

CITY COUNCIL ACTION REPORT



TO: MAYOR & CITY COUNCIL DATE: 12/6/94  
FROM: PLANNING & COMMUNITY DEVELOPMENT  
SUBJECT: CASE 55-ZN-94 & ORDINANCE NO. 2726

62-PP-1994

AGENDA ITEM NO. 18  
MIKE MILILLO  
JOHN FAREMELLO  
STAFF

**REQUEST:** Density Incentive for N.A.O.S (Natural Area Open Space) and Amended Development Standards

**LOCATION:** 9901 East Happy Valley Road

**APPLICANT:** Brian Lee  
c/o Grubb & Ellis  
2390 East Camelback Road  
Phoenix, AZ

**OWNER:** Same

**PLANNING COMMISSION RECOMMENDATION:** APPROVE by a vote of 7-0 subject to the attached stipulations and ADOPT Ordinance No. 2726 affirming this case.

**CONCURRENCE:** None required

**SITE DETAILS**

**USE:** Single-family residential  
**PARCEL SIZE:** 20 acres

**BUILDINGS:** N/A  
**HEIGHT:** 22' maximum  
**SETBACKS:** Front - 45', Rear - 45',  
Sides - 22.5'

**ZONING CONTEXT:**

**Zoning History:**

Annexed as R1-190.

**Comparison to current zoning:**

The current zoning on this parcel would allow the development of 4 lots, each with a minimum lot area of 4.3 acres. Property located immediately east of this parcel received similar incentives in the approval of case 71-Z-88.

- \* Existing Density: .210 du/ac
- \* Proposed Density: .250 du/ac

**GENERAL PLAN DISCUSSION:**

The Land Use Plan for this 20 acre parcel shows category 10, with a density of one-fifth dwelling unit per acre. This category is appropriate for very large lot residential neighborhoods. As noted in the General Plan, special care is required to preserve the area's desert character and environmental features.

The requested density incentives will provide very large lots (over 3 acres minimum) with additional undisturbed natural open space on-lot or within common tracts. Staff finds these characteristics to be consistent with the intent of the Land Use Plan for this environmentally sensitive area. The project also conforms to the "desert estate" character established for this area by the General Plan.

**APPROVED**

3-31-95

DATE

INITIALS

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This project meets the land use guidelines established in the General Plan as follows.

- \* It strengthens the identity of Scottsdale by contributing to the unique "desert estate" character in the Pinnacle Peak area
- \* The land use reflects consideration of existing development and conditions occurring on this site.
- \* The project protects the natural character of the desert by minimizing development on the site's natural drainageways

### ESLO DISCUSSION

The subject property is within the Lower Desert Landform of the City's Environmentally Sensitive Lands. Slightly more than half of the property slopes at between 2 percent and 5 percent. The remainder, primarily located in the southeast quadrant of the parcel, slopes between 5 percent and 10 percent. Based on these slopes, approximately 5.9 acres of NAOS would normally be required. With the proposed additional 20 percent, as allowed by Section 7.853 C of the ESL ordinance, approximately 9.9 acres of NAOS will be provided.

- \* Existing NAOS = 5.9 acres
- \* Proposed NAOS = 9.9 acres

### PROJECT DISCUSSION:

#### Development as it could currently occur:

Under current zoning, 4 lots would be permitted on this property. To achieve the additional lot, the development must satisfy the density incentive provisions of the ESL ordinance and provide an additional 20 percent NAOS over what would normally be required. The applicant proposes to satisfy this requirement primarily through the incorporation of additional on-lot natural open space.

The proposed Casa de Pasas subdivision, located directly south of the Desert Highlands development at 99th Street and Happy Valley Road, will provide 5 "building envelope" lots within a setting of natural area open space. The lots will range in size from 3.05 acres to 4.66 acres.

The 20 acre parcel is crossed by several minor watercourses. These washes are also the locations of the major concentrations of vegetation and will be preserved outside of the proposed building envelopes.

Amended development standards are proposed which meet the criteria established by ESL for administrative approval. Flag lots, however, are also included to provide access to the southernmost lots on this site.

If approved, this development will be consistent with an adjacent 3-lot subdivision to the east, approved under the Hillside Ordinance. It will also be compatible with the large lots platted to the south and west of this site.

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### STAFF ASSESSMENT OF PROJECT BENEFITS AND DISADVANTAGES:

The major city benefits and disadvantages of this request include the following

#### Benefits

- 1 20% greater NAOS over ESL ordinance requirements
- 2 Opportunity for flag lots which reduces the need to extend street pavement thereby preserving native vegetation in place
- 3 Reduction in permitted building height from 30' to 22'

#### Disadvantages

- 1 Slightly smaller lots will be provided adjacent to the standard R1-190 lots to the south and west.

### COMMUNITY IMPACT.

A large lot subdivision, consistent with the desert estate character established in the surrounding area, will be developed. Greater contiguous areas of NAOS will be provided.

### PUBLIC COMMENT:

The neighbors immediately adjacent to this property have been notified and several of them have called staff to voice their support for the proposal. One person spoke in opposition for the project at the Planning Commission hearing.



Greg Larson, General Manager  
Planning & Community Development



Richard A. Bowers  
City Manager

### ATTACHMENTS:

- A - Stipulations
- #1 - Aerial
- #2 - Zoning Map
- #3 - Quarter Section Map
- #4 - Site Plan
- #5 - Land Use Plan
- #6 - Amended Development Standards
- #7 - Ordinance No. 2726
- Exhibit A - Zoning Map
- #8 - Planning Commission Minutes 12/6/94

**APPROVED**

STIPULATIONS FOR CASE 55-ZN-94

3-31-95

DATE

INITIALS

PLANNING/DEVELOPMENT

- 1 **CONFORMANCE TO DEVELOPMENT SUBMITTAL.** Development shall be in substantial conformance with the submitted plan and development program except as modified by the following stipulations. Any proposed significant change, as determined by the Planning and Community Development Administrator shall require approval through a subsequent public hearing.

The applicant understands and agrees that the approved density is subject to drainage, topography, NAOS requirements and other site planning concerns which will need to be resolved at the time of preliminary plat approval. Appropriate design solutions to these constraints may preclude achievement of the proposed units or density on any or all parcels.

2. **MAXIMUM UNIT COUNT/THE MAXIMUM NUMBER OF LOTS.** Maximum densities and dwelling unit counts shall be as indicated on the approved development plan except that in no case shall the project exceed 5 without a subsequent public hearing. The specific location of each lot shall be determined at preliminary plat.
- 3 **BUFFERED SETBACK.** A buffered setback with a width of twenty (20) feet shall be provided as common N A O.S along Happy Valley Road. This setback is to be left in a natural condition or revegetated with approval from the Development Review Board. The width is to be measured from the outside edge of the road right-of-way and is not included in the building setback.
- 4 The following improvements shall be reviewed by the Project Review staff with the preliminary plat
  - a A plan indicating the treatment of washes, and wash crossings,
  - b Improvement plans for common open space, common buildings and/or walls, and amenities such as, ramadas, landscape buffers on public and/or private property (back-of-curb to right-of-way or access easement line included),
  - c Alterations to Natural Watercourses.
5. **AMENDED DEVELOPMENT STANDARDS** The amended development standards for R1-190 ESL shall be approved as submitted.

ENVIRONMENTAL DESIGN

- 1 **ALTERATIONS TO NATURAL WATERCOURSES** Any proposed alteration to the natural state of watercourses with a 100 year flow of 50 cfs or greater or proposed improvements within such watercourses shall be subject to Project Coordination staff approval.
- 2 **LOW DENSITY RESIDENTIAL CONSTRUCTION LIMITS** The proposed construction envelopes shall be refined to identify a more accurate representation of the possible construction limits on each lot. The construction envelopes shall be field checked at the time of revised preliminary plat submittal by Project Coordination. At the time of final plat submittal, the construction envelopes shall be identified on an uprooted supplemental document.

- ③ IDENTIFICATION OF NATURAL AREA OPEN SPACE The boundaries of natural area open space shall be accurately surveyed and any boundaries between such open spaces and areas being developed shall be clearly staked in accordance with the approved grading plans. Such surveying and staking shall be inspected and approved prior to construction on each lot. The required twenty (20) percent additional N A O S for density incentive to be provided on individual lots shall be identified and documented at preliminary plat. Documentation shall be in a table format and include the following
- a. Require amount of NAOS on each parcel.
  - b. Percentage of slope on each parcel
  - c. Type of Landform, lower desert, upper desert, hillside
- 4 PROTECTION OF NATURAL AREA OPEN SPACE DURING CONSTRUCTION. Prior to the commencement of construction in each residential parcel, the natural area open space shall be suitably protected during the time of construction, so that access to the construction is within the construction envelope or designated driveway. This requirement shall be noted on the final plans. At the time of final building inspection to ensure that any disruption to the natural area open space around the construction site has been revegetated, as approved on plans submitted to Project Review
- 5 DEDICATION OF NATURAL AREA OPEN SPACE At the time of final plat or site plan approval the applicant shall demonstrate to the satisfaction of the city attorney, and the Project Coordinator, that the entire N.A O.S area will be permanently maintained as Natural Area Open Space.
- 6 NATIVE PLANT PRESERVATION. The owner shall secure a native plant permit as defined in Chapter 46, Article V of the City Code for each development site. The Project Review staff will work with the owner to minimize the extent of the survey required within large areas of proposed undisturbed open space. Cacti which are not protected by the native plant provisions, but which are necessary for on-site revegetation, are suitable for transplanting or are necessarily uprooted for road building or similar construction shall be stockpiled during construction and shall be replanted in landscaped areas. Where excess plant material is anticipated, those plants shall be offered to the public at no cost to the owner in accordance with state law and permit procedure or may be offered for sale
- 7 HEIGHT OF NON-INDIGENOUS PLANT MATERIAL Non-indigenous plant material which has the potential to reach a mature height greater than 20 feet shall not be introduced on the site. The Development Review Board shall review and approve a plant list that complies with this requirement. Notation of this stipulation shall be placed on final plans
- 8 LOCATION OF INTERNAL STREETS AND DRIVEWAYS. Prior to the approval of the preliminary plat, the alignments for all internal streets and extended accessways shall be staked by the developer and inspected on-site by the city staff to confirm that the proposed alignment results in the least environmental and hydrological impact. It is anticipated that the Community Development Administrator will approve the use of rectified aerial photographs in lieu of on-site staking under the following conditions
- a. Natural area open space requirements have been satisfied and consolidated grading is permitted, or
  - b. Topographical and other on-site physical conditions permit reasonable analysis of site conditions through the use of aerial photographs

9. **OUTDOOR LIGHTING** The maximum height of any outdoor lighting source shall be 12 feet above natural grade at the base of the light standard except for recreation uses, which shall comply with the outdoor lighting standards of Section 7.600 of the Zoning Ordinance. Low level lighting is encouraged wherever such an approach is feasible.
10. **MAINTENANCE AND PRESERVATION** Maintenance or preservation of areas designed as common areas, landscape buffers on public/private property (within the right-of-way) natural areas, drainage easements, private access ways, etc., shall be the responsibility of the applicant or subsequent homeowners association, and shall be noted on the final construction documents. These designated areas shall not be accepted for maintenance nor ownership by the city, without the approved action of the City Council.

#### MISCELLANEOUS

1. **RESPONSIBILITY FOR CONSTRUCTION OF INFRASTRUCTURE.** All improvements associated with the development or phase of the development and/or required for access or service to the development or phase of the development shall be constructed in full by the developer, including but not limited to washes, storm drains, drainage structures, water systems, sewer system, curbs and gutters, paving, sidewalks, streetlights, street signs and landscaping.
2. **MAINTENANCE RESPONSIBILITY FOR COMMON AREAS** The responsibility for the maintenance of landscape buffers on public and private property (back-of-curb to right-of-way or access easement line included) and drainageways shall be borne by the applicant, and provisions, therefore, shall be set forth in a separate agreement between the applicant and the city which shall be recorded in the records of the Maricopa County Recorder.
3. **ACCEPTANCE BY CITY FOR MAINTENANCE OF COMMON AREAS.** Those areas of designated common area including landscape buffers, drainage easements, private access ways, etc. shall not be accepted for maintenance or ownership by the city without expressed action of the City Council. Information to this effect shall be provided on sales information and on the final plat. Before any improvement is accepted, it shall meet city standards, codes, and ordinance. Failure to maintain the designated common areas could result in a civil action brought by the city for costs incurred by the city for said maintenance.
4. **PRESERVATION AND MAINTENANCE OF NATURAL AREA** The applicant of record shall be ultimately responsible for the preservation and maintenance of all natural areas proposed throughout the development.

#### CIRCULATION

1. The applicant shall be responsible for the following dedication and street improvements:

<u>Street Name/Type</u>	<u>Dedications</u>	<u>Improvements</u>	<u>Notes</u>
Happy Valley Road Minor Arterial	55' ROW half (existing)		A
Interior Street Local Residential	40' ROW full	half street 22' BC-BC	B

- A The applicant shall be responsible for providing modifications to Happy Valley Road to provide adequate left-turn access into the proposed subdivision. This shall include any pavement widening and reconstruction of the existing raised median
  - B The interior local residential street may be constructed to hillside standards to match and be consistent with the existing roadways in Tres Casas
- 2 A 25 foot public trail easement shall be provided on Happy Valley along the site frontage connecting to the existing easement to the east
  - 3 Access to the subdivision shall be provided at the existing median break on Happy Valley Road aligning with the Desert Highlands entrance (Golf Club Drive) to the north. The entry street shall provide combined access to the proposed subdivision and the existing subdivision to the east, with the design to be approved during final plat and final plan review

#### DRAINAGE AND FLOOD CONTROL

- 1. The site plan shall be revised to include tracts or easements dedicated to stormwater storage. Stormwater storage volume shall be as specified in Chapter 2 of the Design Standards and Policies Manual
- 2. At the time of preliminary plat submittal, the applicant shall submit a drainage report which complies with the requirements of Chapter 2 of the Design Standards and Policies Manual, Revised January 1993. The report shall address, but not be limited to, the following.
  - a. Describe the basis of design and include design calculations relating to on-site water courses
  - b. Include a drainage diagram which clearly shows routing of all on-site and off-site stormwater
  - c. Indicate the location, Volume, and tributary area of all storage basin
  - d. Identify parties responsible for maintenance of all facilities
  - e. Identify historic watercourses which enter and exit the site. Determine easement dimensions necessary to accommodate design discharges. Include a comparison of pre-versus post-development discharge for ALL washes which enter the property
  - f. Include an exhibit which indicates the water surface elevation in channels adjacent to lots. Describe freeboard requirements and show that design criteria are satisfied
  - g. Demonstrate that hydraulic design features are in conformance with the requirements of Chapter 3 of the Design procedures and Criteria Manual.
- 3. Construction activities which disturb 5 or more acres shall require a permit under the National Pollutant Discharge Elimination System (NPDES), A Notice of Intent (NOI), and Storm Water Pollution Prevention Plan (SWPPP), must be filed with the Environmental protection Agency and the City before development permits can be issued. Contact the Stormwater Hotline at (703) 821-4823 for more information
- 4. A Section 404 permit from the U S Army Corps of Engineers may be required for discharges of dredged or fill materials within jurisdictional washes. Contact the Phoenix Regulatory Office of the Corps of Engineers for a jurisdictional determination and further information. Written communication with the State Historic Preservation Officer may be required as part of the 404 permit process. The Clean Water Act, Section 404 Letter of Permission Procedure for Scottsdale, Arizona, may expedite this procedure

WATER AND WASTEWATER

- 1 The City shall not assume ownership or maintenance responsibility of sewage lift stations which may be required for this development
- 2 The applicant understands and acknowledges the responsibility for the construction and dedication of all water and sewer facilities necessary to serve the development. The applicant shall be required to construct and dedicate at his expense all water and sewer lines necessary to serve the development. Sewer facilities shall conform to the City Wastewater Master Plan and water facilities shall conform to the City Water System Master Plan
- 3 The applicant understands that constructing water and sewer facilities provided herein shall not be in lieu of any water development fee, water resources development fee, water recharge fee, sewer development fee or development tax, water replenishment district charge, pump tax, or any other water, sewer, or effluent fee which is applicable at the time building permits are granted
- 4 The applicant understands and agrees that the granting of zoning does not and shall not commit the City to the extension, construction, or development of either water or sewer facilities (including but not limited to lines, mains, boosters, and storage facilities to, on, or near the subject property)
- 5 At the time of final plans submittal, the applicant shall submit a brief water and wastewater system design report which demonstrates that the development's water and wastewater systems will be designed in compliance with City ordinance and policies



Section 5.014 Property Development Standards

The following property development standards shall apply to all land and buildings in the R1-190 District:

A. Lot Area

1. Each lot shall have a minimum lot area of not less than ~~one hundred and ninety thousand (190,000)~~ **ONE HUNDRED THIRTY-THREE THOUSAND (133,000)** square feet.
2. If a parcel of land or a lot of record in separate ownership has less width or area than herein required and has been lawfully established and recorded prior to the date of the passage of this ordinance, such lot may be used for any purpose permitted in this section

B. Lot Dimensions

Width

All lots shall have a minimum width of ~~three hundred (300)~~ **TWO HUNDRED TWENTY-FIVE (225)** feet , **EXCEPT FLAG LOTS WHERE THE MINIMUM WIDTH IS TWENTY (20) FEET AT THE FRONT SETBACK LINE.**

C. Density

There shall be not more than one (1) single-family dwelling unit on any one (1) lot.

D. Building Height

No building shall exceed ~~thirty (30)~~ **TWENTY-TWO (22)** feet in height, except as otherwise provided in Article VII.

E. Yards

1. Front Yard

- a. There shall be a front yard having a depth of not less than ~~sixty (60)~~ **FORTY-FIVE (45)** feet.
- ~~b. Where lots have a double frontage on two (2) streets, the required front yard of sixty (60) feet shall be provided on both streets.~~

ORDINANCE NO 2726

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING ORDINANCE NO. 455, THE ZONING ORDINANCE OF THE CITY OF SCOTTSDALE, BY AND FOR THE PURPOSE OF CHANGING THE ZONING ON THE "DISTRICT MAP" TO ZONING APPROVED IN CASE NO 55-ZN-94

WHEREAS, the zoning case no. 55-ZN-94, has been properly noticed for public hearing, pursuant to the requirements of the Scottsdale Zoning Ordinance and the statutes of the State of Arizona, and the necessary hearings have been completed, and

WHEREAS, the Council of the City of Scottsdale instructed the zoning staff to prepare an ordinance and map changing the zoning on the properties described in the aforementioned case for density incentive for NAOS (Natural Area Open Space) and amended development standards, and,

WHEREAS, it is now necessary that the comprehensive zoning map of the City of Scottsdale be amended to conform with the decision of the Scottsdale City Council in case no. 55-ZN-94

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Scottsdale, Arizona, that the "District Map" adopted as a part of Ordinance No. 455, showing the zoning district boundaries in the City of Scottsdale, is amended, subject to compliance with all stipulations, as illustrated on the attached zoning map, attached hereto as Exhibit A and incorporated herein by reference,

PASSED AND ADOPTED by the Council of the City of Scottsdale this 6th day of December, 1994

CITY OF SCOTTSDALE  
A MUNICIPAL CORPORATION

By \_\_\_\_\_  
Herbert R Drinkwater  
Mayor

ATTEST:

Sonia Robertson  
City Clerk

By \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

By *Margaret Wilson*  
For Fredda J. Bisman  
City Attorney

ATTACHMENT #7

**CONTINUANCES**

Mr. Hadder stated the continuances were:

- CASE 62-ZN-94 - to be continued to December 12, 1994
- CASE 21-UP-86#2 - to be continued to December 12, 1994
- CASE 24-ZN-94 - to be continued to January 9, 1994

**MOTION** by Commissioner Ryan to continue CASES 62-ZN-94, 21-UP-86#2, and 24-ZN-94 as read into the record by Mr. Hadder. The motion was seconded by Commissioner Paston.

The motion passed unanimously.

Chairman Simonson stated that CASE 13-AB-94 under abandonments and CASES 71-ZN-86#2 and 56-ZN-94 under zoning will be moved to the regular agenda.

**ZONING**

\* 55-ZN-94 - density incentives for NAOS and amended development standards -- 9901 East Happy Valley Road (Casa De Pasas)

**Comments:** The request is for an increase in density and to allow two of the five lots to be flag lots -- staff contact person is Mike Milillo, 994-2367.

Mr. Milillo presented this request. This property is located at the southeast corner of the 98th Street alignment and Happy Valley Road. This is a 20-acre property that is currently vacant. There is one adjacent dwelling unit located to the west and there is a subdivision, which has been platted previously under a similar case, located to the east.

The request is for density incentives for additional NAOS and for amended development standards. The existing density is .210 dwelling units per acre. The proposed density with the density incentive that is being requested would be .250 dwelling units per acre.

In terms of the general plan, this property is category 10 which calls for 1/5 dwelling unit per acre. It is surrounded by category 10 requiring 1/5 dwelling unit per acre. To the north there is 1/3 dwelling units per acre and 1 dwelling unit per acre to the northeast.

This change will allow for the provision of one additional dwelling unit.

The property is surrounded on three sides by R1-190. To the north is the Lower Desert Landform project and to the northwest is

R1-70 ESL.

In terms of the environmentally sensitive land ordinance, the majority of this site is 2 to 5 percent slope and that primarily occurs on the northern 60 percent or so of the site. The southern portion of the site has 5 to 10 percent slope. Based on these slopes, approximately 5.9 acres of NAOS would normally be required. With the proposed additional 20 percent, as allowed by Section 7.853 C of the ESL ordinance, approximately 9.9 acres of NAOS will be provided.

There will be a street coming off of an existing access location at the northeast corner of the property. In order to eliminate the need for this roadway to extend further south, they are looking for amended standards that would approve the flag lots.

The benefits that Staff sees are:

1. 20% greater NAOS over ESL ordinance requirements
2. The opportunity for flag lots which reduces the need to extend street pavement thereby preserving native vegetation in place.
3. Reduction in permitted building height from 30 feet to 22 feet.

The disadvantage will be slightly smaller lots will be provided adjacent to the standard R1-190 lots to the south and west.

Staff is recommending approval.

Chairman Simonson noted that since there was a person in the audience wishing to speak, they would change from an expedited agenda to a regular agenda schedule on all items.

Chairman Simonson asked the applicant if he wished to speak.

The applicant replied he would wait.

**HANNAH GOLDSTEIN**, address on file. Ms. Goldstein stated she was opposed to this case because of the increase in density. This property allows for 20 acres. When people bought this property, it had a grade of 50 percent or more, and she believes that is what the general plan calls for. That is what it should be, no more. Four is what it calls for with the transfer of density to ESL.

**BRIAN LEE**, applicant, 8201 East Del Cristal, Scottsdale. Mr. Lee stated he was the owner of the subdivision to the east of this property. When that went through the City, there was some concern about the ESL on trade off with density and leaving as much natural desert as possible.

Rezoning / DENSITY INCENTIVE       Other

Use Permit

Development Review

Master Sign Programs

Variance

Case # 145-PA-98

Project Name Casa De Pegas

Location Happy Valley

Applicant Brian Lee

**SITE DETAILS**

Proposed/Existing Zoning	<u>R1-120</u>	Parking Required	<u>/ / /</u>
Use	<u>Residential</u>	Parking Provided	<u>/ / /</u>
Parcel Size	<u>20 AC</u>	# Of Buildings	<u>/ / /</u>
<input type="checkbox"/> Gross Floor Area	<input checked="" type="checkbox"/> Total Units <u>5</u>	Height	<u>/ / /</u>
<input type="checkbox"/> Floor Area Ratio	<input checked="" type="checkbox"/> Density <u>0.25 DU/AC</u>	Setbacks. N- <u>/</u> S- <u>/</u>	
		E- <u>/</u> W- <u>/</u>	

**In the following space, please describe the project or the request**

We are requesting the maximum density increase of 20% under ESL density incentives, using an additional 20% NAOs to be dedicated. (C.O.S ordinance 7.853C)

We are also requesting Amended standards as to allow two of the five lots to be flag lots. ∴ Request Ammended Development standards to Allow Flag lots