



REQUEST FOR CITY COUNCIL ACTION

MEETING DATE:

May 2, 2018

DEPARTMENT:

Community Development

DIVISION:

Community Planner

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

TITLE:

Final Plat: Saguaro Unit No. 3 Subdivision

SUMMARY RECOMMENDATION:

Approve the final plat of the Saguaro Unit No. 3 Subdivision. The property is located at the northwest corner of S. Avenue 8E and E. 44th Street, Yuma, AZ. (Community Development/Community Planning) (Laurie Lineberry)

REPORT:

Clerk Note: This item was continued from the April 18, 2018 Regular City Council Meeting.

The subject property was annexed into the City of Yuma on January 2, 1998. Since the annexation, the property has been subject to a general plan amendment, rezone, and preliminary subdivision review with the intention of developing the site for single-family development. This final plat request is the third phase of the Saguaro Subdivision and will consist of 136 residential lots.

The subject property consists of approximately 29 acres with frontage along S. Avenue 8E and E. 44th Street. This phase of development is slated to feature residential lots ranging in size from 6,234 square feet 9,923 square feet. Further specified in City Code §154-05.04, the following are some of the development standards required of a development with the Low Density Residential (R-1-6) District:

1. The minimum lot size for the district shall be 6,000 square feet;
2. The minimum lot width shall be fifty feet;
3. The maximum lot coverage shall be 35% of the lot area. The first 600 square feet of covered parking shall be permitted in addition to the maximum lot coverage percentage;
4. A minimum front yard setback of twenty feet;
5. A minimum side yard setback of seven feet;
6. A minimum street side setback of ten feet;
7. A minimum rear yard setback of ten feet; and

8. A minimum of two paved parking spaces shall be provided for each single-family dwelling.

With this phase of development, as well as the fourth phase, Staff will be requiring that a Municipal Improvement District (MID) be established for the maintenance of required subdivision landscaping. The MID for each phase, three and four, will need to be established prior to the issuance of any residential building permits. The developer has been permitted to delay the installation of subdivision landscaping for phases one and two until the recording of the fourth phase; at which time a three year landscaping maintenance deposit will be assessed for the phases of one and two.

On March 26, 2018, the Planning and Zoning Commission voted to recommend APPROVAL (3-1, with Hamel absent) of the final plat for the Saguaro Unit No. 3 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 prior to the recordation of the Final Plat and prior to the issuance of any building permit (including model home permits) for this property.
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. Owner/Developer shall maintain a minimum of 10% of the subdivision infrastructure construction cost as assurance through the one-year subdivision warranty period.~~
- ~~7.~~ 6. The Owner/Developer shall be required to establish a Municipal Improvement District (MID) prior to the recording of the final plat.
- ~~8.~~ 7. The Owner/Developer shall comply with all of the conditions of approval for the Saguaro Preliminary Plat Subdivision Case (SUBD-3879-2013).
- ~~9.~~ 8. A time frame of build-out for the subdivision shall be submitted to the Yuma School District to enable the districts to adequately plan for future school facilities.
- ~~10.~~ 9. 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 – EXCERPTS FROM PLANNING AND ZONING COMMISSION MEETING MINUTES:

QUESTIONS FOR STAFF:

“Tyrone Jones – Planning and Zoning Commissioner asked who maintained 10% of the subdivision infrastructure construction cost.

“Andrew McGarvie – Development Engineering Manager explained the cost could be held in a trust, bond, or cash.

“Jones asked for clarification on what the cost was used for.

“McGarvie explained that there has been issues with this developer completing the one-year warranty punch list and getting work completed. Therefore, the City was requesting 10% of the subdivision infrastructure construction cost to be held until the one-year warranty list was completed and accepted by the City Engineer. He added that Arizona Revised Statute 9-463.01 Section C8 required posting of assurance for construction of infrastructure for new developments. The Yuma City Code Section 153-51 required the developer to construct the infrastructure or post assurances.

“McGarvie explained the intention of Condition 6 was to prevent the public from funding the infrastructure repairs.

“Jones asked if the City has requested 10% of the subdivision infrastructure construction cost from other developers.

“McGarvie said no.

“Jones asked if there have been issues with this developer.

“McGarvie said yes. He commented that warranty letters have been sent to this developer and the City has not received a response.

“McGarvie added one letter sent to the developer had 69 issues and another letter had 21 issues.

“Gregory Counts – Planning and Zoning Commissioner asked if there have been issues with other developers not responding to warranty letters.

“McGarvie said no.

“Tiffany Ott – Planning and Zoning Commissioner asked for clarification on what the developer was not completing.

“McGarvie said the developer was not repairing cracks, handicap ramps, sidewalk cracks, and gutter cracks.

“Counts asked for clarification on when the one-year warranty time frame started.

“McGarvie said the one-year warranty started once the City Engineer has written a Letter of Acceptance.

“Jones asked if the request for 10% of the subdivision infrastructure construction cost would be imposed on every developer and questioned if this request was discriminatory.

“Rodney Short – Deputy City Attorney said the goal was to have the guarantee in case there was a discrepancy.

APPLICANT/APPLICANT’S REPRESENTATIVE:

“John Weil, 3064 S. Avenue B, Yuma, AZ, spoke extensively of an existing dispute regarding Park West between the City and the Developer.

“Weil said the issues began when there was a change to the construction standards, primarily for sidewalks.

“Weil explained the developer entered a Pre-Annexation Agreement and it had a specific provision for the workmanship standards. He said the sidewalks at Park West were built to the standards the developer agreed to.

“Weil explained the sidewalks at Park West had a thorough inspection and were accepted by the City Engineer. He added the same sidewalks that were accepted by the City Engineer began to fail and the City was requiring near perfect sidewalks.

“Weil said that the developer has responded to the City and said the standards for the sidewalks at Park West could not be changed.

“Weil stated the City cannot retaliate against the developer because of a dispute from another subdivision.

“Weil was requesting the City to apply the standard procedure and not create a precedent that would increase the cost of housing with the substantial change. He explained the overall public improvements at Saguaro would cost \$2.5 million, and the City Engineer was requesting \$250,000 for 136 homes, which was approximately \$1,700 per home.

“Weil commented if this developer was required to provide 10% of the subdivision infrastructure construction cost, all other developers should also be required to provide 10%.

“Jones asked for clarification on when the \$250,000 would need to be provided.

“McGarvie said it would need to be provided when the plat was recorded.

“Commissioner Ott asked if the City has received complaints from Park West homeowners.

“McGarvie said yes and stated homeowners have complained about the sidewalks.

“Weil said he was unaware of homeowner complaints.

“McGarvie recommended postponing this request to allow the developer and staff to reach an agreement.

“Weil said he was opposed to postponing this request and added that the applicant would not agree with Condition 6.

“Counts asked if the Park West development was having issues because Engineering standards have changed.

“Weil said yes.

“McGarvie said inspection requirements during the infrastructure inspection and warranty periods have remained the same.

PUBLIC COMMENTS:

None

MOTION:

“Motion by Fred Dammeyer – Planning and Zoning Commissioner to APPROVE Case Number SUBD-20973-2018, motion lacked a second.

“Motion by Jones, second by Ott, to APPROVE Case Number SUBD-20973-2018 with the exception of striking Condition of Approval #6.

“Motion carried (3-1) with Dammeyer voting Nay and Chris Hamel – Planning and Zoning Commissioner absent.’

PLANNING COMMISSION STAFF REPORT – ATTACHED

The City Council’s approval of this motion accepts the Planning and Zoning Commission’s recommendation and approves the final plat of the Saguaro Unit No. 3 Subdivision as submitted, including the conditions of approval set forth in the final plat, the preliminary plat and the applicable rezone.

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.			
ADDITIONAL INFORMATION	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		4/10/2018	
	REVIEWED BY CITY ATTORNEY:		DATE:	
	Richard W. Files		4/9/2018	
	RECOMMENDED BY (DEPT/DIV HEAD):		DATE:	
Laurie L. Lineberry		3/30/2018		
WRITTEN/SUBMITTED BY:		DATE:		
Alyssa Linville		3/30/2018		