



BEFORE THE PHOENIX PLANNING COMMISSION

**STATE OF OREGON, CITY OF PHOENIX**

IN THE MATTER OF PLANNING FILE NO. MA24-01 LOCATED )  
 )  
AT 745 N. ROSE ST. [MAP NO. 38-1W-09D-600], THE PHOENIX ) ORDER  
 )  
PLANNING COMMISSION FINDS THE FOLLOWING: )

1. The Planning Commission held a properly noticed public hearing on this matter on May 13, 2024;
2. The Planning Commission asked Planning Staff to present a staff report and a final order with findings and recommendations at the May 13, 2024 public hearing;
3. At the public hearing evidence was presented and the public was given an opportunity to comment;
4. The Planning Commission finds that the Modification is allowed and is consistent with the intent of the Medium Density Residential (R-2) zoning district and approval criteria outlined in the Phoenix Land Development Code;

**NOW THEREFORE, the Phoenix Planning Commission hereby approves (File # MA24-01) a requested modification to the Phoenix High School Site Plan (File # CUP19-02), based on the applicant’s preliminary site design, subject to the following Conditions of Approval:**

**PRIOR TO CONSTRUCTION:**

1. RVSS-Stormwater Management Plan: the applicant shall provide the Community and Economic Development Department a copy of the approved Stormwater Management Plan and construction authorization letter issued by RVSS.
2. RVSS-Construction and Erosion Control: the applicant shall provide the Community and Economic Development Department a copy of the Construction and Erosion Control Permit issued by RVSS.

**PRIOR TO ISSUANCE OF DEVELOPMENT PERMITS:**

3. Pathways, ADA Compliance: pathway details will be reviewed by building plans examiners to ensure compliance with ADA requirements
4. Revised Landscape Plan: the applicant shall provide a revised landscape plan featuring shrubs from 5-gallon containers or larger -or- provide documentation from Rogue Valley Sewer Services indicating why this is not practical for rain garden vegetation

**PRIOR TO USE:**

5. Trees, Mitigation: the applicant shall transplant or install four (4) new trees in the general vicinity.
6. Landscaping: the applicant shall coordinate a site visit with Planning Staff to verify landscaping is installed in accordance with the approved landscape plan.
7. Fence: the applicant shall obtain a building permit to install the 10' tall chain link fence as shown on the approved site plan.

**ONGOING:**

8. Outdoor Lighting: Changes to previously approved outdoor lighting apart from the exemptions listed in § 3.12.5 shall require a separate review prior to installation.
9. Prior approval: All conditions required in File # CUP19-02 remain in effect.

**IT IS HEREBY ORDERED THAT the Phoenix Planning Commission hereby approves (File # MA24-01) a requested modification to the Phoenix High School Site Plan (File # CUP19-02), which proposes to replace a portion of the school practice football/soccer field with tennis courts based on the information presented in the Staff Report and Findings of Fact below:**

*In the following, any text quoted directly from City codes appears in italics; staff findings appear in regular typeface.*

In order to approve the request, findings must be made showing consistency with all applicable criteria. The Applicant submitted a narrative addressing the standards and criteria of Chapters 2.2, 2.2.9, 3.3.5, 3.5.6, 3.8, 3.9, 3.12, 4.2, 4.6, and Chapter 4.6 along with elevations, a Public Facilities & Services Impact Statement from a Civil Engineer; and a preliminary Site Plan. PLDC approval criteria for Site Design and Conditional Use Permit review in relation to Applicant's submittal are summarized in the staff report and addressed in detail in the findings below.

## **CHAPTER 2 – LAND USE DISTRICTS**

### **Chapter 2.2 – Residential District (R-2)**

#### **2.2.1 - Purpose**

**A. Intent:**

1. *Residential zones within the City of Phoenix are intended to provide the full range of “needed housing” to the residents of the City and the Region in accordance with Statewide Goal 10 and ORS Chapter 197. Residential Districts are also intended to promote the livability, stability, and improvement of the City’s neighborhoods...*

#### **2.2.2 - Permitted Land Uses**

- A. Permitted Uses.** *The land uses listed in Table 2.2.2 are permitted in Residential Districts, subject to the provisions of this Chapter. Only land uses specifically listed in Table 2.2.2 and land uses approved as similar to those in Table 2.2.2 may be permitted. The land uses identified as requiring a “CUP” in Table 2.2.2 require Conditional Use Permit approval prior to development or a change in use, in accordance with Chapter 4.4 – Conditional Use Permits.*

Non-Residential	R-1	R-2	R-3	
Short Term Rental		P		See 2.2.9.J. Requires Type I HO/Short Term Lodging Permit
Churches, Clubs, Lodges, similar uses		CUP		See RLUIPA
Government offices and facilities		CUP		See 2.2.9.G (in enclosed building)
Libraries, Museums, Community Centers		CUP		See 2.2.9.G. (and similar uses)
Private Utilities		CUP		Located within an enclosed building
Public Parks and Recreational Facilities		CUP		See 2.2.9.G
Schools (public and private)		CUP		See 2.2.9.G.
Uses similar to those listed above		CUP		See Interpretation standards
Wireless Communication Facilities		CUP		See 3.10.1.

**Table 2.2.2 – Development Standards in Residential Zones**

**FINDING:** Although this review is limited in scope to the modification request per PLDC § 4.6.3(B)(2), it is widely recognized that schools contribute to the livability, stability and improvement of neighborhoods and should be noted that the use is allowed in the R-2 Zoning District subject to the provisions of PLDC Chapter 2.2, Chapter 3 and Chapter 4.4. The applicant has addressed the applicable modification standards and criteria in their findings which staff has reviewed and addressed below.

The proposal is a modification to the Phoenix High School Site Plan, approved through File # CUP19-02. More specifically, the proposal is to replace a portion of the school practice football/soccer field with tennis courts and pathways, and minor changes to landscaping to facilitate treatment of stormwater from the additional impervious surface area created. The use (school) and intensity of use (occupancy) remains unchanged. No new uses or structures are proposed. The entire project area measures approximately 1.01 acres; the new hardscape areas of the proposed Tennis Courts and new sidewalks measure approximately 0.77 acres with stormwater rain gardens taking up a majority of the remainder (Sheet C2.00). The courts are to be enclosed with 10' chain link fencing to secure the courts from unwanted uses and protect students from entering vehicular areas to retrieve errant tennis balls according to the applicant's narrative. **These standards are met.**

**2.2.9 – Special Standards for Certain Uses**

G. *Public and Institutional Land Uses. Public and institutional uses (as listed in Table 2.2.2) are allowed in the Residential Districts as a Conditional Use and subject to the following land use standards, which are intended to control the scale of these developments and their compatibility with nearby residences:*

1. *Development Site Area. The maximum development site area shall be three acres, except that this standard shall not apply to parks and open-space uses. Larger developments may be approved as Conditional Uses, in accordance with Chapter 4.4 – Conditional Use Permits, or as part of Planned Unit Developments, in accordance with Chapter 4.5 – Planned Unit Developments.*
2. *Building Mass. The maximum width or length of a building shall not exceed 130 feet (from end-wall to end-wall), except that this standard may be increased through the approval of a Conditional Use Permit or as part of a Planned Unit Development.*

**FINDING:** (G) The use (school) was reviewed and approved through Conditional Use Permit File # CUP19-02, neither the existing use, nor the intensity of use (occupancy) are proposed to change. Therefore, the scale of the development will not materially change

compatibility with nearby residences. (1) The development site area measure 1.01 acres, it exists as an athletic area for the school and will continue to be used for student athletics. (2) No structures are proposed. **The provisions of this section are not applicable.**

## **CHAPTER 3 – DESIGN STANDARDS**

### **Chapter 3.2 – Access and Circulation**

#### **3.2.2 - Vehicular Access and Circulation**

**FINDING:** This review is limited in scope to the modification request per PLDC § 4.6.3(B)(2). The proposal does not include changes to vehicular access and circulation. **The provisions of this section are not applicable.**

#### **3.2.3 - Pedestrian Access and Circulation**

##### **A. Pedestrian Access and Circulation.**

1. *Continuous Pathways. The pathway system shall extend throughout the development site, and connect to all future phases of development, adjacent trails, public parks and open space areas whenever possible. The developer may also be required to connect or stub pathways to adjacent streets and private property, in accordance with the provisions of Chapter 3.2.2 – Vehicular Access and Circulation and Chapter 3.5.2 – Transportation Standards.*
2. *Safe, Direct, and Convenient Pathways.*
  - a. *Reasonably direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of direction travel for likely users.*
  - b. *Safe and convenient. Bicycle and pedestrian routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations.*
  - c. *For commercial, industrial, mixed use, public, and institutional buildings, the primary entrance is the main public entrance to the building. In the case where no public entrance exists, street connections shall be provided to the main employee entrance.*
3. *Connections within Development. For all developments subject to Site Design Review, pathways shall connect all building entrances to one another. In addition, pathways shall connect all parking areas, storage areas, recreational facilities and common areas (as applicable), and adjacent developments to the site, as applicable. Internal pedestrian circulation within new office parks and commercial developments shall be provided through clustering of buildings, construction of accessways, walkways and similar techniques.*
4. *Pathways shall have adequate lighting for safety purposes. The City may require lighting as a condition of development review.*

**FINDING:** Although not explicitly stated in the findings, the proposed site plan shows that pathways are to be added in conjunction with this modification request. Therefore, the

above standards are applicable. (1, 2 & 3) The proposed site plan shows continuous pathways throughout the development site that connect to buildings, to the parking lot and to adjacent public sidewalks. The pathways are reasonably direct and free from hazards. (4) The existing pathways adjacent to the proposed tennis courts already feature lighting. **This standard is met.**

- B. Design and Construction. Pathways shall conform to all of the standards in 1-5:*
- 1. Vehicle/Pathway Separation. Where pathways are parallel and adjacent to a driveway or street (public or private), they shall be raised six inches and curbed, or separated from the driveway/street by a five-foot minimum strip with bollards, a landscape berm, or other physical barrier. If a raised path is used, the ends of the raised portions must be equipped with curb ramps...*
  - 3. Crosswalks. Where pathways cross a parking area, driveway, or street, they shall be clearly marked with contrasting paving materials, humps/raised crossings, or painted striping. An example of contrasting paving material is the use of a concrete crosswalk through an asphalt driveway. If painted striping is used, it shall consist of thermo-plastic striping or a similar type of durable application. Crosswalks on state highway facilities shall be developed in coordination with the Oregon Department of Transportation (ODOT), shall be designed to state standards, and may require an Intergovernmental Agreement (IGA) to address maintenance responsibilities.*
  - 4. Pathway Surface. Pathway surfaces shall be concrete, asphalt, brick/masonry pavers, or other durable surface, at least six feet wide, and shall conform to ADA requirements. Multi-use paths shall be the same materials, at least 10 feet wide. (See also Chapter 3.5.2 – Transportation Standards for public, multi-use pathway standard.)*
  - 5. Accessible routes. Pathways shall comply with the Americans with Disabilities Act, which requires accessible routes of travel.*

**FINDING:** (1 & 3) All proposed pathways are spatially separated from driveways and streets. (4 & 5) Per Sheet C2.0, pathway dimensions are shown to measure 6' or greater in width on the proposed site plan and are to be constructed of concrete. As a condition of approval, prior to issuance of permits, pathway details will be reviewed by building plans examiners to ensure compliance with ADA requirements. **These standards are met subject to conditions of approval.**

### **Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls**

#### **3.3.2 – Landscape Conservation**

- B. Significant Vegetation. “Significant vegetation” means:*
- 1. Significant Trees and Shrubs. Individual trees and shrubs with a trunk diameter of six inches or greater, as measured four feet DBH (diameter at breast height) above the ground, and all plants within the drip line of such trees and shrubs, shall be protected.*
- C. Mapping and Protection Required. Significant vegetation shall be mapped as required by Chapter 4.2 – Development Review and Site Design Review. Significant trees shall be mapped individually and identified by species and size (diameter at four feet above grade, or “DBH”). A protection area shall be defined around the edge of all branches (drip-line) of each tree (drip lines may overlap between trees).*

*The City also may require an inventory, survey, or assessment prepared by a qualified professional when necessary to determine vegetation boundaries, building setbacks, and other protection or mitigation requirements.*

- D. *Protection Standards. All of the following protection standards shall apply to significant vegetation areas:*
1. *Protection of Significant Trees (Section B.1) Significant trees identified as meeting the criteria in Section B.1 shall be retained whenever practicable. Preservation may become impracticable when it would prevent reasonable development of public streets, utilities, or land uses permitted by the applicable land use district.*

**FINDING:** Sheet C5.11 indicates that eight (8) trees are proposed to be removed adjacent to the existing pathway on the southeast side of the project area. The applicant has not demonstrated whether the trees to be removed meet threshold of a 'Significant Tree' as defined in § 3.3.2(B)(1) but these trees were part of the originally approved Site Plan in File # CUP19-02. The applicant proposes to install rain gardens in this location with four (4) trees. Further mitigation will be required in order to preserve the urban tree canopy. As a condition of approval, prior to use, the applicant shall transplant or install four (4) new trees in the general vicinity. **The provisions of this section are met with conditions.**

### **3.3.3 - New Landscaping**

- A. *Applicability. This Section shall apply to all developments requiring Site Design Review, and other developments with required landscaping.*
- B. *Landscaping Plan Required. A landscape plan is required. All landscape plans shall conform to the requirements in 4.2.5 – Site Design Review Application Submission Requirements, Section B.5 (Landscape Plans). All landscape and irrigation plans must be reviewed and approved by the Planning Director, unless the conditions of the project specifically require Planning Commission approval.*
- C. *Landscape Area Standards. The minimum percentage of required landscaping equals:*
1. *Residential Districts. 20 percent of the site.*
  2. *City Center District. 10 percent of the site.*
  3. *Commercial Districts. A minimum of 20 percent of the site shall be landscaped.*
  4. *Industrial Districts. 20 percent of the site.*
- D. *Landscape Materials. Landscape materials include trees, shrubs, ground cover plants, non-plant ground covers, and outdoor hardscape features, as described below:*
1. *Natural Vegetation. Natural vegetation shall be preserved or planted where practicable.*
  2. *Plant Selection. A combination of deciduous and evergreen trees, shrubs, and ground covers shall be used for all planted areas, the selection of which shall be based on local climate, exposure, water availability, and drainage conditions. As necessary, soils shall be amended to allow for healthy plant growth.*
  3. *Non-native, invasive plants, as per Chapter 3.3.2 – Landscape Conservation, Section B, shall be prohibited.*
  4. *Hardscape features, such as patios, decks, plazas, etc., may cover up to 20 percent of the required landscape area; except in the City Center District where hardscape features may cover up to 50 percent of the landscape*

- area. Swimming pools, sports courts, and similar active recreation facilities may not be counted toward fulfilling the landscape requirement.
5. *Non-plant Ground Covers.* Bark dust, chips, aggregate or other non-plant ground covers may be used, but shall cover no more than 20 percent of the area to be landscaped. Coverage is measured based on the size of plants at maturity or after two years of growth, whichever comes sooner.
  6. *Tree Size.* Trees shall have a minimum caliper size of 1.5 inches at DBH or greater, or be six feet or taller, at time of planting.
  7. *Shrub Size.* Shrubs shall be planted from 5-gallon containers or larger.
  8. *Ground Cover Size.* Ground cover plants shall be sized and spaced so that they grow together to cover a minimum of 75 percent of the underlying soil within three years.
  9. *Significant Vegetation.* Significant vegetation preserved in accordance with Chapter 3.3.2 – Landscape Conservation may be credited toward meeting the minimum landscape-area standards. Credit shall be granted on a per square foot basis. The Street Tree standards of Chapter 3.3.4 – Street Trees may be waived when trees preserved within the front yard provide the same or better shading and visual quality as street trees would otherwise provide.
  10. *Storm Water Facilities.* Storm water facilities (e.g., detention/retention ponds and swales) shall be landscaped with water tolerant, native plants.

**FINDING:** In the tree removal area, rain gardens will be installed to treat stormwater generated by the proposed tennis courts and pathways. Sheet L2.00 indicates that the rain gardens will be planted with four (4) native trees with 1.5” caliper measurements, as well as a mixture of shrubs, perennials and grasses. Some of the proposed shrubs do not meet the minimum (5) gallon size requirement. As a condition of approval, prior to issuance of permits, the applicant shall provide a revised landscape plan featuring shrubs from 5-gallon containers or larger -or- provide documentation from Rogue Valley Sewer Services indicating why this is not practical for rain garden vegetation. As a condition of approval, prior to use, the applicant shall coordinate a site visit with Planning Staff to verify landscaping is installed in accordance with the approved landscape plan.

In summary the subject property being residentially zoned, requires a minimum of 20% area landscaping. As proposed, required street, setback and parking areas tree canopy remains unchanged, and the campus will continue to provide well over 30% area landscaping as measured in GIS with new rain gardens to accommodate for additional impervious surface area. **The standards are met with conditions.**

### **3.3.5 – Fences and Walls**

#### **B. Dimensions**

1. *In residential zones, the maximum allowable height of fences and walls is six feet as measured from the highest grade at the base of the wall or fence, except that retaining walls and terraced walls may exceed six feet when permitted as part of a site development approval or as necessary to construct streets and sidewalks. Bufferwalls (e.g., sound walls or other screens provided between noncompatible uses) may exceed six feet when permitted as part of a site development approval. A building permit shall be obtained when required by the Building Code as amended.*

**FINDING:** The applicant's findings and site plan propose a 10-foot tall black vinyl chain link perimeter fence to *secure the courts from unwanted uses and to protect students from entering vehicular areas to retrieve errant tennis balls...* and to *protect students and vehicles from errant tennis balls*, the facility will be required to have 10-foot continuous perimeter fencing.. Although fences in excess of 6' in height are not typically approvable in the residential zone, the code does offer an exception for noncompatible uses. Staff finds that a 10' chain link fence buffering the athletic use from the parking lot is a reasonable and valid separation of noncompatible uses, and because the request is being made through a limited site development application, the proposal is approvable. As a condition of approval, prior to use, the applicant shall obtain a building permit to install the 10' tall chain link fence as shown on the approved site plan. **The criterion is met with conditions.**

## **Chapter 3.4 – Vehicle and Bicycle Parking**

### **3.4.3 – Vehicle Parking Standards**

**FINDING:** This review is limited in scope to the modification request per PLDC § 4.6.3(B)(2). The proposal does not include changes to vehicle parking. **The provisions of this section are not applicable.**

### **3.4.4 – Bicycle Parking Requirements**

**FINDING:** This review is limited in scope to the modification request per PLDC § 4.6.3(B)(2). The proposal does not include changes to bicycle parking. **The provisions of this section are not applicable.**

## **Chapter 3.5 – Street and Public Facilities Standards**

**FINDING:** This review is limited in scope to the modification request per PLDC § 4.6.3(B)(2). The proposal does not include changes to streets, public use areas (parks), sanitary sewer, water service, or other utilities. However, changes to stormwater facilities are proposed and are addressed in Chapter 3.8 findings herein below. **The provisions of this section are not applicable.**

## **Chapter 3.8 – Storm and Surface Water Management Standards**

### **3.8.1 – Purpose and Applicability**

- B. Applicability. No permit for construction of new development or tenant improvements that result in impervious cover greater than 500 square feet within the city and urban growth boundary shall be issued until effects on stormwater management are evaluated. The level of review varies according to the affected area:...*
- 2. 2000–4999 square feet. Conceptual plans that conform to the stormwater management manual shall be submitted for approval.*

**FINDING:** The proposed site plan includes the development of 33,685 square feet of new impervious surface and the construction of rain gardens that the applicant narrative indicates will detain, treat and slowly release the stormwater generated at a rate equal to existing conditions.



Rogue Valley Sewer Services (RVSS) acts as the Phase II Permit holder for the City of Phoenix. The application includes a memo from RVSS indicating that the applicant's submitted construction plans are in general conformance with RVSS standards and provides requirements prior to construction. As a condition of approval, prior to construction, the applicant shall provide the Community and Economic Development Department a copy of the approved Stormwater Management Plan and construction authorization letter issued by RVSS. **This standard is met with conditions.**

## **Chapter 3.9 – Erosion Prevention and Sediment Control**

### **3.9.1 – Applicability and Purpose**

- B. Applicability. An erosion prevention and sediment control plan shall be required and approved by the city engineer under any of the following circumstances:*
- 3. Prior to approval of any building or grading permit that results in: a. Disturbance of 500 square feet or more of land surface.*

*Nothing in this Section shall relieve any person from the obligation to comply with the regulations or permits of any federal, state, or local authority.*

**FINDING:** The proposed development includes the disturbance of more than 500 square feet of land surface. As the Phase II Permit holder for the City of Phoenix, processing of erosion control permits for properties disturbing land surface of any size is administered and approved by Rogue Valley Sewer Services prior to onsite construction or the disturbance of any land surface. Because the total site disturbance area is 1.01 acres, the applicant must obtain an RVSS Construction and 1200-CN permit. As a condition of approval, prior to construction, the applicant shall provide the Community and Economic Development Department a copy of the Construction and Erosion Control Permit issued by RVSS. **The standard is met with conditions.**

## **Chapter 3.12 – Outdoor Lighting**

### **3.12.4 – Applicability**

*Except as described below, all outdoor lighting installed after the date of effect of this section shall comply with these requirements. This includes, but is not limited to, new lighting, replacement lighting, or any other lighting whether attached to structures, poles, the earth, or any other location, including lighting installed by any third party. Where the provisions of this chapter conflict with other sections of the Land Development Code or other municipal codes, the more restrictive regulation shall control.*

**FINDING:** No changes to outdoor lighting are proposed aside from the relocation of one (1) existing pathway luminaire. As an ongoing condition of approval, changes to previously approved outdoor lighting apart from the exemptions listed in § 3.12.5 shall require a separate review prior to installation. **This standard is met with conditions.**

## **CHAPTER 4 – APPLICATIONS AND REVIEW PROCEDURES**

### **Chapter 4.2 – Development Review and Site Design Review**

#### **4.2.2 – Applicability**

*Development Review or Site Design Review shall be required for all new developments and modifications of existing developments...*

**FINDING:** The proposal is for a modification to an existing development, therefore the provisions of Chapter 4.2 are applicable. Accordingly, staff has addressed the site design approval criteria in the following findings. **This standard is met.**

#### **4.2.6 – Site Design Approval Criteria**

*The Planning Director shall make written findings with respect to all of the following criteria when approving, approving with conditions, or denying an application:*

A. *The application is complete, as determined in accordance with Chapter 4.1 – Types of Applications and Review Procedures and Chapter 4.2.5 – Site Design Review Application Submission Requirements, above.*

**FINDING:** The applicant's proposal was deemed complete on April 23, 2024. **The criteria is met.**

B. *The application complies with the all of the applicable provisions of the underlying Land Use District (Chapter 2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses;*

C. *The applicant shall be required to upgrade any existing development that does not comply with the applicable land-use district standards, in conformance with Chapter 5.3 – Non-Conforming Uses and Developments;*

**FINDING:** (B) The proposed modification application conforms to all applicable provisions of the underlying zoning designation (R-2). (C) Staff finds that none of the items proposed to be modified currently exist in a nonconforming state. **These criteria are met.**

D. *The application complies with the Design Standards contained in Chapter 3. All of the following standards shall be met:*

- *Chapter 3.2 – Access and Circulation* ▪ *Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls*
- *Chapter 3.4 – Vehicle and Bicycle Parking*
- *Chapter 3.5 – Street and Public Facilities Standards*
- *Chapter 3.6 – Signs*
- *Chapter 3.7 – Environmental Constraints*
- *Chapter 3.8 – Storm and Surface Water Management Standards*
- *Chapter 3.9 – Erosion Prevention and Sediment Control*
- *Chapter 3.10 – Other Design Standards*

**FINDING:** The applicant's proposal meets or can meet with conditions of approval the provisions of the Design Standards contained in Chapter 3. **This standard is met with conditions.**

E. *Conditions required as part of a Land Division (Chapter 4.3 – Land Divisions and Lot Line Adjustments), Conditional Use Permit (Chapter 4.4 – Conditional Use Permits), Planned Unit Developments (Chapter 4.5 – Planned Unit Developments), or other approval shall be met.*

**FINDING:** The proposal is for a modification to a previously approved conditional use permit. As an ongoing condition of approval, all conditions required in File # CUP19-02 remain in effect. **This standard is met with conditions.**

#### **Chapter 4.4 – Conditional Use Permits** **4.4.6 – Modifications**

*Any expansion to, alteration of, or accessory use to a conditional use shall follow procedures in Chapter 4.6*

**FINDING:** The proposal is for an expansion to and alteration of a conditional use permit. The initial project was approved through File # CUP19-02 and underwent a Type III review. In accordance with the procedures in Chapter 4.6, the applicant has submitted a Type III application for modification. **This standard is met.**

#### **4.6.3 – Major Modifications**

*A. Major Modifications Defined. The Planning Director shall determine that a major modification is required if one or more of the changes listed below are proposed:*

- 1. A change in land use, if new use will adversely impact adjoining properties or if no prior permit exists;*
- 2. An increase in the number of dwelling units;*
- 3. A change in the type and/or location of access ways, drives, or parking area that affect off-site traffic;*
- 4. An increase in the floor area proposed for non-residential use by more than 10 percent where previously specified;*
- 5. A reduction of the area reserved for common open space and/or usable open space so long as the resulting area satisfies the minimum open space requirement as established by the original approval;*
- 6. A reduction to specified setback requirements by more than 10 percent, or to a degree that the minimum setback standards of the land use district cannot be met; or*
- 7. Changes similar to those listed in 1-6, which are likely to have an adverse impact on adjoining properties.*

**FINDING:** (5) The Planning Director has determined that a major modification is required because the original approval underwent a Type III review and the proposal could be seen as a reduction in usable open space. It should be noted, the original approval, File # CUP19-02, did not have a minimum open space requirement. **This standard is met.**

*B. Major Modification Request. An applicant may request a major modification as follows:*

- 1. If the Planning Director determines that the proposed modification is a major modification, the applicant shall submit an application for the major modification.*
- 2. The modification request shall be subject to the same review procedure (Type I, II, or III) and approval criteria used for the initial project approval; however, the review shall be limited in scope to the modification request. For example, a request to modify a parking lot shall require Site Design Review only for the proposed parking lot and any changes to associated*

*pathways, lighting, and landscaping. Notice shall be provided in accordance with the applicable review procedure.*

3. *If no prior permit exists, the modification request shall be subject to the same review procedure (Type I, II or III) and approved criteria that would be used if this were a new development.*

**FINDING:** (1) The applicant has made application as prescribed by the Planning Director in pre-application File # PA23-05. (2 & 3) The initial project was approved through File # CUP19-02 and underwent a Type III review. This review has been limited in scope to the modifications requested. Modification items include: replacing a portion of the school practice football/soccer field with tennis courts and pathways, and minor changes to landscaping to facilitate treatment of stormwater from the additional impervious surface area created. Notice has been provided in accordance with the Type III review procedure. **These standards are met.**

**This approval shall become final 14 days from the date this decision and supporting findings of fact are signed by the Chair of the Phoenix Planning Commission, below. A Planning Commission decision may be appealed to the City Council within 14 days after the final order has been signed and mailed. An appeal of the City Council's decision must be submitted to the Land Use Board of Appeals within 21 days of the Hearing Officer's decision becoming final.**

**Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.**

\_\_\_\_\_  
Terry Helfrich  
Planning Commission Chair

\_\_\_\_\_  
Date

ATTEST

\_\_\_\_\_  
Jeff Wilcox  
Associate Planner

\_\_\_\_\_  
Date