

## MINUTES OF THE MARCH 24, 2021 PLANNING & ZONING MEETING

- \*4-c ZON20-00877 District 1.** Within the 2400 block of North Old Gilbert Road (east side) and within the 2000 block of East Hermosa Vista Drive (north side). Located south of the 202 Red Mountain Freeway and east of Gilbert Road. (4.55± acres). Rezoning from RS-35 to RS-15-BIZ. This request will allow for the development of a single residence subdivision. Jared Cox, Vist Design Group, LLC, applicant; Brent /Deborah Berge, owner. **(Companion case to Preliminary Plat “Los Nietos Residential Subdivision”, associated with item \*5-a) Continued from March 10, 2021**

**Planner:** Jennifer Gniffke

**Staff Recommendation:** Approval with conditions

**Summary:** Staffmember Jennifer Gniffke presented case ZON20-00877 to the Board. It is located south of the 202 Red Mountain Freeway east of Gilbert Road. The General Plan Land Use Designation is Neighborhood Suburban which is primarily for single residence and includes use for schools, parks, churches, etc. This request is to Rezone from RS-35 to RS-15-BIZ as well as approval of a preliminary plat for Los Nietos Residential Subdivision for a six-lot residential subdivision. The intent of the single residential zone district is to provide areas for detached single residence housing.

The amenity area on the property includes tennis and basketball courts, covered patio and play areas. There is a perimeter wall around the subdivision which is eight feet in height and is designed to be of superior quality. The Bonus Intensity Zone Overlay is requested to allow for some variations to the residential zoning requirements which are listed in the staff report.

In summary, the request complies with the Mesa 2040 General Plan and complies with the requirements for a BIZ Overlay per section 11-21 of the Mesa Zoning Ordinance. Staff recommendation is approval with conditions.

Staffmember Rebecca Gorton stated staff received one comment card from Gregory Scaven at 2037 E. Hermosa Vista. Mr. Scaven stated “While I support the proposed rezoning, it’s important to discuss the related easements to the planned subdivision. We need to keep as much of the existing citrus trees as possible. And this will require a relocation agreement between SRP and the city of Mesa. Without the relocation agreement, this will impact both me as well as my neighbors who are directly south of the proposed development.”

Mr. Gregory Scaven, 2037 E. Hermosa Vista Drive, stated he has lived in Mesa at this address for 29 years. He purchased this property because of its location and proximity to the citrus groves. When he first learned of plans to develop the groves, which are immediately north of his property he expressed some concerns. There has been great transparency by the applicant Jared Cox and the property owners about their intention to develop the property. Mr. Scaven stated as part of his concerns, and discussions with the property owner, the owner is willing to entertain a provision in their CC and R’s that is consistent with everything in the surrounding community, which includes maintaining a minimum of five citrus trees per lot. Mr. Scaven stated one of the challenges though has to do with the related easements for both the City of Mesa and SRP for this particular property. And right now, he believes that the property owner has petitioned for a relocation agreement that will allow for five-foot overlap of the City of Mesa easement along with the SRP easement. The only way to keep as many citrus trees as possible to the most southern boundary of the walled-in locations the proposed subdivision will is to

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obtain an agreement approved. Otherwise, if the relocation agreement is not approved, that moves the wall five feet further to the north and SRP will not allow for any location of trees in this area. It would force the property owner to take out an entire row of citrus trees. Mr. Scaven asked for the approval to include conditions that an easement agreement be completed between SRP and the City of Mesa to agree to the five-foot overlap in the related easements to maintain the row of citrus trees.

Chair Astle stated he thinks one of the challenges here is the inability to dictate how SRP can move forward with the easements as that is somewhat of a crucial utility for the neighborhood and this site. Mr. Astle opened the time for the applicant to respond.

Applicant Dennis Porter and Jared Cox, with the Vist Design Group, 2715 E. Hermosa Vista Drive, responded to the resident comments. Mr. Cox stated Mr. Scaven is correct and that they are working with SRP and the City of Mesa to create a five-foot overlap of the SRP easement. If the overlap is approved, then we are able to place our wall in front of the row of existing citrus trees. If that overlap is not approved, then we do have to push our wall five more feet into our subdivision and that lines up directly with the existing row of trees. We are endeavoring to save that row of citrus trees. He stated SRP is in favor of the overlap and we have not heard back officially from the City of Mesa Real Estate Department if they are going to allow this request.

Chair Astle asked if staff had any comments on how to address this moving forward. Principal Planner, Tom Ellsworth stated, as it relates to this easement, in this situation you would be conditioning the approval of the relocation of an easement to meet a Code requirement. In this instance, the preservation of those trees is not a requirement of the Code and it is not within the Citrus Sub Area. The applicant is still working it out with the City Real Estate Division and will then be worked out through the Planning process.

Chair Astle stated this one is hard for him. He stated he has confidence in the developer and based on how the applicant is working with the resident, he feels we could at least expect that it will continue to work out. Boardmember Boyle stated he feels the same way as the Chair and thinks the existing plans that they have to work with is adequate. Mr. Boyle does not feel they need additional stipulations, which would be hard to manage in the future.

Boardmember Allen stated her only concern or question is that the five feet difference that would move the property line and the desire to save the trees. Ms. Allen stated her concern is legally it will change the dimensions of the lot if she understands this correctly. The applicant, Mr. Cox responded it would not change the dimension of the lot. It would only affect the PUE, and the lot size would remain the same. The change would be whether there is a PUE or public utilities which would be a three-foot PUE.

Planning Director Nana Appiah stated the easement agreement is outside the purview of this review. He stated staff will work with Real Estate and the applicant to make sure the issue is resolved and followed.

Boardmember Allen motioned to approve case ZON20-00877 and associated preliminary plat "Los Nietos Residential Subdivision" with conditions of approval. The motion was seconded by Boardmember Villanueva-Saucedo.

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**That: The Board recommends the approval of case ZON20-00877 conditioned upon:**

1. Compliance with the preliminary plat submitted.
2. Compliance with the landscape plan submitted.
3. Compliance with all City development codes and regulations, except the modifications to the development standards as approved with this BIZ and shown on the following table:

<b>MZO Development Standards</b>	<b>Approved</b>
<u>Minimum Lot Width</u> – <i>MZO Table 11-5-3.A.1</i>	<b>61.45’ for Lots 3 &amp; 4:</b>
<u>Minimum Front Setback</u> – <i>MZO Table 11-5-3.A.1</i>	<b>5’ for Tract A</b>
<u>Minimum Side Setbacks</u> – <i>MZO Table 11-5-3.A.1</i>	<b>Minimum side setback of 10’ for lots 3 and 4 adjacent to the central amenity.</b>
<u>Minimum Rear Setbacks</u> – <i>MZO Table 11-5-3.A.1</i>	<b>10’ Rear setback for the east property line of lots 3 &amp; 4</b>
<u>Maximum Wall Height</u> – <i>MZO Section 11-30- 4(A)(1)(b)</i>	<b>8’</b>
<u>Retention Basin Design</u> – <i>Basin Layout MZO Section 11-33-6(B)</i>	<b>Basin edges match the shape of the tennis court and adjacent gathering area (Exhibit 3.3)</b>
<u>Retention Basin Design</u> – <i>Retaining Walls MZO Section 11-33-6(D)</i>	<b>Retaining walls shall not exceed 70% of basin perimeter, measured at the high waterline. The maximum height is 36” (Exhibit 3.3)</b>

4. Compliance with all requirements of the Subdivision Regulations.
5. Dedicate the right-of-way and easements required under the Mesa City Code at the time of application for a building permit, at the time of recordation of the subdivision plat, or at the time of the City's request for dedication, whichever comes first.

Vote: 7-0 Approval with conditions

Upon tabulation of vote, it showed:

AYES – Sarkissian, Boyle, Allen, Crockett, Villanueva-Saucedo and Ayers

NAYS – None

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**Note:** Audio recordings of the Planning & Zoning Board Meetings are available in the Planning Division Office for review. They are also “live broadcasted” through the City of Mesa’s website at [www.mesaaz.gov](http://www.mesaaz.gov)

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