



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE:

July 19, 2017

DEPARTMENT:

Community Development

DIVISION:

Community Planning

- ☒ Motion
- ☐ Resolution
- ☐ Ordinance - Introduction
- ☐ Ordinance - Adoption
- ☐ Public Hearing

TITLE:

Final Plat: Desert Sky Unit No. 1 Subdivision

SUMMARY RECOMMENDATION:

Approve the final plat for Desert Sky Unit No. 1 Subdivision. The property is located at the northwest corner of Avenue 7½ E and 40th Street, Yuma, AZ. The applicant is Dahl, Robins, and Associates, Inc., on behalf of Smoketree Desert Land Company LLC. (SUBD-17955-2017)

REPORT:

On June 26, 2017 the Planning and Zoning Commission voted to recommend **APPROVAL** of the final plat for Desert Sky Unit No. 1 Subdivision, subject to the following conditions:

1. The conditions listed below are in addition to City codes, rules, fees and regulations that are applicable to this action.
2. The Owner shall submit to the City of Yuma, for recordation, a signed and notarized "Waiver of Claims under the Private Property Rights Protection Act." The Waiver shall be submitted within thirty (30) calendar days of the effective date of approval of the subdivision final plat and prior to the issuance of any building permit. In the event this condition is not completed within this time frame, the approval of the plat is null and void.
3. The rights-of-way must be dedicated free and clear to the City, and all easements in the right-of-way must be vacated unless the easement is specifically presented to the City, and the City specifically approves its acceptance. Approval of the plat is not approval of an easement in the right-of-way.
4. Any easements on other property in the subdivision must be vacated to the extent that they would require a utility, licensed cable operator, or other licensed or franchised communications system (collectively, the "utilities") to:
 - a) pay to cross the easement to reach any structure on the lot;
 - b) prevent the utilities from providing service to any structure on a lot; or
 - c) effectively prevent any entity authorized to place facilities in a utility easement from using

the easements or accessing potential customers passed by the easement.

5. Approval of the plat does not authorize the maintenance or installation of any facility in the rights of way, whether or not contemplated by the plat, without a license, franchise, or similar authorization issued by the City.
6. The Developer shall provide a deposit for the cost of installing landscaping and irrigation on Avenue 7 ½ E and 40th Street to be installed by the City when the adjacent parcel on the east side of Avenue 7 ½ E develops or when 50 percent plus one of the property owners in the development request the installation. The City will install the landscaping and irrigation along 40th Street once the property on the south side of 40th Street develops or when 50 percent plus one of the property owners in the development request the installation. The developer shall provide landscaping and irrigation design plans per City Code.

To meet the obligations of City Zoning Code Section 154-14.07 (the required homeowner's association) the Developer can incorporate the maintenance of the areas along the north side of 40th Street and the west side of Avenue 7 ½ E into the required homeowner's association as an alternative to the formation of a Maintenance Improvement District; or

Provided that City Council approves the formation of a Maintenance Improvement District, the Maintenance Improvement District could incorporate the maintenance duties of the homeowner's association in a manner consistent with Arizona Revised Statutes as a replacement or alternative to the perpetual maintenance duties of the homeowner's association.

7. The Developer shall execute any required petitions and other documentation necessary for the formation of the Maintenance Improvement District. Prior to the conveyance or other transfer of any portion of the property to a third party, Developer shall, at Developer's cost, provide the City the necessary surveys, engineering work, and dedication of the required maintenance easements to the City. Any such District shall include the entirety of the property within its boundaries and extend to the centerline of 40th Street and Avenue 7 ½ E. The requirements of this Condition are to be completed prior to recordation of the final plat.
8. A time frame for the build out of the subdivision shall be submitted to the Yuma Elementary School District One to enable the district to adequately plan for future school facilities.
9. An 8 ½" X 11" paper copy of this phase of the subdivision plat, showing the location of the group mailboxes and signed as APPROVED by the local Yuma Postmaster, shall be submitted to the City within sixty (60) calendar days of the effective date of approval of the subdivision final plat and prior to the issuance of any building permit. In the event this condition is not completed within this time frame, the approval of the plat is null and void.
10. The Owner/Developer shall meet all conditions of approval for the preliminary plat of this subdivision.
11. After the final plat has been approved by City Council, the applicant/developer shall have one year to record the approved plat, or the final plat approval shall be null and void.

PUBLIC COMMENTS - EXCERPT FROM PLANNING AND ZONING COMMISSION MEETING MINUTES:

Robert Blevins, Principal Planner, summarized the staff report recommending **APPROVAL**.

QUESTIONS FOR STAFF

Chris Hamel – Chairman, Planning and Zoning Commission, asked for clarification on what the homeowner's association would be responsible for. **Blevins** explained the homeowner's association would be responsible for the proposed interior landscaping, walking paths, park benches, lighting on the perimeters, and the combination playground.

Hamel asked for clarification on the Maintenance Improvement District. **Rodney Short, Assistant City Attorney**, explained the Maintenance Improvement District was statutory and was typically used when the homeowner's association failed. He added if City Council approves the formation of a Maintenance Improvement District, the Maintenance Improvement District could incorporate the maintenance duties of the homeowners association in a manner consistent with Arizona Revised Statutes as a replacement or alternative to the maintenance duties of the homeowners association. **Hamel** asked if the Maintenance Improvement District was on the home owner's tax bill. **Blevins** said yes. **Blevins** added that the Developer was not opposed to the Maintenance Improvement District or homeowner's association, but was opposed to installing landscaping along Avenue 7 ½ E and 40th Street.

Hamel asked if Condition of Approval #6 would be amended.

Laurie Lineberry, Director of Community Development, said yes and read the proposed amended Condition of Approval: *"The Developer shall provide a deposit for the cost of installing landscaping and irrigation on Avenue 7 ½ E and 40th Street to be installed by the City when the adjacent parcel on the east side of Avenue 7 ½ E develops or when 50 percent plus one of the property owners in the development request the installation. The City will install the landscaping and irrigation along 40th Street once the property on the south side of 40th Street develops or when 50 percent plus one of the property owners in the development request the installation. The Developer shall provide landscaping and irrigation design plans per City Code."*

Short added the second and third paragraph of Condition of Approval #6 would become effective once the landscaping has been installed.

Hamel asked if the applicant was in agreement with the amended Condition of Approval.

APPLICANT / APPLICANT'S REPRESENTATIVE

Kevin Dahl, 1560 S. 5th Avenue, Yuma, AZ, was in agreement with the amended Condition of Approval.

PUBLIC COMMENT

None

MOTION

Motion by Tyrone Jones – Planning and Zoning Commissioner, second by Lukas Abplanalp – Planning and Zoning Commissioner, to APPROVE Case Number SUBD-17955-2017, subject to the Conditions of Approval shown in attachment A, including the amendment to Condition of Approval #6. Motion carried unanimously (4-0).

PLANNING COMMISSION STAFF REPORT - ATTACHED

FISCAL REQUIREMENTS	CITY FUNDS:	\$0.00	BUDGETED:	\$0.00
	STATE FUNDS:	\$0.00	AVAILABLE TO TRANSFER:	\$0.00
	FEDERAL FUNDS:	\$0.00	IN CONTINGENCY:	\$0.00
	OTHER SOURCES:	\$0.00 \$0.00 \$0.00	FUNDING FOR THIS ITEM IS FOUND IN THE FOLLOWING ACCOUNT / FUND / CIP:	
	TOTAL:	\$0.00		
	FISCAL IMPACT STATEMENT:			
ADDITIONAL INFORMATION	SUPPORTING INFORMATION NOT ATTACHED TO THE CITY COUNCIL ACTION FORM THAT IS ON FILE IN THE OFFICE OF THE CITY CLERK: 1. 2. 3. 4. 5.			
	IF CITY COUNCIL ACTION INCLUDES A CONTRACT, LEASE OR AGREEMENT, WHO WILL BE RESPONSIBLE FOR ROUTING THE DOCUMENT FOR SIGNATURE AFTER CITY COUNCIL APPROVAL? <input type="radio"/> Department <input type="radio"/> City Clerk's Office <input type="checkbox"/> Document to be recorded			
SIGNATURES	CITY ADMINISTRATOR:		DATE:	
	Gregory K. Wilkinson		7/11/2017	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files		7/10/2017	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Laurie Lineberry		6/28/2017		
WRITTEN/SUBMITTED BY:		DATE:		
Robert M. Blevins		6/28/2017		