



**PLANNING DIVISION  
STAFF REPORT**

**Board of Adjustment**

**August 2, 2023**

CASE No.: <b>BOA23-00468</b>	CASE NAME: Legacy PAD (2002) Minor Modification
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Owner's Name:	VIP Custom Homes LLC
Applicant's Name:	Kurt Waldier on behalf of Beus Gilbert McGroder PLLC
Location of Request:	3264 East Hope Circle. Located west of Val Vista Drive and south of McLellan Road.
Parcel No:	141-13-252
Nature of Request:	Requesting a minor modification of the approved Legacy Planned Area Development (PAD) to amend the 30-foot front setback.
Zone District:	Single-Family Residence-35 with a Planned Area Development (PAD) overlay.
Council District:	1
Site size:	1± acres
Existing use:	Single Residence-35
Hearing date(s):	<b>August 5, 2023 / 5:30 p.m.</b>
Staff Planner:	Sergio Solis, Planner I
Staff Recommendation:	APPROVAL with Conditions

**HISTORY**

On **September 24, 1979**, the City Council annexed 2,225± acres, including the subject site, into the City of Mesa (Ordinance No. 1277).

On **February 18, 1980**, the City Council established zoning of 821± acres recently annexed, including the subject site, from Maricopa County Rural-43, R1-35 and R1-35-SU to City of Mesa Agriculture (AG), Semi-Rural (SR) and Single-Residence-35 (R1-35) (Ordinance 1313; Case No. Z80-018).

On **April 1, 2002**, the City Council approved a rezone of 45± acres, including the subject site, from AG to R1-35 PAD for the development of a 44-lot custom home subdivision (Ordinance 3976; Case No. Z02-003).

## PROJECT DESCRIPTION

### **Background:**

The applicant is requesting a minor modification of the approved Legacy Planned Area Development (PAD) to amend the 30-foot front setback. The minor modification would allow side-entry garages to have a front setback of 28 feet.

In 2002, the Board of Adjustment approved a PAD for the 44-lot custom home subdivision of which the subject site is a part. The PAD included development standards for minimum lot width, minimum lot depth, minimum distance between building on adjacent lots, maximum height, maximum roof area, and minimum setbacks. While the custom homes in the subdivision comply with the PAD development standards, the home currently under construction on Lot 44 was misplaced on the site, resulting in the southeast corner of the side-entry garage to encroach on the 30-foot front setback by just one foot three inches.

The requested modification to the existing PAD includes adding one (1) new development standard to allow side-entry garages to be located at 28 feet allowing the constructed side-entry garage at Lot 44 to remain.

Table 1 compares the development standards for Residential Single Dwelling Districts per Section 11-5-3 of the Mesa Zoning Ordinance (MZO) standards, the approved PAD standards, and the proposed minor PAD modifications.

**Table 1: Development Standards - RS Residential Single Dwelling Districts**

<b>Development Standards</b>	<b>MZO</b>	<b>Approved PAD</b>	<b>Proposed CSP</b>	<b>Staff Recommendation</b>
Table 11-5-3.A.1: Development Standards – RS Residential Single Dwelling Districts	30-foot minimum front and side setback (Garages and Carports)	30-foot front minimum setback	New development standard: 28-foot front side-entry garage setback	As proposed

### **General Plan Character Area Designation and Goals:**

The Mesa 2040 General Plan Character Area designation on the property is Neighborhood. Per Chapter 7 of the General Plan, the primary focus of the Neighborhood Character Area is to provide safe places for people to live where they can feel secure and enjoy their surrounding community. The design, development, and maintenance of neighborhoods focuses on ensuring clean, safe, and healthy areas where people want to live and maintain their investments. The existing custom home subdivision planned area development and proposed minor modification comply with the General Plan and the intent of the character area.

**Site Characteristics:**

The subject property is addressed 3264 East Hope Circle and was approved as part of a larger 45± acre custom home subdivision. At this time, the applicant is requesting one modification to the required front setback to avoid demolition of the side-entry garage built in the required front yard. The construction encroached 1-foot and 3 inches; all other development standards are currently being met.

**Surrounding Zoning Designations and Existing Use Activity:**

<b>Northwest</b> RS-35 (Across McLellan Road) Single Residence	<b>North</b> RS-35 (Across McLellan Road) Single Residence	<b>Northeast</b> RS-7 PAD (Across McLellan Road) Single Residence
<b>West</b> RS-5 PAD Single Residence	<b>Subject Property</b> RS-5 PAD Single Residence	<b>East</b> RS-5 PAD Single Residence
<b>Southwest</b> RS-15 Single Residence	<b>South</b> RS-5 PAD Single Residence	<b>Southeast</b> RS-5 PAD Single Residence

**Mesa Zoning Ordinance Requirements and Regulations:**

Per Section 11-22-5(E) of the MZO, Conformance with Approved Plan – Modification after Initial Construction: When a project has been completed, the use of the land and the construction, modification, or alteration of any buildings or structures within the development is required to remain in conformance with the approved development plan except that any minor extension, alteration, or modification of an existing building or structure may be reviewed and approved by the Board of Adjustment, if the request is found to be consistent with the purpose and intent of the approved development plan.

The purpose and intent of a PAD Overlay District is to allow for innovative design and flexibility in the application of MZO development standards to provide creative, high-quality development. The Legacy PAD includes a variety of custom home types that are designed around a variety of recreational amenities that create a unique and sustainable development catering to the community. Allowing the minor modification to the minimum front setback will not be detrimental or injurious to the Legacy community or to the surrounding City of Mesa residences.

**Findings:**

- A. The approved Legacy PAD development standards limit the minimum front setback to 30 feet.
- B. Allowing the proposed 28-foot front setback for side-entry garages will help avoid unnecessary demolition of the misplaced side-entry garage built on Lot 44.
- C. The request is consistent with the purpose and intent of the Legacy PAD approved development plans.

**Neighborhood Participation and Public Comments:**

The applicant mailed the required notification letters to all property owners within 150 feet of the site. As of writing this report, staff has not been contacted by any resident or property owner to express support or opposition to this request.

**Staff Recommendation:**

Based upon the application received and preceding analysis, Staff finds that the requested minor modification to the approved Legacy Planned Area Development (PAD) to allow a 28-foot front setback for side-entry garages meets the modification criteria of 11-22-5(E) of the MZO, and therefore staff recommends approval with the following conditions:

**Conditions of Approval:**

1. Compliance with the Legacy PAD, as approved by Z02-003, and subsequent modifications, as modified by this request.
2. Compliance with all applicable City of Mesa Development Codes and regulations.
3. Compliance with all requirements of the Development Services Department regarding the issuance of building permits.

**Exhibits:**

Exhibit 1 – Vicinity Map

Exhibit 2 – Staff Report

Exhibit 3 – Narrative and Justification Statement

Exhibit 4 – Site Plan

Exhibit 5 – Elevations