

Zoning Examiner Decision

December 15, 2021

SUBJECT:9-21-20 Casita Village at La Mariposa – Houghton Road, SR to R-2 (Ward 2)

The Applicant has submitted a request for reconsideration of the Zoning Examiner's December 9, 2021 Preliminary Report, and has also submitted additional information and materials in support of its rezoning application. The Zoning Examiner finds that the additional information should be considered and that the public hearing should be re-opened.

The continued Zoning Examiner Hearing in this case shall be held on Thursday, January 6, 2022 at 6 p.m. City of Tucson Planning and Development Services will give notice of the continued public hearing.

John Iurino
Zoning Examiner

December 14, 2021

Mr. John Iurino
Zoning Examiner
City of Tucson
255 West Alameda
Tucson, AZ85701

Subject: C9-21-20 Casita Village at La Mariposa – Houghton Road, SR to R-2 (Ward 2) – Zoning Examiner Request for Reconsideration per UDC Section 3.5.3.1.c.3

Dear Mr. Iurino:

First and foremost, we appreciate your thorough review and detailed commentary on our rezoning request for Casita Village at La Mariposa (CVLM). We have received and reviewed your Preliminary Report and would like to provide additional information to clarify our proposal as it pertains to your conclusions which suggest that the proposed rezoning, as it currently is proposed, is not in compliance with *Plan Tucson* or the *Bear Canyon Neighborhood Plan (BCNP)*.

Concerning *Plan Tucson*, your conclusions suggest that the proposed rezoning does not ‘contribute further to neighborhood stability’ nor is it designed ‘sensitive to the surrounding scale and intensity of existing development’. When discussing neighborhood stability, one must consider what contributes to neighborhood stability. Our profession teaches us that stable neighborhoods, among many things, are those that attractively and sensitively designed (for both the natural and built environments), managed and maintained (land stewardship), provide access to housing choices and amenities, and improve quality of life through improved drainage, infrastructure, etc. Considering this, the following demonstrates how CVLM further contributes to neighborhood stability.

1. Removes vacant land susceptible to dumping, vagrancies, and trespassing.
2. Features a well-designed community that consists of attractive landscaping and one-story buildings oriented toward an arterial roadway and away from less intensive uses.
3. Provides a clustered development that is sensitive to the natural environment and produces far less land disturbance per home as opposed to traditional single-family residences.
4. Offers a housing choice that diversifies current housing stock and provides alternatives for a wide range of age groups to live near existing neighborhoods. For example, this type of “owner by choice” housing is often occupied by aging residents that can no longer care for a large home on a large lot but want the ability to stay in their familiar neighborhoods or near family members.
5. Protects and preserves a natural watercourse and important riparian habitat into perpetuity and provides the vehicle for dedication of the waterway to a public entity.
6. Provides a transition in land use intensity from the resort and the adjacent office-zoned property, which are currently entitled to develop multi-story hotels, apartments, and offices.

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J. Iurino

C9-21-20 Casita Village at La Mariposa

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7. Presents a solution to a wicked and regional drainage issue that would otherwise remain problematic.

For the reasons mentioned above, we ask you to reconsider your assessment of our request as it relates to neighborhood stability, design compatibility, and ultimately, compliance with *Plan Tucson*.

With regard to *BCNP*, your conclusion suggests that CVLM is not in compliance due to the incompatible nature of the proposed land use with existing development, lack of owner-occupied homes, and flooding issues. When looking at the development context of the site, the properties immediately abutting the rezoning area consist of large lot properties with single-family residences or vacant land zoned or planned (pending drainage solution) for higher intensity uses. Beyond the immediately adjacent properties, the context of the surrounding area is predominately characterized as single-family owner-occupied units. When considering the development potential of the resort and adjacent O-3 zoned property (which can develop by-right today), the intensity of which the vacant adjacent properties can develop per *BCNP* policy direction, the buffer provided between the large lots (over 300' to the north and over 70' to the south), and the one-story single-family home appearance of each unit, CVLM is compatible with the development context of the surrounding area as it transitions and maintains the overall character of the area. To achieve a mixture of housing types within the *BCNP*, developments like the one proposed are necessary to achieve the desired mix.

With regard to your conclusions as they pertain to flooding issues, please find attached a clarification letter from Mr. Bill Carroll of EEC further explaining the extent of the hydrologic studies and analyses that have been performed to date to secure a floodplain use permit from the City of Tucson. If there is anything I can reiterate, it would be that this process is the start of creating a solution to a regional drainage problem.

Thank you for your time and your reconsideration of this case.

Sincerely,

THE PLANNING CENTER



Lexy Wellott, AICP

Project Manager



December 13, 2021

John Iurino
Zoning Examiner
City of Tucson Zoning Examiner's Office
City Hall
255 W. Alameda
P.O. Box 27210
Tucson, Arizona 85726-7210

RE: Casitas at La Mariposa
Rezoning/Flood Control Concerns
EEC Project No. 21001

Dear Mr. Iurino:

We have received and reviewed your Zoning Examiner's report dated December 9, 2021. In your conclusions you state that, "The text of the BNCP requires that any rezoning in this area must await "detailed hydrologic studies" and the resolution of the "flooding issues" that affect the area and the property in question."

I may not have been clear enough when you asked me at the hearing if we had performed a *detailed hydrologic study*. I responded that we had done a detailed Flo-2D model of the Agua Caliente Wash and the Tanque Verde Creek in the area of this project.

Typically for a rezoning along a major watercourse EEC would provide a general hydrologic and hydraulic analysis that details flows coming in and out of a project, address retention/detention requirements and delineate existing previously determined floodplain boundaries with a statement that any encroachment that may occur as part of the proposed development will be addressed at time of Development Package submittal and will be in accordance with the City of Tucson and FEMA standards.

Because of the concerns addressed in the Bear Canyon Neighborhood Plan, our client asked us to prepare a detailed flood analysis of both the Agua Caliente Wash and the Tanque Verde Creek. Early in 2021, EEC prepared a detailed Flo-2D analysis which was submitted for review and approval by the City of Tucson in May of this year. Our analysis recreated the FEMA floodplain utilizing their model and created a hydraulic model on a 20' by 20' grid of the entire floodplain area of both washes and included the proposed development. We then modified the FEMA model to show the impact of proposed fill that would be placed and the encroachment into the current FEMA floodplain.

EEC's detailed hydraulic model showed that the proposed encroachment would have no negligible impact to any properties along the Agua Caliente Wash or the Tanque Verde Creek. A negligible impact is determined by the City of Tucson, Pima County and FEMA as a depth increase of not more than one tenth of a foot.

The City reviewed our study and concurred with the analysis and results and a Floodplain Use Permit was issued by City of Tucson Development Services on June 16, 2021. This Floodplain Use Permit allowed the developer to begin grading and fill of the site as of that date. However, the developer chose to wait until rezoning had occurred. A copy of the approved floodplain use permit is attached.

In reviewing the existing Bear Canyon Neighborhood Plan, the Environment Section includes the following:

Any rezoning or developments in the area will be subject to the following conditions wherever possible:

- a. Dedication will be made to the Pima County Flood Control District for the streambed, stream banks, and 50 feet on either side of same for the Agua Caliente Wash and Tanque Verde Creek between Houghton Road and Jones Road.
- b. The floodway zone will be retained as SR zoning and restricted to open space recreational uses that are in compliance with floodplain management and applicable zoning regulations. Additionally, within the floodway zone, structures and/or fill will be prohibited. The intent is to preserve or to enhance the natural ground cover and environment, to prevent erosion, and to mitigate the flood hazard.
- c. The floodway of the Agua Caliente Wash and Tanque Verde Creek between Houghton Road and Jones Road will be dedicated as a flowage easement to the Pima County Flood Control District, and any use will be subject to floodplain management regulations and will require a floodplain use permit.

This development, as proposed in the Preliminary Development Plan will:

- a. Dedicate the streambed, stream banks and 50 feet on either side of same for the Agua Caliente Wash within the property .
- b. The floodway zone will be restricted to open space recreational uses and no structures and/or fill will be placed in the floodway zone.
- c. The floodway of the Agua Caliente Wash within this property will be dedicated as a flowage easement to the Pima County Flood Control District. This property does not propose any disturbance or uses within the Agua Caliente Wash floodway.

Based on our meeting the three conditions above and the approval of the detailed Flo-2D hydraulic model and the City's previous approval of a floodplain use permit to raise the property for the proposed development, we believe that we have addressed and meet all flood control requirements of the Bear Canyon Neighborhood Plan and the rezoning of the property should be allowed to move forward.

Sincerely,

ENGINEERING AND ENVIRONMENTAL CONSULTANTS, INC.

William B. Carroll, PE
President



Date Signed: 12/13/2021

EXPIRES 6/30/2020



CITY OF TUCSON
Development Services Department

201 N. STONE AVENUE, 1ST FLOOR TUCSON, AZ 85701
PHONE: (520) 791-5550

CITY OF TUCSON PERMIT
ACTIVITY T210T00417

SITE ADDRESS:10105 E CORTE VISTA LA MARIPOSA TUC
NUMBER:133-03-4020

PARCEL

WARD NUMBER: 2

LEGAL DESCRIPTION:LA MARIPOSA WOODS NORTH LOT 7 - 64087

TOWNSHIP-RANGE-SECTION:

FLOOD MAP:2307

FLOOD ZONE:AE A

PLAN NUMBER:E

EXPIRATION DATE:

TYPE OF PERMIT:FLOODPLN

DESCRIPTION OF PROPOSED WORK:Encroachment analysis related the development of the La Mariposa residential subdivision. THERE IS NO STREET ADDRESS FOR THE SITE YET, SO THE ADDRESS ABOVE IS THE CLOSEST ONE AVAILABLE ONLY, AND NOT FOR THE ACTUAL SITE

NOTICE: THE APPLICANT IS AUTHORIZED TO USE A PORTION OF THE REGULATORY FLOODPLAIN AREA IN THE CITY OF TUCSON FOR THE PROPERTY DESCRIBED ABOVE. THE PLANS AND SPECIFICATIONS SUBMITTED WITH THE APPLICATION FOR THIS PERMIT, AS APPROVED BY THIS DEPARTMENT, MAY NOT BE CHANGED, MODIFIED OR ALTERED WITHOUT THE WRITTEN APPROVAL FROM THIS DEPARTMENT AND ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE APPROVED PLANS.

THIS PERMIT BECOMES INVALID AND IS SUBJECT TO ADDITIONAL FLOODPLAIN REVIEW, IF ANY REQUIRED DEVELOPMENT PERMIT(S) CHANGES THE CONFIGURATION OF THE STRUCTURE AND/OR SITE DEVELOPMENT. THIS FLOODPLAIN USE PERMIT WILL BE AUTOMATICALLY REVOKED AND BECOMES INVALID IF CONDITIONS SET FORTH IN THIS PERMIT ARE NOT COMPLIED WITH. ALSO, THIS PERMIT WILL EXPIRE ONE YEAR FROM ITS DATE OF ISSUE. RENEWAL OF THIS PERMIT WILL REQUIRE A NEW APPLICATION, REVIEW AND APPROVAL OF THAT APPLICATION BY THE CITY OF TUCSON, DEPARTMENT OF DEVELOPMENT SERVICES, ENGINEERING SECTION. THE PERMIT HOLDER HAS THE RESPONSIBILITY TO DETERMINE THE LOCATION OF EXISTING UNDERGROUND UTILITIES, SEWAGE DISPOSAL SYSTEMS OR OTHER OBSTACLES THAT MAY INTERFERE WITH THE WORK AUTHORIZED BY THIS PERMIT.

REVOCACTION OF PERMIT: ANY PERSON WHO FAILS TO COMPLY WITH THE TERMS OF THE FLOODPLAIN USE PERMIT OR HAS CREATED SITUATIONS THAT CAN BE A DANGER TO LIFE AND PROPERTY AS DETERMINED BY THE CITY ENGINEER SHALL BE SUBJECT TO REVOCATION OF THE FLOODPLAIN USE PERMIT BY THE CITY ENGINEER UPON WRITTEN NOTICE BY REGISTERED MAIL TO THE APPLICANT CITING THE REASONS FOR REVOCATION. THE PERSON HOLDING THE FLOODPLAIN USE PERMIT OR ANY AFFECTED PARTY MAY APPEAL THE DECISION OF THE CITY ENGINEER BY REQUESTING IN WRITING A HEARING BEFORE THE FLOODPLAIN BOARD IN ACCORDANCE WITH SECTION 26-12 OF THE TUCSON CODE.

REMOVAL OF VIOLATION: UPON WRITTEN NOTICE, THE CITY ENGINEER MAY CAUSE ANY STRUCTURE, ENCROACHMENT OR WORK CONSTRUCTED WITHOUT A FLOODPLAIN USE PERMIT, OR WHICH IS IN VIOLATION WITH THE TERMS OF A PERMIT, TO BE REMOVED IMMEDIATELY AT THE EXPENSE OF THE PERSON WHO CAUSED THE STRUCTURE, ENCROACHMENT OR WORK IF THE STRUCTURE, ENCROACHMENT OR WORK WILL CAUSE AN IMMEDIATE DANGER TO LIFE AND PROPERTY.

RECOVERY OF COSTS: THE CITY SHALL BE ENTITLED TO RECOVER ALL COSTS, ADMINISTRATIVE, ENGINEERING AND LEGAL, AS WELL AS ACTUAL COSTS TO REMOVE OR MODIFY THE STRUCTURE, ENCROACHMENT AND/OR ANY OTHER WORK IN VIOLATION OF CHAPTER 26, TUCSON CODE.

CERTIFICATION: I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS PERMIT AND KNOW THE INFORMATION TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE THE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY FEDERAL, STATE, LOCAL LAW OR REGULATION. REPRESENTATIVES OF THIS DEPARTMENT MAY ENTER UPON THE PROPERTY FOR THE PURPOSE OF CONDUCTING INSPECTIONS OF THE WORK.

CHECK ONE OF THE FOLLOWING: OWNER/BUILDER: I HEREBY AFFIRM THAT THE WORK FOR WHICH THIS PERMIT IS ISSUED WILL BE DONE BY ME AS OWNER-OCCUPANT.
 OTHER: I AM AN AUTHORIZED REPRESENTATIVE OF THE OWNER.

SIGNATURE _____ DATE: 06-18-2021

SEE REVERSE SIDE FOR ADDITIONAL INFORMATION AND SPECIAL CONDITIONS

APPLICANT: Encroachment analysis for residential subdivision
555 E River Road, Suite 301
Tucson
AZ 85704
OWNER: Saunders Amos LLC

SPECIAL CONDITIONS

Cond: CON0055196
June 16, 2021

This permit acknowledges the review for completeness of the preliminary encroachment analysis for the La Mariposa Subdivision and accepts the delineation and conclusion of the report and allows the report to be used as the basis for subdivision design.

The applicant agrees to comply with City of Tucson Floodplain and Erosion Hazard regulations, and is particularly bound by the conditions stated below. Violation of any of the conditions stated or referred to below, as determined by the City Engineer, shall be grounds for revocation of this permit. Responsibility for renewal of this permit, if necessary, is with the applicant. Issuance of this permit does not constitute a waiver of other requirements contained in the Tucson City Code, Land Use Code, or any other Federal, State, or local regulation. No use other than as permitted herein is allowed. Additional uses allowed under City of Tucson Floodplain and Erosion Hazard Regulations and Watercourse Amenities, Safety, and Habitat regulations require the issuance of an additional Floodplain Use Permit.

The following conditions shall apply to this permit.

- 1) Proposed development shall not adversely impact bordering property which includes increasing flood elevations of more than one-tenth of a foot. Mitigation shall be presented and accepted for all offsite increase in flood elevation more than one-tenth of a foot.

This Floodplain Use Permit will be automatically revoked and becomes invalid if conditions are not complied with, as set forth in this permit.

Entry: 06/16/2021 By: SWB Action: AP