alleys, as desired by affected residents.</p>	<p>The Subdivision will provide internal private streets and pedestrian walkways; it is not large enough to justify an improvement district.</p>
<p>c. Encourage the orientation of new residential uses to take advantage of solar energy and to integrate solar technology into the design.</p>	<p>The Subdivision’s homes all have flat or slightly angled roofs that will provide owners flexibility in orienting solar panels to the south. All homes will be structurally designed to accommodate solar panels, and building heights will vary minimally to prevent shadows that affect solar access during the day.</p>
<p>Policy 2: Promote appropriate residential infill in existing neighborhoods. (p. 10)</p>	<p>The Subdivision will add 76 new, individually owned homes into MVN, which will enhance the ownership rates in the area. The unit sizes will attract younger, first-time buyers and empty-nesters who desire to be within the City. This housing product fits within the density ranges currently in the area around the Site. The Subdivisions addition of new, quality housing for</p>

Exhibit A – Mountain View Subdivision

Plan Conformance Matrix

NAP Policy Guidance	Subdivision Conformance
	the owner-occupied market is appropriate residential infill development in this area.
a. Low-density residential developments are generally appropriate within the interior of established low-density neighborhoods and along local streets.	The Subdivision connects to a local street and is within 700 ft. of Mountain Ave. There is significant medium density development (12 to 14 RAC) around the Site that connects to a local street. The Subdivision fits within the pattern of development that has evolved since the NAP’s adoption.
b. Low- or medium-density residential uses are generally appropriate along designated collector streets.	See above.
c. Medium- and high-density residential developments are generally suitable along designated arterial streets.	N/A.
Policy 3: Ensure new residential development is sensitive to existing land uses. (p. 11).	Rio West has put great effort into ensuring the Subdivision design is sensitive to the existing land uses, as illustrated by compliance with the below sub-policies and the Design Guidelines.
a. Require appropriate design elements and buffering techniques during the rezoning and associated development review processes to ensure the sensitive design of new development on established neighborhoods. These elements must be shown on rezoning concept plans and development plans (see General Design and Buffering policies).	The Subdivision’s Architecture Plan and Privacy Plan show compliance with this policy. The Architecture Plan details the nine house designs available in the Subdivision and commits that home styles will vary throughout the site. The Privacy Plan has numerous commitments that will benefit adjacent properties, including a masonry screen wall, restriction on balconies and clear-windows on second stories next to existing residential, bulk reduction and roof variation requirements. The Subdivision meets this policy guidance, and further details are found in the Design and Buffering policies below.
b. Require pedestrian pathways and bikeways to provide linkages to all neighborhood facilities, such as schools, parks, and commercial areas (see Parks and Recreation policies).	The Subdivision contains internal pedestrian pathways and streets that connect to the public local streets. There are no pedestrian paths or bike lanes adjacent to the Site, so this policy guidance is not applicable.
c. Require all parking and vehicle maneuvering areas to be located off-street.	The Subdivision’s parking is contained entirely within the development, including 228 garage spaces and 76 visitor spaces.

Exhibit A – Mountain View Subdivision

Plan Conformance Matrix

NAP Policy Guidance	Subdivision Conformance
d. Promote the consolidation of parcels with common property lines when developing higher density residential uses to provide sufficient space for adequate buffering of adjacent, less intense development.	In addition to the items noted in the Privacy Plan, the Subdivision provides adequate setback buffers around its outer edges. In addition, the Subdivision has over a half-acre of open space, much of it at its outer edges.
Drainage Policies	
Policy 2: Ensure that new development is sensitive to drainage conditions within the Northside area. (p. 17-18)	While the NAP’s drainage policies fall under the Public/Semi-public category, this specific drainage policy applies to new residential development.
a. Design retention/detention facilities in a manner such that flood peaks resulting from development will be less than or equal to flood peaks generated for the 2-year, 10-year, and 100-year storm events.	The Subdivision’s drainage retention will capture the 100-year storm event (including the 2-year and 10-year events).
b. Revegetate detention/retention areas and incorporate the basins as functional open space utilizing a multiple use concept (see General Design and Buffering policies).	The Subdivision’s retention area will be landscaped with canopy trees and be functional open space.
c. Preserve and/or enhance identified drainageways in their existing condition (see Campus Farm and Tucson-Prince subareas).	N/A, there are no existing identified drainage ways on the Site.
Transportation Policies	
Policy 3: Encourage the use of alternative modes of transportation. (p. 20)	Most of the NAP’s transportation policies apply to the broader neighborhood, although Policies 3 and 4 apply to the Subdivision. Policy 3: The Subdivision is within ½ mile of three SunTran bus stops that connect to three different service lines: Line 17 on Prince; Line 6 on 1 st Ave.; and Line 34 on Ft. Lowell. Two of these lines directly serve the Tohono Tadaí Transit Center that provides broader access to the SunTran system. The Subdivision’s residents can easily access bicycle paths on Mountain Ave., Prince Rd. and 1 st Ave.
Policy 4: Investigate techniques to discourage vehicular through traffic in neighborhoods by utilizing street closures, traffic diverters, and/or other devices, where desired and consistent with	At the request of the neighbors, the Subdivision is <u>not using Kleindale Rd. for access</u> , and all access to the Subdivision will occur through the primary access point at Halcyon Rd. to the south

Exhibit A – Mountain View Subdivision

Plan Conformance Matrix

NAP Policy Guidance	Subdivision Conformance
Traffic Engineering and standards and approved by appropriate City and County agencies. (p. 20)	(700 ft. from Mountain Ave.) or secondarily to the north via Fremont Ave. (900 ft. from Prince).
Buffering and Design Guidelines	
<p>Policy 1: Provide a minimum 5-foot-high masonry wall along the perimeter of new development adjoining less intense development. Utilize design features such as: a) Decorative materials (such as tile, stone, brick, adobe, or wood), textured covering materials (such as stucco or plaster), or a combination of two or more materials; b) Colors that are predominant in the natural desert landscape; or c) Variations in wall alignment, such as jogs, curves, or notches. (p. 25)</p>	The Subdivision will provide a masonry wall with either paint or integrated color within the palette of the natural desert.
<p>Policy 2: Integrate landscaping with perimeter walls to provide buffering along the edges of new development adjoining less intense development. Landscaping should include a balanced mix of canopy trees and understory plants, such as shrubs and groundcover. Canopy trees should reach 50 percent of growth within two growing seasons and should be placed at intervals that ensure that canopies will touch at maturity. (p. 26)</p>	The Subdivision will landscape the areas along the perimeter walls with canopy trees and ground landscaping, pursuant to the Landscape Plan on the Tentative Development Package.
<p>Policy 3: Landscape major street frontages of new development.</p>	N/A, the Subdivision is not adjacent to a major street frontage.
<p>Policy 4: Design architectural elements to be compatible with existing land uses, with techniques such as: (p. 26)</p>	See below.
<p>a. A transition of heights and/or densities for development adjacent to less intense uses.</p>	The Subdivision includes varying rooflines and massing to help transition to less intense uses and create an architecturally interesting design. The Subdivision also provides open space along portions of the edge of the Site, providing additional buffer space to the adjacent properties in those areas.
<p>b. Balconies and upper story windows that are either clerestory or directed away from adjacent residential uses to protect the privacy of those uses.</p>	The Subdivision’s Privacy Plan restricts balconies and clear-windows on second stories next to existing residential properties. <i>See Privacy Plan.</i>

Exhibit A – Mountain View Subdivision

Plan Conformance Matrix

NAP Policy Guidance	Subdivision Conformance
c. A variety of rooflines in developments where building heights in excess of 20 feet are permitted.	The Subdivision's is allowed 25 feet maximum height, and all of its models are less than this maximum. All models have varying roofline heights and angles to create architectural design variety throughout the Subdivision. See Architecture Plan.
d. Setbacks for higher intensity uses that are equal to or greater than the code-required setbacks for any adjacent residential uses.	The Subdivision meets or exceeds the required setbacks.
g. Outdoor lighting that is shielded or directed away from adjacent residential uses.	The Subdivision will provide shielded lighting and not direct any lighting into adjacent properties.
h. Outdoor storage areas or dumpsters that are screened with masonry walls and/or landscaping and that are located away from any adjacent residential uses.	Each Subdivision unit will have its own trash service and garage for storage. This policy appears to be intended for multi-family and commercial projects.
Policy 5: Provide amenities for pedestrians and bicyclists in new developments, with techniques such as: (p. 27)	See below.
a. Pedestrian walkways that are designed to provide an internal pedestrian circulation system that is also connected to public facilities.	The Subdivision has an internal pedestrian walkways and amenity area. There are no adjacent external circulation systems to which it can connect.
b. Secure parking facilities for bicycles that are located in well-traveled, visible, and lighted locations that do not impede pedestrian movement.	Each subdivision unit will have a garage where bicycle storage will occur (the UDC has no bicycle storage requirement for single-family developments). This policy appears to be intended for multi-family and commercial projects.
c. Landscaping with canopy trees in parking areas and along pedestrian pathways to decrease heat absorption and provide shade.	The Subdivision provides canopy trees in parking areas, along pedestrian pathways and in common amenity areas.
Policy 6: Enhance the visual appearance of channelized or bank protected drainageways in new development. (p. 27)	N/A, as there are no channeled drainageways.
Policy 7: Limit grading of development parcels to within four months of actual construction to protect wildlife habitats and to preclude the premature grading of parcels that may cause	The Subdivision will begin construction upon issuance of permits.

Exhibit A – Mountain View Subdivision

Plan Conformance Matrix

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NAP Policy Guidance	Subdivision Conformance
excessive rainwater run-off from sealed soil conditions. (p. 27)	
Policy 8: Provide for mature vegetation in landscaping. (p. 27)	See below.
a. When site conditions permit, preserve or relocate trees that have a caliper of 4 inches or greater and mature native vegetation such as saguaro, ocotillo, and barrel cacti.	N/A. The Subdivision does not require the relocation of existing trees.
b. When site conditions do not allow such preservation or relocation, replace with trees or mature native vegetation of comparable size and density.	The Subdivision will landscape with new tree and plant varieties on the City’s approved plant list and pursuant to the City’s approved Landscape Plan.
Policy 9: Employ defensible space concepts in new developments. (p. 27-28)	See below.
a. Utilize curbs and sidewalks to define public, semi-public, and private areas.	The Subdivision will be developed with curbs and sidewalks pursuant to the UDC and this policy.
b. Utilize screening which allows visibility and surveillance of the project and/or which creates an effective barrier around the property.	The Site will be screened with a masonry wall that will be an effective barrier around the Site.
c. Utilize plant material in areas adjacent to doors and windows. Plants should be of such height (e.g. less than 30 inches or with a greater than six-foot canopy) to retain visibility of building openings from the street or from other properties. Where possible, thorny or spiny plant material should be utilized.	The Subdivision will use plant materials and placement pursuant to the approved Landscape Plan.
d. Define areas of influence through the use of design elements, such as walls, fences, changes in level or grade, lights, entryway design, or change in paving texture.	The Subdivision is designed with walls, sidewalks, lights and entryway/common area design that will create a safe environment for all residents.
e. Locate building entryways so that they are visible from other buildings.	The Subdivision is designed so that all front and garage entrances are visible from other buildings.
f. Allow residents to view through entry into the corridor that serves them.	The Subdivision is designed so that all front and garage entrances are visible from other buildings.
g. Provide lighting at doorways and windows.	The Subdivision will provide lighting at doors and windows as appropriate for single-family residential.

II. Plan Tucson Land-use Element Policies and Guidelines

Plan Tucson Policy Guidance	Subdivision Conformance
<p>LT3-Support development opportunities where: a. residential, commercial, employment, and recreational uses are located or could be located and integrated b. there is close proximity to transit c. multi-modal transportation choices exist or can be accommodated d. there is potential to develop moderate to higher density development e. existing or upgraded public facilities and infrastructure provide required levels of service f. parking management and pricing can encourage the use of transit, bicycling, and walking. (p. 3.148)</p>	<p>The Subdivision overall meets the development types Plan Tucson recommends should be supported:</p> <p>Residential: The Subdivision is in an urban area of Tucson, within close proximity to numerous commercial, employment and entertainment activity centers. This infill development will add 76 individually owned residential units that can easily access and enhance these activity centers.</p> <p>Transit: The Subdivision is within ½ mile of three SunTran bus stops that connect to three different service lines: Line 17 on Prince; Line 6 on 1st Ave.; and Line 34 on Ft. Lowell. Two of these lines directly serve the Tohono Tadaí Transit Center that provides broader access to the SunTran system.</p> <p>Multi-Modal Transportation: Because of its location, Subdivision residents will have multiple transportation options to reach the nearby activity centers, including bicycle, walking, and three SunTran bus lines in addition to vehicles.</p> <p>Moderate Density: This development’s 12 RAC falls within the Plan’s definition of moderate density and therefore meets this policy guidance.</p>
<p>LT28.2.2 - Medium-density (between 6 and 14 units per acre) residential, with greater densities possible in conformance with the FLD provision. Medium-density residential development is generally appropriate where primary vehicular access is provided to an arterial or collector street and is directed away from the interior of low-density residential areas. In areas already predominately zoned R-2 additional medium-density residential may be appropriate. (p. 3.154)</p>	<p>While the NAP suggests that the “generally appropriate” locations for low and medium density residential development should be along local and arterial streets, this Plan Tucson policy states that in “areas already predominantly zoned R-2 additional medium-density residential may be appropriate.” The Subdivision and surrounding MVN area is R-2 zoned, thus making it appropriate for medium density residential development.</p>
<p>LT28.2.13 - Support infill and redevelopment projects that reflect sensitivity to site and neighborhood conditions and adhere to</p>	<p>Rio West has put great effort into ensuring the Subdivision design is sensitive to the existing land uses and adjacent neighborhood conditions. While there are no NAP design or architectural</p>

Exhibit A – Mountain View Subdivision

Plan Conformance Matrix

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Plan Tucson Policy Guidance	Subdivision Conformance
relevant site and architectural design guidelines. (p. 3.155)	guidelines, the Subdivision has created an Architectural Plan that details nine house designs available in the Subdivision and commits that home styles will vary throughout the site. The Subdivision also has a Privacy Plan that provides numerous commitments that will benefit adjacent properties, including a masonry screen wall, restriction on balconies and clear-windows on second stories next to existing residential, bulk reduction and roof variation requirements.
LT28.2.14 - Protect established residential neighborhoods by supporting compatible development, which may include other residential, mixed-use infill and appropriate nonresidential uses. (p. 3.155)	The Subdivision will add 76 new, individually owned homes into MVN, which will enhance the ownership rates in the area. This housing product fits within the density ranges currently in the area around the Site. The Subdivisions addition of new, quality housing for the owner-occupied market is appropriate residential infill development in this area. In addition, the influx of new homes into this established neighborhood will provide housing variety and bolster property values. New home ownership will ensure that this neighborhood stays primarily owner-occupied for decades to come. As a result, the Subdivision will protect the established neighborhood and meets this policy guideline.
LT28.2.15 - Consider residential development with densities that complement the size and intensity of the center or node, while providing transitions to lower density residential uses. For example, high-and medium-density development can support and reinvigorate regional activity centers, while appropriate medium- and low-density infill can complement the scale and character of neighborhood activity nodes. (p. 3.155)	The Subdivision’s housing product fits within the density ranges currently in the area around the Site. By adding 76 new residential homes, the development will complement the neighborhoods existing mix of unit densities. This density is also appropriate as it is close to Prince Rd. and 1 st Ave., which are busy and developing commercial streets. Therefore, the Subdivision meets this policy goal.