

**TOWN OF GILBERT
PLANNING COMMISSION REGULAR MEETING
GILBERT MUNICIPAL CENTER, 50 E. CIVIC CENTER DRIVE, GILBERT ARIZONA
MAY 7, 2014**

COMMISSION PRESENT:

**Chairman Jennifer Wittmann
Vice Chairman Joshua Oehler
Commissioner Brigitte Peterson
Commissioner David Blaser
Commissioner Carl Bloomfield
Commissioner Kristofer Sippel
Commissioner David Cavenee
Alternate Khyll Powell**

COMMISSION ABSENT:

None

STAFF PRESENT:

**Planning Services Manager Linda Edwards
Principal Planner Catherine Lorbeer
Senior Planner Maria Cadavid
Planner Amy Temes
Planner Curtis Neal
Planner Nathan Williams**

ALSO PRESENT:

**Town Attorney Michael Hamblin
Town Attorney Jack Vincent
Town Council Member Jenn Daniels
Recorder Margo Fry**

PLANNER	CASE	PAGE	VOTE
MARIA CADAVID	UP14-03	2	APPROVED
MARIA CADAVID	Z14-09	2	APPROVED
MARIA CADAVID	S14-04	2	APPROVED
AMY TEMES	Z14-12	4	APPROVED
CATHERINE LORBEER	Z13-11	9	TABLED

CALL TO ORDER:

Chairman Wittmann called the meeting to order at 6:10 p.m.

ROLL CALL

Ms. Fry called roll and a quorum was determined to be present.

APPROVAL OF AGENDA

Planning Commission
Regular Meeting 5-7-14

Chairman Wittmann asked if there was a motion to approve the Consent Agenda.

A motion was made by Vice Chairman Joshua Oehler and seconded by Commissioner Kristofer Sippel to approve the Consent Agenda.

Motion carried 7– 0

COMMUNICATIONS FROM CITIZENS

At this time members of the public can comment on items not on the agenda. The Commission’s response is limited to responding to criticism, asking staff to review a matter commented upon or asking that the matter be put on a future agenda.

Chairman Wittmann opened the public hearing and asked if there was anyone present who wished to speak under those terms.

No one came forward.

PUBLIC HEARING (CONSENT)

Consent Public Hearing items will be heard at one Public Hearing. After the Consent Public Hearing, these items may be approved by a single motion. At the request of a member of the Commission or Staff, an item may be removed from the Consent Calendar and may be heard and acted upon separately. Other items on the agenda may be added to the Consent Public Hearing and approved under a single motion.

UP14-03: A CONDITIONAL USE PERMIT TO ALLOW A SECONDARY DWELLING, FOR APPROXIMATELY 0.87 OF AN ACRE OF REAL PROPERTY LOCATED AT 2698 EAST LINES LANE IN THE SINGLE FAMILY-35 (SF-35) ZONING DISTRICT.

Move to make the findings of fact and approve UP14-03, a Conditional Use Permit to allow a Secondary Dwelling for approximately 0.87 of an acre of real property located at 2698 East Lines Lane in the Single Family-35 (SF-35) zoning district as requested, subject to conditions:

1. The Project shall be in substantial conformance with the site plan, and pictures illustrating the architectural finish and the state of maintenance of the existing Secondary Dwelling. Exhibits noted under Attachments #3 and 4.
2. The gates visible from the right-of-way of Winchester Drive/S. Johnson Lane shall be closed when not used to access the Secondary Dwelling.
3. Approval of the Use Permit is subject to the approval of the Variance (V14-06) to deviate from side setbacks for the Secondary Dwelling by the Hearing Officer.

Z14-12: REQUEST TO AMEND THE CONDITIONS OF DEVELOPMENT WITHIN THE LEGACY PLANNED AREA DEVELOPMENT (PAD) FOR APPROXIMATELY 81.19 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE SOUTHWEST CORNER OF GREENFIELD AND BROOKS FARM ROADS ZONED SINGLE FAMILY - 15 (SF-15) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT OVERLAY.

For The Following Reasons: The Development Proposal Conforms To The Intent Of The General Plan And Can Be Coordinated With Existing And Planned Development Of The Surrounding Areas, And All Required Public Notice And Meetings Have Been Held, The Planning Commission Moves To Recommend Approval To The Town Council For Z14-12 , A Request to amend the development standards for the

Planning Commission
Regular Meeting 5-7-14

Legacy PAD, approximately 81.19 acres of real property generally located at the southwest corner of Greenfield and Brooks Farm Roads zoned Single Family -15 (SF-15) zoning district, Subject To The Following Conditions:

1. The rear yard setbacks for Lots 5-12, shown on the amended development plan of the Legacy at Freeman Farms PAD, shall be a minimum 24’.

Z14-09, THE ENCLAVE VIA BELLA: REQUEST TO REZONE APPROXIMATELY 13 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE NORTHEAST CORNER OF HIGLEY ROAD AND HOUSTON AVENUE FROM TOWN OF GILBERT SINGLE FAMILY - 35 (SF-35) ZONING DISTRICT TO TOWN OF GILBERT SINGLE FAMILY-10 (SF-10) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY.

S14-04, THE ENCLAVE VIA BELLA: REQUEST TO APPROVE PRELIMINARY PLAT AND OPEN SPACE PLAN FOR 20 SINGLE FAMILY HOME LOTS (LOTS 1-20) ON APPROXIMATELY 13 ACRES OF REAL PROPERTY LOCATED AT THE NORTHEAST CORNER OF HIGLEY ROAD AND HOUSTON AVENUE IN THE REQUESTED FOR APPROVAL SINGLE FAMILY RESIDENTIAL -10 (SF-10) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY.

Chairman Wittmann opened the public hearing and noted that there was a comment card from James Smith for case S14-04. She commented that the case would be left on the Consent Agenda and that staff would make a brief presentation. She asked if Mr. Smith would like to speak prior to that presentation.

James Smith, Gilbert Arizona, stated that he wished to hear staff’s presentation on the case and did not wish to speak at that time.

Senior Planner Maria Cadavid noted that the applicant was anxious to proceed with the final plat as to be able to submit standard plans for review. Staff has no issues with the request. The preliminary plat will be subject to approval of the rezoning by the Town Council. The proposed amendment consists of approximately 13 acres located at the northeast corner of Higley Road and Houston Avenue, which was rezoned in 2007 and final plat recorded on April 6, 2007 as the Enclave-Via Bella subdivision. The current final plat contains 10 residential lots with the zoning designation of residential Single Family-35 (SF-35) conventional zoning. This request is to change the zoning district designation to Single Family-10 (SF-10) with a Planned Area Development (PAD) overlay to provide 20 single-family residential lots ranging from 16,000 to almost 19,000 square feet. The request also proposes a few deviations from the development standards of the requested zoning district. The applicant is requesting to deviate from two items, one which is the width of 6 of the lots to the East of the open space with the intent of lining up the existing infrastructure with a new lot layout. The 2nd deviation would be the side setback from lot 20 where the applicant will observe the setback of 15 feet abutting an arterial street and on the other side instead of 10 feet they are requesting 9 feet. There is a condition to add two (2) 24” box trees on Higley Road landscape easement and add two (2) 24” box trees on each side of the entrance to the subdivision along the Houston Avenue frontage.

Commissioner Peterson stated that at the last meeting they had discussed a portion of the fence that was 6 feet and asked if that issue had been settled.

Planner Cadavid stated that the applicant has informed staff that there is no segment of the chain link fence that abuts the residential to the east or to the northeast. It is a non-issue.

Commissioner Cavenee asked staff to reiterate the issue about the number of stories and where they are allowed to be located.

Planner Cadavid said that the Land Development Code (LDC) requires that any dwelling units built abutting land that is nonresidential be built with single story homes. The applicant is requesting to deviate from that but what the Town gains is that they will maintain the rear setback of 40 feet the current zoning designation which is SF-35.

Commissioner Cavenee said that it was his understanding that there was a concern about two-story homes being placed on lots 10 and 11 because they abut an existing single family lot. He asked if there were restrictions on that.

Planner Cadavid said that the condition reads that they can build two stories on lots 1 through 9. She said that staff expects that lot number 10 will be a single story because that was the desire of the neighborhood when the project was presented to them at a neighborhood meeting.

Commissioner Cavenee asked if it was a stipulation that lots 10 and 11 will not be higher than a single-story.

Planner Cadavid said that applies only to lot 10, not lot 11.

Commissioner Cavenee asked why that was the stipulation since both lots abut the same property.

Planner Cadavid said that it was because the code does not restrict two stories next to residential. It restricts when the lots are backing onto nonresidential. By code it is permitted to build two stories next to residential.

Commissioner Cavenee asked why lot 10 was prohibited from being a two-story and a lot 11 was not when it is the same property that they abut.

Planner Cadavid said it was not considered on lot 11 because by code they are not restricted to build single-story.

Chairman Wittmann said that it is not necessarily an adjacent neighbor issue it is a code issue.

Planning Manager Linda Edwards asked staff to clarify; with the condition that is in the staff report, it does note that a two-story could be built on lots 1 through 9 when adjacent to Regional Commercial. She asked if lot number 10 was intended to be excluded so that it can only be developed as a one story because of input from the neighbor.

Planner Cadavid said that was correct.

Commissioner Cavenee said that if that was the reason he did not understand why lot 11 did not have a similar stipulation since it abuts the same homeowner's property.

Planner Cadavid said lot 10, because of the proximity to residential; they preferred that they maintain the provision of the code to be single-story because they are backing onto non-residential.

Commissioner Cavenee said that lot 11 is the same distance from that property so if it was distance, he did not get it.

Chairman Wittmann said that she believed it was the location of the existing home on the lot. When looking at the aerial it appears that the home is placed further back and closer to lot 10 than to lot 11 and with the orchards on the West side there is a sort of buffer there.

Commissioner Cavenee said that he was not sure that was the case.

Commissioner Bloomfield said that it sounds like, from the code, they are allowed to have two-story homes on all of the lots except for lots 1 through 10 because it backs up to Neighborhood Commercial. They removed that restriction from lots 1 through 9 so they could continue to have 2 stories. But 10, because it backs up to Regional Commercial must be a single-story. He said that he believed what Commissioner Cavenee was saying was that it was desirable to have lot 11 have a similar restriction and perhaps do that by stipulation.

Planner Cadavid said that he was absolutely right in his explanation.

Commissioner Cavenee said that looking at the aerial it appears that the existing home sits narrowly in the middle and the trees that appear to be blocking the view are low rise citrus trees not high-rise trees so he did not believe that there was a distinction between lot 11 and lot 10.

Chairman Wittmann invited James Smith to come forward.

James Smith, Gilbert Arizona, came forward. Mr. Smith said that he was the homeowner on the adjacent property to the East. He said that he understood the code and that he desired that the applicant consider putting a single-story immediately adjacent to his property. He commented that he was in favor of the development when it was proposed for acre lots and now they are going to a higher density and there will be homes that are closer to his property. A two-story home would be looking into his backyard much more so than if it was a one story. If they can make an exception so that a two-story can be on the adjacent property, which is not according to code, they can certainly make an exception to try to make it a single-story next to his property.

Chairman Wittmann asked Mr. Smith if he was asking that lot 10 and 11 both be restricted to one story.

Mr. Smith said that was his request.

Chairman Wittmann asked what existed on his western boundary.

Mr. Smith said that his home was just a little bit north of dead center of the property. He said that he did have an orchard next to the concrete wall that separates his property from the property to the West.

Chairman Wittmann invited the applicant to come forward.

Sean Lake, Mesa Arizona, came forward representing the applicant. Mr. Lake said that lot 10 was reserved for a single-story because they felt that was back towards Mr. Smith's home. They would prefer that lot 11 be single-story but that he was not going to fall on his sword over it. They felt that the market should dictate it but if the Commission deems that that is where they want to go that would be acceptable.

Chairman Wittmann closed the public hearing.

Vice Chairman Oehler said that with the comments from the neighbors he would prefer that they stipulate that lot 10 and 11 both go to single stories.

Commissioner Cavenee said that he agreed with the Vice Chairman's comment.

Planning Commission
Regular Meeting 5-7-14

Chairman Wittmann said that she did not agree but if the applicant is amenable to it she would not vote no against the case.

A motion was made by Commissioner David Cavenee and seconded by Vice Chairman Joshua Oehler that for the reasons set forth in the staff report, move to recommend approval to the Town Council for Z14-09 as requested subject to the conditions listed in the staff report and adding the stipulation that lot 11 be restricted to a single story.

Motion carried 7 – 0

A motion was made by Commissioner David Cavenee and seconded by Commissioner Brigitte Peterson to approve S14-04, the preliminary plat for the Enclave Via Bella, approximately 13 Acres Consisting Of 20 Single Family Lots (Lots 1-20) located at the North East corner of Higley Road And Houston Avenue in the requested Single Family Residential -10 (Sf-10) Zoning District with a Planned Area Development (Pad) Overlay, subject to conditions.

Motion carried 7 – 0

A. For The Following Reasons: The Development Proposal Conforms To The Intent Of The General Plan And Can Be Coordinated With Existing And Planned Development Of The Surrounding Areas, And All Required Public Notice And Meetings Have Been Held, The Planning Commission Moves To Recommend Approval To The Town Council For Z14-09, a request to amend Ordinance Nos. 1587 and 1952 to rezone approximately 13 acres of real property located at the northeast corner of Higley Road and Houston Avenue from residential Single-Family-35 (SF-35) to residential Single Family-10 (SF-10) zoning district with a Planned Area Development (PAD) subject to the following conditions:

1. The Enclave-Via Bella Planned Area Development (PAD) shall be developed in conformance with the Town’s zoning requirements for the Single Family-10 (SF-10) and all development shall comply with the Town of Gilbert Land Development Code except as modified by the following:

The Enclave-Via Bella					
Zoning District	Min. Lot Width Dimensions (Ft)	Setbacks			Coverage (%)
		Front	Sides	Rear	One/Two-Story
Single Family-10 (SF-10) PAD	84’*	30’	10’/9’** 15’/9’***	40****	45%/ 40%

* For lots 5-10 only

** For lots 5-10 only

*** Lot 20 abutting an arterial street

**** 40’ for two-story houses backing onto the Regional Commercial zoning district along the north boundary of the subject site.

2. Two-story dwelling units may be built on lots 1 thru 9 abutting the Regional Commercial (RC) zoning district designation

3. No structures shall be constructed in or across the drainage easements, nor shall other improvements or alterations be made to the drainage easements that are part of the lots in this development without the Town of Gilbert's Engineering Division's authorization.
- B. Move to approve the findings and S14-04, The Enclave-Via Bella, approximately 13 acres of 20 single family lots (Lots 1-20), generally located at the northeast corner of Higley Road and Houston Avenue in the Single Family Residential -10 (SF-10) zoning district with a Planned Area Development (PAD) overlay, subject to the following condition:
1. The Final Plat for the Enclave-Via Bella shall be in substantial conformance with Exhibits No. 4 and 5 Preliminary Plat and Open Space, approved by the Planning Commission at the May 7, 2014 public hearing.
 2. Approval of the Preliminary Plat is subject to Town Council approval of Z14-09.
 3. Prior to Construction Drawing submittal, a revised landscape plan shall be submitted to the Planning staff with the following changes:
 - a. Tracts D and F are landscaped and have proper notation.
 - b. Add two (2) 24" box trees on Higley Road landscape easement and add two (2) 24" box trees on each side of the entrance to the subdivision along the Houston Avenue frontage.
 - c. Add one (1) 24" box Live Oak at the northeast corner of the sports court.
 - d. **Lot 11 will be restricted to a single story.**

UP14-03: A CONDITIONAL USE PERMIT TO ALLOW A SECONDARY DWELLING, FOR APPROXIMATELY 0.87 OF AN ACRE OF REAL PROPERTY LOCATED AT 2698 EAST LINES LANE IN THE SINGLE FAMILY-35 (SF-35) ZONING DISTRICT.

Move to make the findings of fact and approve UP14-03, a Conditional Use Permit to allow a Secondary Dwelling for approximately 0.87 of an acre of real property located at 2698 East Lines Lane in the Single Family-35 (SF-35) zoning district as requested, subject to conditions:

1. The Project shall be in substantial conformance with the site plan, and pictures illustrating the architectural finish and the state of maintenance of the existing Secondary Dwelling. Exhibits noted under Attachments #3 and 4.
2. The gates visible from the right-of-way of Winchester Drive/S. Johnson Lane shall be closed when not used to access the Secondary Dwelling.
3. Approval of the Use Permit is subject to the approval of the Variance (V14-06) to deviate from side setbacks for the Secondary Dwelling by the Hearing Officer.

A motion was made by Commissioner Brigitte Peterson and seconded by Commissioner David Cavenee to recommend approval for UP14-03 and Z14-12.

Motion carried 7 – 0

Z14-12: REQUEST TO AMEND THE CONDITIONS OF DEVELOPMENT WITHIN THE LEGACY PLANNED AREA DEVELOPMENT (PAD) FOR APPROXIMATELY 81.19 ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE SOUTHWEST CORNER OF GREENFIELD AND BROOKS FARM ROADS ZONED SINGLE FAMILY - 15 (SF-15) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT OVERLAY.

For The Following Reasons: The Development Proposal Conforms To The Intent Of The General Plan And Can Be Coordinated With Existing And Planned Development Of The Surrounding Areas, And All Required Public Notice And Meetings Have Been Held, The Planning Commission Moves To Recommend Approval To The Town Council For Z14-12 , A Request to amend the development standards for the Legacy PAD, approximately 81.19 acres of real property generally located at the southwest corner of Greenfield and Brooks Farm Roads zoned Single Family -15 (SF-15) zoning district, Subject To The Following Conditions:

4. The rear yard setbacks for Lots 5-12, shown on the amended development plan of the Legacy at Freeman Farms PAD, shall be a minimum 24’.

PUBLIC HEARING (NON-CONSENT)

Non-Consent Public Hearing items will be heard at an individual public hearing and will be acted upon by the Commission by a separate motion. During the public hearings, anyone wishing to comment in support of or in opposition to a public hearing item may do so. If you wish to comment on a public hearing item you must fill out a public comment form, indicating the item number on which you wish to be heard. Once the hearing is closed, there will be no further public comment unless requested by a member of the commission.

Z13-11: BEHAVIORAL HEALTH HOSPITALS: REQUEST TO AMEND THE LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.3 COMMERCIAL DISTRICTS, SECTION 2.303 LAND USE REGULATIONS, TABLE 2.303 LAND USE REGULATIONS – COMMERCIAL DISTRICTS, TO REQUIRE A CONDITIONAL USE PERMIT FOR HOSPITALS; ARTICLE 2.7 PUBLIC FACILITY/ INSTITUTIONAL DISTRICT, SECTION 2.702 LAND USE REGULATIONS, TABLE 2.702 LAND USE REGULATIONS – PUBLIC FACILITY/INSTITUTIONAL DISTRICT, TO REQUIRE A CONDITIONAL USE PERMIT FOR HOSPITALS; AND TO AMEND DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, TO PROVIDE SEPARATION REQUIREMENTS FOR HOSPITALS FROM CERTAIN OTHER USES; AND TO AMEND DIVISION 6 USE DEFINITIONS; ARTICLE 6.1 USE DEFINITIONS, TO REVISE THE DEFINITION FOR "HOSPITAL" TO INCLUDE FACILITIES OFFERING BEHAVIORAL HEALTH SERVICES.

Chairman Wittmann stated that Z13–11 would be tabled so that a stakeholder group could be formed an additional public meetings could occur.

Chairman Wittmann opened the public hearing and asked staff if there was anything further that they would like to add for the record.

Principal Planner Catherine Lorbeer said there was nothing else to be added at that time.

Chairman Wittmann closed the public hearing.

A motion was made by Commissioner Brigitte Peterson and seconded by Commissioner David Cavenee to table Z13-11.

Motion carried 7 – 0

ADMINISTRATIVE ITEMS

Minutes – Consider approval of the minutes of the Study Session and Regular Meeting of April 2, 2014.

Planning Commission
Regular Meeting 5-7-14

A motion was made by Commissioner Brigette Peterson and seconded by Vice Chairman Joshua Oehler to approve the minutes of the Study Session and Regular Meeting of April 2, 2014.

Motion carried 7 - 0

COMMUNICATIONS

Report from the Chairman and Members of the Commission on current events.

None

Report from Council Liaison

None

Report from the Planning & Development Services Manager on current events.

Planning Manager Linda Edwards stated that there was an open house for the San Xavier University the evening of May 20th at 5:00 p.m. ADOT is having an open forum for the public to respond to and learn about the passenger rail that is proposed to connect Phoenix to Tucson on May 31st. There are very good reasons why the yellow route alternative would be best for Gilbert which are found on the Town website.

ADJOURNMENT

Chairman Wittmann adjourned the meeting at 6:40 p.m.

Chairman Jennifer Wittmann

ATTEST:

Recorder Margo Fry