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Variance Staff Report
ADDENDUM

TO: ZONING HEARING OFFICER

FROM: KEITH NEWMAN, SENIOR PLANNER *KN*
(480) 503-6812, KEITH.NEWMAN@GILBERTAZ.GOV

THROUGH: ASHLEE MACDONALD, AICP, PRINCIPAL PLANNER *AM*
(480) 503-6748, ASHLEE.MACDONALD@GILBERTAZ.GOV

MEETING DATE: FEBRUARY 22, 2023

SUBJECT: V23-01 VERITY AT COOLEY STATION: REQUEST FOR A DEVIATION FROM THE STRICT APPLICATION OF THE LAND DEVELOPMENT CODE REQUIREMENT SET FORTH IN CHAPTER 1 ZONING REGULATIONS, SECTION 3.9 GATEWAY DISTRICTS, SECTION 3.9.5.F GATEWAY-ADDITIONAL REGULATIONS-DRIVEWAY RESTRICTIONS TO ALLOW VEHICULAR ACCESS FROM AN ARTERIAL STREET. THE SUBJECT PROPERTY IS LOCATED AT THE SOUTHWEST CORNER OF RECKER RD. AND SOMERTON BLVD. AND ZONED GATEWAY BUSINESS CENTER (GBC) WITH A PLANNED AREA DEVELOPMENT OVERLAY (PAD).

STRATEGIC INITIATIVE: Exceptional Built Environment

To allow for a mixed-use development containing commercial and multi-family residential in the Verde at Cooley Station Planned Area Development

RECOMMENDED MOTION

Make the Findings of Fact and approve V23-01 Verity at Cooley Station: Request for a deviation from the strict application of the land development code

requirement set forth in Chapter 1 Zoning Regulations, Section 3.9 Gateway Districts, Section 3.9.5.F Gateway-Additional Regulations- Driveway Restrictions to allow vehicular access from an arterial street. The subject property is located at the southwest corner of Recker Rd. and Somerton Blvd. and zoned Gateway Business Center (GBC) with a Planned Area Development (PAD) overlay.

APPLICANT

Company: K&I Homes
 Name: Kristjans Sigurdsson
 Address: 6125 E. Indian School Rd., #2005
 Scottsdale, AZ 85251
 Phone: 602-505-2525
 Email: kristjans@kandihomes.com

OWNER

Company: Cooley Black Canyon LLC
 Name: Jeff Cooley
 Address: 6859 E Rembrandt Ave., Unit 125
 Mesa, AZ 85212
 Phone: 480-988-3110
 Email: N/A

BACKGROUND/DISCUSSION

History

Date	Description
<i>December 19, 2006</i>	Town Council adopted Annexation No. A05-03, Ordinance No. 1878 annexing 738 acres at Recker and Williams Field Roads
<i>March 6, 2007</i>	The Town Council adopted Ordinance No. 1900 in case Z06-74 to rezone approximately 302 acres for the Cooley Station – Residential, Office and Shopping Center PAD.
<i>June 24, 2008</i>	The Town Council adopted Ordinance No. 2179 in case Z07-117 approving an amendment to approx. 300 acres in the Cooley Station – Residential, Office and Shopping Center PAD to revise several conditions of Ordinance No. 1900 in zoning case Z06-74, modifying development standards for building and landscape setbacks, and revising the street exhibits.
<i>February 15, 2018</i>	Town Council approved Cooley Development Agreement in Resolution No. 3955 redefining the Cooley Station Village Center and respective construction and financial obligations.
<i>January 22, 2019</i>	Town Council adopted Resolution No. 4032 in case GP18-10 and adopted Ordinance No. 2699 in case Z18-20 for Verde at Cooley Station PAD including the subject site (Parcel 5) modifying the layout of Cooley Station Village Center.
<i>October 17, 2019</i>	Town Council adopted Ordinance No. 2735 in case Z19-14 amending Verde at Cooley Station PAD to modify street cross sections.

Overview/Discussion

The Verity at Cooley Station project is a mixed-use, multi-family & commercial project on 12.1 acres located on Parcels 22 & 24 within the Verde at Cooley Station PAD south of Williams Field Road and west of Recker Road at the heart of Cooley Station Village & Business Center within the Gateway Character Area. Parcel 24, which is the subject of the proposed request, is in the immediate southwest corner of Recker Road and Somerton Boulevard. The area was annexed into the town in 2006 (A05-03) as part of the larger 738-acre Cooley Station area and zoned Gateway Business Center (GBC).

The current request by the applicant is for a variance on Parcel 24 to request relief from the strict application of LDC Section 3.9.5.F Gateway-Additional Regulations which requires vehicular access to the site be from a non-arterial street or alley. In addition to this Variance request, staff is processing concurrent cases on the site for Design Review and a Conditional Use Permit for a mixed-use project that will include the development of 374 apartment units and +/- 38,000 sf of non-residential space in nine buildings.

The site plan for Parcel 24 includes five buildings and three access locations; two off Somerton Blvd. and one off Recker Rd. The access off Somerton Blvd. includes one full motion access to the east between Buildings I and IIB, and a gated access for emergency purposes only just west of Building IIA at the northwest corner of the site. One access is proposed off Recker Rd. south of Building I and will be the only other functional access location on the site which will be limited to right in/right out. The site is located within the Verde at Cooley Station PAD where three access locations along Recker Rd. north of the subject site have been approved through the original PAD as a deviation to the current code requirement. Since the developer is not proposing to rezone the site to accommodate the proposed development staff believes that a variance request to allow the proposed access off Recker Rd. would be appropriate.

According to the applicant, the location of existing driveways along the north side of Somerton Blvd. places severe limitations on the allowed location of new driveways for Lot 24, making it impossible to provide a second full motion access that would meet Public Works and Engineering Standards for driveway spacing. The size and scope of the proposed project requires two separate full access drives to function properly and avoid traffic congestion at driveway entrances. Additionally, the International Fire Code, Section D104, requires two access roads for each building, spaced a minimum of 400' apart. This cannot be accomplished without an access drive from Recker Rd.

Surrounding Land Use & Zoning Designations:

	Existing Land Use Classification	Existing Zoning	Existing Use
North	Residential >14-25 DU/Acre	Multi-Family/Medium (MF/M)	Album at Cooley Station Apartments
South	Utility/Transportation Corridor (U/TC)	Public Facility/Institutional (PF/I)	Union Pacific Railroad Tracks
East	Public Facility/Institutional (PF/I)	Public Facility/Institutional (PF/I)	Recker Rd. then Legacy Charter School
West	General Office (GO)	Gateway Business Center (GBC)	Vacant land (Future Transit Center)
Site	General Office (GO)	Gateway Business Center (GBC)	Vacant land

Project Data Table Parcel 24:

Site Development Regulations	Required per LDC GBC	Proposed
Maximum Building Height (ft.)/Stories	90'/6 stories per Vertical Overlay District	55'/5 stories
Minimum Building Setbacks (ft.)		
Front	0'	8' (Recker Rd.)
Side (Street)	0'	18' (Somerton Blvd.)
Side (Non-Residential)	0'	63' (South boundary)
Rear (Non-Residential)	0'	50' (West boundary)
Build-to Line (ft.)		
Front	0'	8' (Recker Rd.)
Side	0'	18' (Somerton Blvd.)
Landscaping (% of net site area)	5% of net area	5%
Driveway Restrictions	Vehicular access shall be from a non-arterial street or alley	Not Compliant (Current variance request to allow the entrance off Recker Rd.)

FINDINGS

In order to approve a Variance, the Zoning Hearing Officer is required to make four findings per Section 5.503 of the LDC. The findings are listed here, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

- A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;**

Applicant Notes: The long and narrow shape of Parcel 24, along with limitations on driveway locations due to existing adjacent development to the north along Somerton Blvd. and city standards for driveway spacing, as well as the requirements of adopted fire codes, has driven the need for a driveway to be located off Recker Rd. There is also a 50-foot-wide gas line easement along the entire southern property line, which cannot be built on. This reduces the buildable area of an already narrow lot even further. Additionally, since Recker Rd. is considered the main frontage for this parcel, it will be assigned a Recker Rd. address. All mapping guidance systems would direct people to Recker Rd. It would be confusing for all visitors, and ongoing deliveries and services to find access to the site, and might cause potential traffic issues. The three other parcels fronting Recker Rd. within the Verde at Cooley Station PAD to the north all have access drives from Recker Rd. This is the only parcel with GBC zoning that fronts on Recker Rd.

Staff finds that the strict application of the zoning ordinance would deprive the specific property of privileges enjoyed by similar property in the Verde at Cooley Station PAD.

- B. Such special circumstances were not created by the owner or applicants;**

Applicant Notes: The current or previous owners or applicants did not write the Land Development Code, other Town Standards or International Codes. The shape of the parcel was determined by the street alignment of Somerton Blvd., and further reduced by the gas line easement along the southern property line obtained by Order of Condemnation. Neither do we have any control over city addressing and navigation guidance systems.

Staff finds that the special circumstances present are not self-imposed as the existing locations of the drive entrances across the street have restricted the number of full motion access locations that can be provided for the proposed development on the south side of the Somerton Blvd.

C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and

Applicant Notes: Three other parcels within the Verde at Cooley Station PAD front on Recker Rd. and all have driveway access from Recker Rd. approved through a PAD deviation. Additionally, this is the only parcel in the GBC zoning district that fronts on Recker. Rd.

Staff finds the variance would not grant special privileges inconsistent with limitations on nearby or comparable properties.

D. The variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or the public welfare in general.

Applicant Notes: The granting of the variance will reduce traffic congestion and increase traffic safety on Somerton Blvd. Recker Rd. is a major arterial that can accommodate the traffic volume, and the proposed decel lane will ensure safe and efficient traffic movement.

Staff finds that the proposed variance will not be detrimental to the enjoyment of adjacent properties, land uses or the greater community's welfare and safety.

Pursuant to the above analysis, Staff finds that the variance request meets all of the four (4) findings required by Article 5.503 of the Land Development Code and ARS § 9-462.06.G.

PUBLIC NOTIFICATION AND INPUT

A notice of public hearing was published in a newspaper of general circulation in the Town, an official notice was posted in all the required public places within the Town and neighborhood notice was provided per the requirements of the Land Development Code Article 6.2.6.

Staff has received no comment from the public.

PROPOSITION 207

An agreement to "Waive Claims for Diminution in Value" pursuant to A.R.S. § 12-1134 was signed by the landowners of the subject site, in conformance with Section 6.2 of the Town of Gilbert Land Development Code. This waiver is in the case file.

STAFF RECOMMENDATION

Make the Findings of Fact and approve V23-01 Verity at Cooley Station: Request for a deviation from the strict application of the land development code requirement set forth in Chapter 1 Zoning Regulations, Section 3.9 Gateway Districts, Section 3.9.5.F Gateway-Additional Regulations- Driveway Restrictions to allow vehicular access from an arterial street. The subject property is located at the southwest corner of Recker Rd. and Somerton Blvd. and zoned Gateway Business Center (GBC) with a Planned Area Development (PAD) overlay, subject to conditions.

1. The variance only modifies those standards specifically identified; all other standards of the Land Development Code must be met.

Respectfully submitted,



Keith Newman,
Senior Planner

Attachments and Enclosures:

- 1) Hearing Officer Findings of Fact (blank form)
- 2) Notice of Public Hearing
- 3) Aerial Photo
- 4) Site Plan
- 5) Applicant's Narrative

FINDINGS OF FACT FOR VARIANCE APPLICATIONS

CASE NUMBER: V23-01

APPLICANT NAME: Kristjans Sigurdsson

The Hearing Officer, having heard all the evidence before it and having reviewed the file in the above application for a variance, hereby grants/denies the variance application and makes the following findings:

There are special circumstances of the property, including its size, shape, topography, location or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Those special circumstances include the following:

The above special circumstances applicable to the property were not created by the owner or applicant and are more than mere personal inconvenience or financial hardship because:

The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the zone and vicinity in which such property is located because:

The authorizing of the application will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general because:

The variance will not make any changes in the uses permitted in the zoning classification or zoning district or make any changes in the terms of the zoning ordinance except adjustments authorized by ARS § 9-462.06.

Hearing Officer

Date

V23-01 Verity at Cooley Station
Attachment 2: Notice of Public Hearing

VARIANCE HEARING DATE:

Wednesday, February 22, 2023 TIME: 5:00 PM*

LOCATION: Council Chambers
Municipal Building I
50 East Civic Center Drive

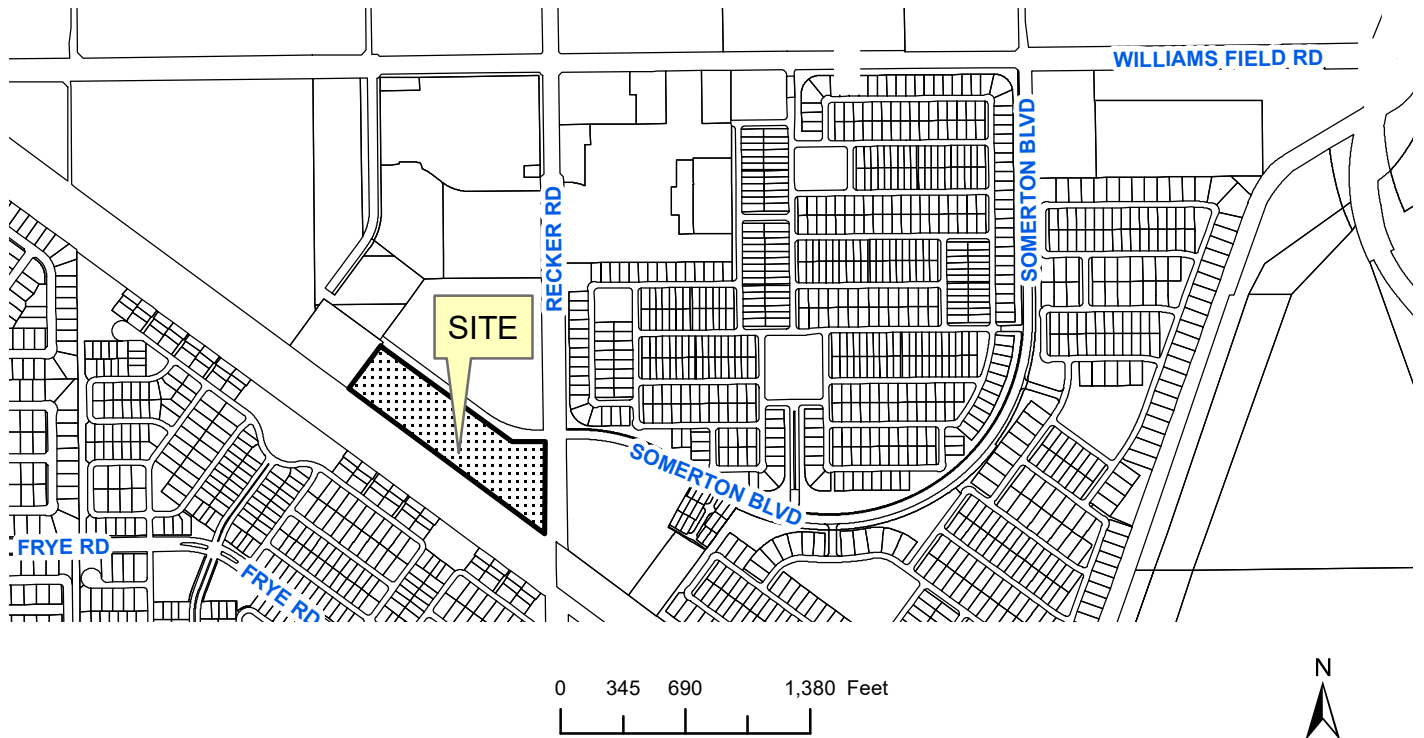
*Call Planning Division to verify date and time: (480) 503-6812

The application is available to the public for review at the Town of Gilbert Planning Division Monday - Thursday 7AM - 6PM.

REQUESTED ACTION:

V23-01 VERITY AT COOLEY STATION: Request for a deviation from the strict application of the land development code requirement set forth in Chapter 1 Zoning Regulations, Section 3.9 Gateway Districts, Section 3.9.5.F Gateway-Additional Regulations- Driveway Restrictions to allow vehicular access from an arterial street. The subject property is located at the southwest corner of Recker Rd. and Somerton Blvd. and zoned Gateway Business Center (GBC) with a Planned Area Development overlay (PAD).

SITE LOCATION:



APPLICANT: K&I Homes, LLC
CONTACT: Kristijan Sigurdsson
ADDRESS: 6125 E Indian School Rd #2005
Scottsdale, AZ 85251

TELEPHONE: (602) 505-2525
EMAIL: kristjans@kandihomes.com



V23-01 Verity at Cooley Station Attachment 4: Site Plan

PROJECT INFO - LOT 24

PROJECT NAME: VERITY @ Cooley Station
LOCATION: SWC OF RECKER RD. & SOMERTON BLVD.
SITE ADDRESS: 2700 E. RECKER RD. (ASSUMED - TO BE ASSIGNED)
PROJECT DESCRIPTION: MIXED USE COMMERCIAL / RESIDENTIAL COMMUNITY
 BLDG. 1 FRONTING RECKER RD. INCLUDES APPROX. 33,000 SF OF COMMERCIAL SPACE ON THE GROUND FLOOR WITH 4 STORY RESIDENTIAL ABOVE.
 BLDG. IIA & IIB, ARE 4 STORY RESIDENTIAL.
 BUILDINGS G2 & G3 HAVE INDIVIDUAL GARAGES ON THE GROUND FLOOR AND TWO LEVELS OF RESIDENTIAL ABOVE.

PARCEL #/S: 304-48-015H (CURRENT - TO BE REPLAT)
LEGAL DESCRIPTION: PARCEL 24 OF COOLEY CENTER PARCEL PLAN 2020

PARCEL SIZE: NET SITE AREA +/- 383,834 SF = 8.81 AC
 GROSS SITE AREA +/- 446,925 SF = 10.26 AC

CURRENT ZONING: GBC/PAD GATEWAY BUSINESS CENTER/PLANNED AREA DEVELOPMENT

VARIANCE REQUESTED:
 1. VARIANCE TO ALLOW VEHICULAR ACCESS FROM ARTERIAL STREET
 SECTION 3.9.5.F DRIVEWAY RESTRICTIONS
 VEHICULAR ACCESS SHALL BE FROM NON-ARTERIAL STREET OR ALLEY.

UNIT MIX: 118 - 1 BEDROOM 152 - 2 BEDROOM TOTAL: 270 UNITS

DWELLING UNIT DENSITY (UNITS / GROSS ACRE): 270 UNITS / 10.26 AC = 26.3 DU/AC

COMMERCIAL USE: AREA REQUIRED: 25,232 SF + 4,639 SF FOR LOT 22 = 29,871 SF
 AREA PROVIDED: 32,957 SF

BUILDING FLOOR AREA: GROSS SF (+/-)

FLOOR	BLDG. 1	BLDG. IIA	BLDG. IIB	BLDG. G2	BLDG. G3	TOTAL
1ST	36,382	20,036	20,036	8,240	11,209	95,903 SF
2ND	34,949	20,036	20,036	6,780	10,159	91,960 SF
3RD	34,949	20,036	20,036	6,780	10,159	91,960 SF
4TH	34,949	20,036	20,036			75,021 SF
5TH	34,949					34,949 SF
TOTAL	176,178	80,144	80,144	21,800	31,527	389,793 SF

PARKING CANOPIES: +/- 37,625 SF

LOT COVERAGE (NET SITE AREA):
 95,903 SF / 383,834 SF = 25.0% NOT INCLUDING PARKING CANOPIES
 133,528 SF / 383,834 SF = 34.8% INCLUDING PARKING CANOPIES

LANDSCAPE AREA: REQUIRED: 5% OF NET LOT AREA = 19,192 SF
 PROVIDED: +/- 26,345 SF = 6.9%

PARKING LOT LANDSCAPING: REQUIRED: 10% OF PARKING LOT AREA = +/- 13,760 SF
 PROVIDED: +/- 34,435 = 25.0%

BUILDING HEIGHT: BLDG. I: 5 STORY / 60' PROPOSED
 BLDG'S. I & II: 4 STORY / 50' PROPOSED
 BLDG'S G2 & G3: 3 STORY / 30' PROPOSED

OCCUPANCY GROUP: APARTMENTS R-2 PARKING GARAGES U
 COMMERCIAL B & A3

PARKING REQUIRED AND PROVIDED:

Parking Required	Quantity	Type	VEHICLES		Ratio	BICYCLE
			Ratio	Required		
RESIDENTIAL	118	1 Bed	1 SP/Unit	118		
	152	2 Bed	2 SP/Unit	304		
Guest			.25 SP/Unit	68		
Total	270			490	1 per 10	49
COMMERCIAL	24,933	Office	1 SP/500	50	1 per 10	10
Total Required				539		59

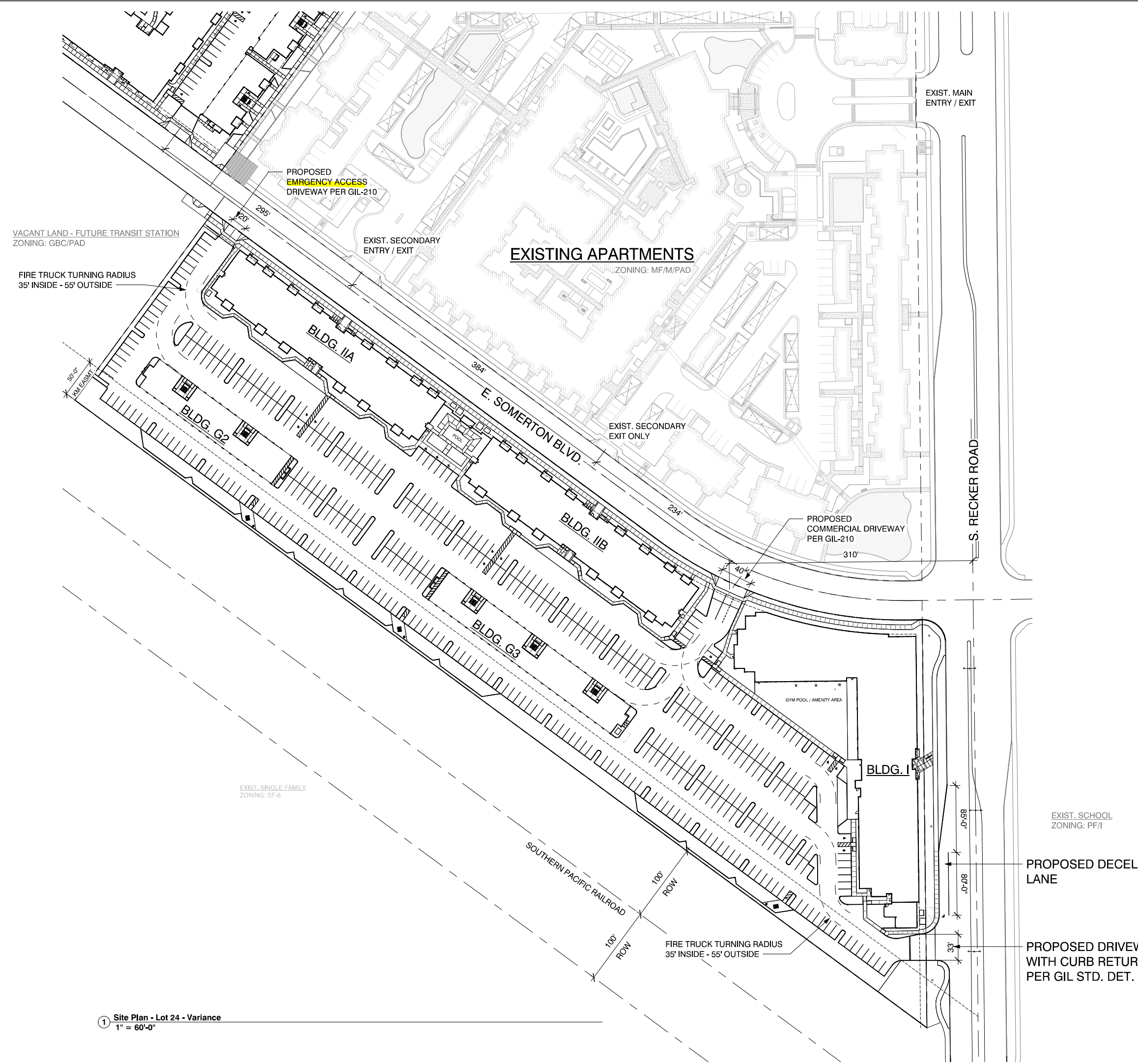
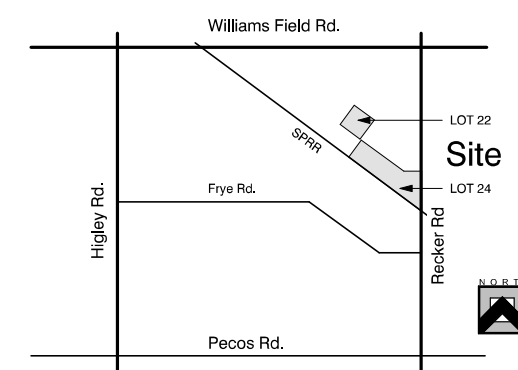
Parking for Commercial reduced by 50% with shared parking/Use Permit
 Clubrm. & Gym are accessory to residents and Co-Work renters - no parking req'd

Accessible Spaces required: PER 2010 ADA
 Residents: 1 SP / Type A Unit Sec. 208.2.3.1 6
 2% of spaces over 1/unit provided Sec. 208.2.3.2 2
 Guest & Commercial: Table 208.2 5

Coverd spaces required for residential: 1 /Unit 270 Provided 282
 Of which min. 25% shall be enclosed (Garages): 68 Provided 72

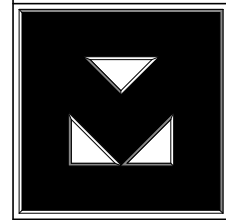
Parking Provided		VEHICLES			BICYCLE
		Standard	ADA	Total	
	Covered	204	6	210	28
	Garage	70	2	72	
	Surface/Shared	259	5	264	24
	Secured				108
Total Parking Provided		533	13	546	0

VICINITY MAP



1 Site Plan - Lot 24 - Variance
 1" = 60'-0"

K & I HOMES, L.P.
 6125 E. INDIAN SCHOOL
 SUITE 2005
 SCOTTSDALE, AZ 85253
 PH: 602-505-2525



SILVER CREEK DEVELOPMENT



Revisions

#	Description	Date

OWNERSHIP OF DOCUMENTS
 DRAWINGS AND SPECIFICATIONS AS INSTRUMENTS OF SERVICE ARE AND SHALL REMAIN THE PROPERTY OF THE ARCHITECT WHETHER THE PROJECT FOR WHICH THEY WERE PREPARED IS EXECUTED OR NOT. THEY ARE NOT TO BE USED ON OTHER PROJECTS OR EXTENSIONS TO THIS PROJECT EXCEPT BY AGREEMENT IN WRITING AND WITH APPROPRIATE COMPENSATION TO K & I HOMES, L.P.

JOB NUMBER:
DRAWN BY: KS
CHECKED BY: KS
ISSUE DATE: 01/05/23

NOT FOR CONSTRUCTION

SHEET TITLE:
 Site Plan - Variance

SHEET NUMBER:

A1.0

Variance



K&I Homes, LLC

VARIANCE PROJECT NARRATIVE

January 5, 2023

Town of Gilbert
Planning Department

RE: **VERITY @ Cooley Station** PDR-2022-00177

VERITY @ Cooley Station is a proposed mixed-use development project located on Lot 24 of Cooley Station. The parcel is zoned GBC - Gateway Business Center.

This request is for a Variance to allow Vehicular Access from Arterial Street within the GBC zoning district.

LAND DEVELOPMENT CODE STANDARDS Sec. 3.9.5.F Additional Regulations

Driveway Restrictions: Vehicular Access Shall be from non-arterial street or alley.

PROJECT OVERVIEW

The proposed project includes +/- 270 residential dwelling units and +/- 33,000 SF of commercial office use, in five buildings on a 10.26 acre parcel. The parcel configuration is very long (approx. 1,200 feet along Somerton Blvd..) and relatively not very deep (approx. 300 feet along Recker Rd.). Recker Rd. is considered the main parcel frontage per Planning Department. The parcel is part of the Verde at Cooley Station PAD (Z19-14). Approved Development plan included as Exhibit 7.2 of this application.

The GBC zoning district includes four parcels within Verde at Cooley Station. This is the only GBC zoned parcel with frontage along Recker. Rd. The other three parcels front Somerton Blvd. and Verde Dr.

Three other parcels part of the PAD also front Recker Rd. to the North of Lot 24.

- The two northernmost parcels, Verde at Cooley Station and ALTA at Cooley Station are zoned GVC. The GVC zoning includes the same driveway restrictions as the GBC, but they have three driveways along Recker Rd., as approved under the PAD.

- Directly north of Lot 24 is 'Album at Cooley Station, a 204 unit apartment community, currently under construction. This parcel is zoned Multi-Family and not subject to the same driveway restrictions. The parcel has a main entrance driveway along Recker Rd. and two other secondary driveways along Somerton Blvd. directly across from Lot 24.

The location of existing driveways across Somerton Blvd. places severe limitations on allowed location of new driveways on Lot 24, meeting Public Works and Engineering Standards (Figure No. 4.3) for driveway spacing, and consequently the development of Lot 24.

The size and scope of the proposed project requires two separate full access drives to function properly and avoid traffic congestion at the driveway entrances. Additionally the International Fire Code, Section D104, requires two access roads for each building, spaces a minimum of 400' apart. This cannot be accomplished without an access drive from Recker. Rd.

REQUIRED FINDINGS

1. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other properties of the same classification in the same zoning district.

As outlined above in the project overview, the long and narrow shape of the large parcel, along with limitations on driveway locations due to existing adjacent development and city standards, as well as the requirements of adopted fire codes, requires an additional driveway to be located off Recker Rd. There is also a 50 foot wide gas line easement along the entire southern property line, which cannot be built on. This reduces the buildable area of an already narrow lot even further.

Additionally, since Recker Rd. is considered the frontage for this parcel, it will be assigned a Recker Rd. address. All mapping guidance systems would direct people to Recker Rd. It would be confusing for all visitors, and ongoing deliveries and services to find access to the site, that might cause potential traffic issues.

The three other parcels fronting Recker Rd within the same PAD all have access drives from Recker Rd.

This is the only parcel with GBC zoning that fronts on Recker Rd.

2. Such special circumstances were not created by the current or previous owners or applicants.

Current or previous owners or applicants did not write the Land Development Code, other Town Standards or International Codes. The shape of the parcel was determined by the street alignment of Somerton Blvd., and further reduced by the gas line easement obtained by Order of Condemnation. Neither do we have any control over city addressing and navigation guidance systems.

3. The variance does not constitute a grant or special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

To the contrary. the three other parcels within the same PAD that front on Recker Rd. all have driveway access from Recker Rd. Additionally, this is the only parcel in the CBD zoning district that fronts on Recker. Rd.

4. The variance will not be materially detrimental to the persons residing or working in the vicinity, to abutting property, to the neighborhood, or to the public welfare in general.

To the contrary. The granting of the variance will reduce traffic congestion and increase traffic safety on Somerton Blvd. Recker Rd. is a major arterial that can easily accommodate the traffic volume, and the proposed decel lane will ensure safe and efficient traffic movement.

Should you have any questions or require additional information in regards to this application,, please contact me via phone or email.

Sincerely,



Kristjan Sigurdsson, Principal
K&I Homes, LLC