



# *City of Apache Junction*

## *Development Services Department*



### **PLANNING AND ZONING COMMISSION PUBLIC HEARING STAFF REPORT**

**DATE:** October 12, 2021

**CASE NUMBERS:** PA-1-21

**APPLICANT:** Hassle Free House Buyers, LLC, represented by Danielle Graham

**REQUEST:** An application requesting approval of a Private Access Way ("PAW")

**LOCATION:** The Silver Drive alignment between parcels 100-30-022F, 100-30-085A, 100-30-022E, 100-30-0860 and 100-30-022C, located south of Roundup St. between Ironwood Drive and Gold Drive.

**GENERAL PLAN/  
ZONING DESIGNATION:** Medium Density Residential ("MDR"), "RS-10M" Medium Density Single-Family Detached Residential.

**SURROUNDING USES:**

North: "RS-20M" (Medium Density Single-Family Detached Residential) Single Family Residences and "RS-GR" (General Rural Low Density Single-Family Detached Residential) Single Family Residences;

South: "RS-10M" Single Family Residences

East: "RS-10M" Single Family Residences

West: "RS-10M" Single Family Residences

#### **BACKGROUND**

Prompted by a request from Hassle Free House Buyers, LLC, for the property owner of 1111 N. Silver Drive to split said property, parcel 100-30-022C, it came to staff's attention that

the driveway known as Silver Drive is neither a city-approved street or a recognized easement. No private access way has ever been created here and as such the properties 100-30-085A, 100-30-022E, and 100-30-022C (addressed as 1111, 1130, and 1108 N. Silver Drive) lack a legally created or council approved access way for ingress and egress (See attached Exhibit #4, Land Split Map). Under these conditions, staff cannot approve of a land split, due to the requirements for legal access to every parcel being created.

Historically, the eastern 15' portion of parcels 100-30-022F, 100-30-085A, and 100-30-022E, (the properties addressed as 1521 W. Roundup St., 1130 and 1108 N. Silver Drive, respectively) and the western 15' portion of parcels 100-30-0860 and 100-30-022C, (the properties addressed as 1547 W. Roundup St. and 1111 N. Silver Drive, respectively) has been utilized as a common driveway. (See Exhibit #2 Aerial Map)



## **PROPOSALS**

Due to this issue Hassle Free House Buyers, LLC, represented by Danielle Graham, has applied for the creation of a private access way in the unofficial street known as Silver Drive. As noted on the attached Land Split Map for P-21-33-LSM (Exhibit #4), the location of the proposed private access way is shared across the five involved properties, specifically the eastern 15' of parcels 100-30-022F, 100-30-085A, and 100-30-022E, and the western 15' of parcels 100-30-0860 and 100-30-022C, including the two parcels to be created through the north-south split of 100-30-022C in lot split case P-21-33-LSM.

Earlier this year, the applicant and the property owners of the above indicated parcels entered into ingress/egress easement agreements allowing access on the specified 15' wide portions of their properties, but as these agreements do not guarantee continual access for all related parties or future owners. Furthermore, the city's zoning ordinance, Section 1-7-6 Private Street Standards (attached as Exhibit #5) requires council approval of a private access way or street, subject to a recommendation from the Planning and Zoning Commission.

## **PLANNING STAFF ANALYSIS**

### *Relationship to General Plan:*

There are no General Plan issues with the creation of the Private Access Way or the subsequent land split that motivates the request.

### *Zoning/Site Context:*

Each parcel involved is zoned RS-10M, which has a minimum net lot size of 10,000 square feet. In every case, the dedication of the 15' portion of the property used for the PAW will not result in a smaller net parcel or create a new setback issue for the existing homes.

### *Evaluation of the Private Access Way Request:*

Section 1-7-6 Private Street Standards of the Apache Junction Zoning Ordinance (attached as Exhibit #5) establishes certain standards and improvement-related criteria for the Commission to consider when evaluating a PAW. Staff's analysis (in gray tone) of said criteria with regard to this request, is as follows:

- A) Private streets shall be a minimum of 28 feet in unobstructed width of paved surface (back of curb to back of curb, if curbs are installed) with a 20-foot by 20-foot cutoff at the intersections or a minimum turning radius of 20 feet. Narrower private streets may be permitted subject to City Council review and approval.

The width of the proposed PAW is 30' from end to end, exceeding the required width of 28'. Pavement requirements are noted below.

- B) A private street may be permitted where its use is logically consistent with a desire for neighborhood identification and control of access and where special design concepts may be involved, such as within planned development areas, manufactured home developments, subdivisions or with CUPs.

Staff believes that the proposed private access way is logically consistent with the needs of this neighborhood. Silver Drive does not have a through way anywhere in the vicinity of this neighborhood and the existing driveway occurred as a way to access the lots of record (1111, 1130, and 1108 N. Silver Drive) that otherwise lacked access. Said lots appear to have been created prior to the city adopting standards for the creation of private streets. As these parcels have a need to secure a proper means of legal access, this proposal qualifies.

- C) Private streets shall be subject to Planning and Zoning Commission recommendation, City Council approval and the following requirements:
1. Paving shall be installed according to City Engineering Guidelines for public residential streets, or in accordance with subdivision regulations, if applicable. Curbs, gutters, sidewalks and streetlights may be required by the Council. Alternate paving surfaces may be permitted by the Development Services Engineer;

The existing driveway has been cleared and appears to utilize some decomposed granite, but is otherwise unimproved. Full street improvements do not appear necessary, however. Although PAW requests are very rare, the City Council has never required full street improvements as part of a PAW request. In the past, Council has looked at improvements in the surrounding

area and required similar or lesser improvements for a PAW. In this case, staff recommends a condition to require the installation of a double chip seal surface in the PAW to the edge of the existing street surface of W Roundup St. Alternate stabilization options approved by the Development Services Engineer may also be accepted.

2. Other requirements may be imposed by the Council for vehicular and pedestrian safety, utilities and emergency vehicle access;

There do not appear to be any concerns regarding pedestrian and vehicular safety. Staff has recommended a condition that emergency vehicles and utility service providers will be allowed access to the PAW.

3. Private streets shall not be allowed if, in the opinion of the City Council, a public street would better serve the public health, safety and welfare, or the location of the private access way presents a potential hazard to vehicular or pedestrian traffic at the intersection of the private street with a public street;

Staff does not believe that a public street would better serve this property or public interest. There is no Federally Patented Easement reserving any roadway rights for this portion of the properties and so obtaining the necessary right-of-way to make this section a public street would become an unnecessary cost to the city for very little benefit to the surrounding community.

4. City approvals shall be required for private streets. The design engineer shall be responsible that their design meets the geometrical and structural street design requirements and policies in accordance with general engineering standards. Testing and inspection for conformance of construction to minimum requirements of approved plans shall be the responsibility of the developer, who shall provide the City with proof that the requirements have been satisfied prior to project acceptance;

Staff believes that the code affords the Council and the city's engineers a degree of discretion over how and to what extent to apply these requirements. As long as the improvements made receive the city engineer's approval

staff believes this condition may be adequately met.

5. The maintenance of private streets is a continuing obligation of the property owners and/or homeowner's association. Streets shall be kept in a clean, safe and well maintained condition. More specifically, the property owner and/or homeowners association shall restore the street to its original approved condition if parking surface areas become deteriorated and/or emit dust particles into the air, as determined by the Development Services Engineer.

Staff will recommend a condition which requires and specifies the continued maintenance and upkeep of the PAW shall be the responsibility of the property owners which benefit from it.

#### **PLANNING STAFF RECOMMENDATION**

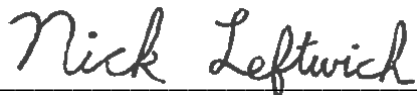
In accordance with the staff analysis provided above, planning staff recommends the approval of the request to create a Private Access Way, subject to the conditions listed under the recommended motion below.

#### **RECOMMENDED MOTION FOR PLANNED DEVELOPMENT REZONING**

I move that the Planning and Zoning Commission recommend to the Apache Junction City Council the (APPROVAL/DENIAL) of case P1-1-21, a request for a Private Access Way by Hassle Free House Buyers, LLC, represented by Danielle Graham, to serve existing and proposed properties pursuant to proposed land split case P-21-33-LSM, subject to the following conditions of approval:

1. The property owner shall finalize land split map P-21-33-LSM and shall, within one year, record deeds for the new properties approved by P-21-33-LSM.
2. The applicant in case PA-1-21 shall improve the PAW with a double chip seal treatment (or other approved surface and dust control treatment by the Development Services Engineer) to the edge of the W. Roundup Street improvements, to be approved and inspected by the city's Development Services and Public Works Engineers, including the securing of any necessary permits to do work in the city's right-of-way on W. Roundup Street.

3. The property owner shall separately prepare any necessary Easement for Perpetual Right of Ingress and Egress deeds which memorialize the council's approval of case PA-1-21; and which grant right of access to present and future owners of the involved properties described: parcels 100-30-022F, 100-30-085A, 100-30-022E, 100-30-0860 and 100-30-022C, including the two parcels to be created through the north-south split of 100-30-022C in lot split case P-21-33-LSM; and which also grant right of access to emergency and non-emergency city personnel and utility providers; and which require that the perpetual maintenance and upkeep of the PAW approved by PA-1-21 is the responsibility of the property owners which benefit from it.
4. Approval of this PAW is exclusively for the properties described herein, current parcels 100-30-022F, 100-30-085A, 100-30-022E, 100-30-0860 and 100-30-022C, including the two parcels to be created through the north-south split of 100-30-022C in lot split case P-21-33-LSM. No other splits or easements shall be created on these properties without first receiving the necessary administrative or city council approvals. Any documents which may have been recorded in contravention to the city's requirements and processes shall be eradicated by the appropriate parties.
5. All conditions of this PA-1-21 approval shall be satisfied and complied with within one year of the approval date of PA-1-21.
6. Proper building permits shall be obtained and inspections and approvals received for any building, electrical, plumbing, remodeling and/or other property improvements, as necessary.



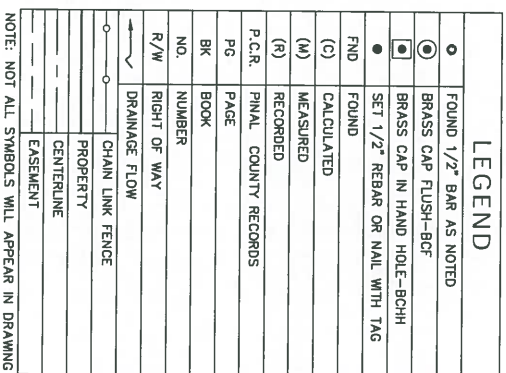
Prepared by Nicholas Leftwich  
Associate Planner

Attachments:

- Exhibit #1 - PA-1-21 Petition for PAW Creation
- Exhibit #2 - PA-1-21 Aerial Map
- Exhibit #3 - PA-1-21 Zoning Map
- Exhibit #4 - P-21-33-LSM Proposed Land Split Map
- Exhibit #5 - Zoning Ordinance Section 1-7-6 Private Street Standards

LOCATED IN A PORTION  
THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 1 NORTH, RANGE 8 EAST  
OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA  
(APN 100-30-022C)

(APN 100-30-022C)



**NOTE: NOT ALL SYMBOLS WILL APPEAR IN DRAWING**

THIS IS TO CERTIFY THAT THIS MAP COMPLIES WITH THE REQUIREMENTS OF THE CITY OF APACHE JUNCTION, AND THAT THIS LAND SPLIT MAP IS HEREBY APPROVED ON THIS

BY: DEVELOPMENT SERVICES DIRECTOR

THIS IS TO CERTIFY THAT THE SURVEY AND THE MAP OF THE DIVISION OF LAND DESCRIBED HEREIN WAS ACCURATELY DONE UNDER MY DIRECTION AND THAT ALL LOTS ARE STAKED OR WILL BE STAKED AND ALL MONUMENTS ARE SET OR WILL BE SET WITHIN 90 DAYS AFTER RECORDATION

8/11/21  
DATE

34711



RAWN:	DATE:	CHECKED:	SHEET:
JMF	8/11/21	JMF	1 OF 2