



**CITY OF SUN VALLEY
PLANNING AND ZONING COMMISSION
AGENDA REPORT**

To: Planning and Zoning Commission
From: *MH* Mark Hofman, Community Development Director
Meeting Date: March 14, 2013
Agenda Item: **Cleveland Landscaping and Patio
Design Review Application No. DR2013-03**

SUBJECT: Public Hearing for a design review application proposing new rear yard landscaping and patio area improvements associated with an existing single-family dwelling within the Single-Family Residential (RS-1) Zoning District of the City of Sun Valley. **Applicant:** Chase Gouley for Brad and Kirsten Cleveland. **Application Filing Date:** February 1, 2013. **Location:** Lot 7, Back of Dollar Subdivision; #112 Baldy View Lane.

BACKGROUND: The project includes a new landscaping, walkway, patio, wall and trellis addition to the rear yard area of an existing single family dwelling on a lot within the Back of Dollar Subdivision. The rear yard improvements are accessed via a new walkway extending from the north side of the existing dwelling. The new patio area and walkway are incorporated into the existing topography of the rear yard area, are consistent with the existing dwelling's design and no other detached or accessory structures are proposed.

No new habitable structures or modifications to the existing single family dwelling are proposed as part of this project design or application. The landscaping addition design is normally a type of project reviewed and acted on administratively by the Community Development Director. However, the site lies within a low frequency avalanche zone (Blue Zone) and the Director found that the required findings for action on the application were more appropriate for the review and consideration of the Planning and Zoning Commission.

ANALYSIS: The project proposes to place new landscaping, walkway, patio, walls and trellis improvements into a rear yard area of an existing single-family dwelling lying within a low frequency avalanche zone. The applicant presented the project design and related issues to the Commission at the noticed public hearing on Thursday, February 21, 2013 to facilitate a discussion of the avalanche zone or any other concerns. The Commission reviewed the Back of Dollar Subdivision Plat and applicable avalanche warning notes and discussed their concerns. Staff provided background information to facilitate the discussion and included several potential conditions that could be placed upon the project by the Commission if determined appropriate.

The Commission passed a motion to approve the project application and directed that the following condition of approval shall be placed on the project action:

6. *Prior to the issuance of any building permit for construction or improvements within the avalanche zone, the applicant shall submit to the Community Development Director and Building Official a written acknowledgment, signed by the applicant under seal of a notary public, of the applicant's actual knowledge that the proposed building or improvement will be located within the avalanche zone. The applicant will also acknowledge that he or she has actual knowledge of the studies conducted to date regarding the avalanche zone that are on file with the Community Development Department. The acknowledgment shall **state that the rear yard improvements are not for winter season use and** include the following:*

I, (applicant's name), the applicant named in Building Permit Numbers (# of new permit and original dwelling building permit) intend to construct (type of building, outbuildings and/or improvements) on (property description, including legal description and (street address)). I acknowledge that this development and the parcel of land on which the development will be situated are within the low frequency avalanche zone. I have thoroughly read and fully understand the reports by Art Mears on file with the City of Sun Valley Community Development Department. I fully understand that building within the avalanche zone may pose a substantial hazard to life, health, and property for residents, guests, visitors, both invited and uninvited, children, city employees, utility workers, public servants, and animals. I also fully understand that City services, including but not limited to fire protection, police, and medical and ambulance service may be suspended during times of high hazard.

I, on behalf of myself, my personal representatives and my heirs, assigns, successors, tenants, invitees and licensees hereby voluntarily agree to release, waive, discharge, hold harmless, defend and indemnify the City of Sun Valley and its officers, employees, agents, and contractors from any and all claims, actions, or losses which may arise out of the construction of the buildings, outbuildings, and/or improvements that are the subject of my Building Permit Numbers (# of new permit and original dwelling building permit).

I also promise and agree to file an executed copy of this Acknowledgment, confirmed or stamped as received by the City of Sun Valley Community Development Department as an addendum to my deed to the real property described herein with the County Recorder. I authorize the City of Sun Valley to record said document.

Additionally, the Commission in their approval action, directed that the following language be added to the background/purpose section of the Findings of Fact document for approval:

Avalanches occur naturally, suddenly and unpredictably based upon steepness of slope and runout area, exposure, snowpack composition, wind, temperature, rate of snowfall and other little understood interacting factors. The avalanche zone designated on this site is considered reasonable for regulatory purposes and is based upon and limited by the engineering and scientific methods of study. This designation does not represent or imply that areas outside the avalanche zone district are free from avalanches or avalanche danger.

The fact that the city has not prohibited development, construction or use of real property within the avalanche zone does not constitute a representation, guarantee or warranty of any kind as to the safety of any construction, use or occupancy. The granting of any permit or approval for any structure or use, or the declaration or failure to declare the existence of an avalanche hazard shall not constitute a representation, guarantee or warranty of any kind or nature by the city, or any official or employee, of the practicality or safety of any construction, use or occupancy, and shall create no liability upon or cause of action against such public body, or its officials or employees, for any injury, loss or damage that may result.

Avalanches occur naturally, suddenly and unpredictably, and persons who develop or occupy real property within said avalanche zone do so at their own risk.

Development Standards- The construction of the new single family dwelling with site improvements is in conformance with the purpose and all applicable dimensional regulations of the RS-1 Zoning District. The RS-1 Zoning District allows landscaping and site improvements associated with single-family dwellings by right as a land use. Supporting avalanche letter documentation for the design and construction of the existing dwelling on Lot 7, Back Pay Way Subdivision, stamped received by the City of Sun Valley on February 1, 2013, was reviewed by the Commission at the February 21, 2013 public hearing.

Hillside Preservation Standards- An area of significant steep slopes over 25% is identified on all applicable site plans for the project. The landscaping, walkway, patio, walls and trellis addition avoids intrusion into the identified steep slope area and lies within the flattest, most developable portion of the rear yard. The steep slope area will be preserved and not affected by the project.

Public Notice and Comment- The project application was publicly noticed by: 1.) publication in the Mtn. Express on Wednesday, February 6, 2013; 2.) mailing of notice to all property owners within a 300 foot radius of all project property lines; 3.) posting of notice in five prominent public places in the City; 4.) electronic notification to all parties who have notified the City of interest to receive agendas and notices; and, 5.) posting of the notice on the City's web site. One public comment letter in favor of the project was received from neighbor Rick Rutkowski. This comment letter was reviewed by the Commission on February 21, 2013 and no other public email comments, phone calls or letters have been received by staff as of the writing of this Report.

RECOMMENDATION: The Community Development Director recommends the Commission review the attached draft Findings of Fact (**Exhibit "PZ-A"**), find them reflective of the Commission's February 21, 2013 approval comments, and take formal action to adopt said Findings, Conclusions of Law and Conditions of Approval.

LIST OF ATTACHED EXHIBITS:

Exhibit "PZ-A" Draft Findings of Fact, Conclusions of Law and Conditions of Approval for Design Review Application No. DR2013-03.

**The entire administrative record for this Design Review application is available for review in the Community Development Department at City Hall.

**(DRAFT) FINDINGS OF FACT AND CONCLUSIONS OF LAW
CITY OF SUN VALLEY
PLANNING AND ZONING COMMISSION
DESIGN REVIEW**

Project Name: **Cleveland Landscaping Improvements**
Applicant: **Chase Gouley for Brad and Kirsten Cleveland**
Location: **112 Baldy View Lane; Lot 7 Back of Dollar Subdivision**
Zoning District: **Single-Family Residential (RS-1) Zoning District**

The project proposes a new landscaping, walkway, patio, wall and trellis addition to the rear yard area of an existing single family dwelling on a lot within the Back of Dollar Subdivision. No new habitable structures or modifications to the existing single family dwelling are proposed as part of this project design or application. The landscaping addition design is normally a type of project reviewed and acted on administratively by the Community Development Director. However, the site lies within a low frequency avalanche zone (Blue Zone) and the Director found that the required findings for action on the application were more appropriate for the review and consideration of the Planning and Zoning Commission.

An extensive open hillside area zoned Open Space (OS) lies to the east and no development exists uphill of the proposed improvements. The subject rear yard area of the subject lot is in a pre-graded condition and is currently covered in mixed low lying ground cover vegetation. Adjacent lots are developed with existing, detached single family residences, associated site improvements and mature screening landscaping.

Avalanches occur naturally, suddenly and unpredictably based upon steepness of slope and runout area, exposure, snowpack composition, wind, temperature, rate of snowfall and other little understood interacting factors. The avalanche zone designated on this site is considered reasonable for regulatory purposes and is based upon and limited by the engineering and scientific methods of study. This designation does not represent or imply that areas outside the avalanche zone district are free from avalanches or avalanche danger.

The fact that the city has not prohibited development, construction or use of real property within the avalanche zone does not constitute a representation, guarantee or warranty of any kind as to the safety of any construction, use or occupancy. The granting of any permit or approval for any structure or use, or the declaration or failure to declare the existence of an avalanche hazard shall not constitute a representation, guarantee or warranty of any kind or nature by the city, or any official or employee, of the practicality or safety of any construction, use or occupancy, and shall create no liability upon or cause of action against such public body, or its officials or employees, for any injury, loss or damage that may result.

Avalanches occur naturally, suddenly and unpredictably, and persons who develop or occupy real property within said avalanche zone do so at their own risk.

Required Findings: In order to approve a design review application and based on the standards set forth in **Sun Valley Municipal Code, Title 9, Chapter 5B, Section 3 DESIGN REVIEW**, the Planning & Zoning Commission shall make the following findings:

1. The proposed design is in conformance with the purpose of the zoning district and all dimensional regulations of that district. **The project site lies within the Single-Family Residential (RS-1) Zoning District of the City of Sun Valley Official Zoning Map. The rear yard landscaping and patio improvements are considered an ancillary use to the primary use of the premises as a single family detached development on a single legal lot of record. The single family residential character of the area will be maintained and the project is in compliance with all applicable standards and requirements of the City Development Code for property within the Single-Family Residential (RS-1) Zoning District. Existing drainage patterns will be adequately addressed in the design and a greater than fifteen (15) foot setback from the patio trellis to the property line is provided. The structure is in conformance with the maximum height standards of Development Code Section 9-3G-8 and no lot coverage or building envelope standards apply. All aspects of the project have been reviewed by the Community Development Director and the Planning and Zoning Commission to ensure compliance with all applicable standards.**
2. The proposed design is in conformance with the standards for design review as set forth in Chapter 3A DESIGN REVIEW REGULATIONS of this Title. **In accordance with Development Code Section 9-3A-2, Applicability, any new building or structure as well as excavation or land alteration is subject to the City's design review regulations and evaluation standards. Code Section 9-5A-2C-4 authorizes the Community Development Director to review and act on administrative design review applications for changes, structures, additions, landscaping and grading that are minor in scope. However, because of the site lies within a low frequency avalanche zone (Blue Zone), review and action by the Planning and Zoning Commission was appropriate. The landscaping and patio project is in conformance with all applicable standards for design review because it appropriately and sensitively places the improvements in the rear yard area of the site while preserving and enhancing existing landscaping and drainage, blends grading and flat areas with the existing sloping topography, does not interfere with any existing view corridors nor skylines, does not interfere with snow storage, is set back from property lines sufficiently to respect privacy and separation from surrounding uses, the elements of the patio and trellis are of quality materials and design, adequate landscaping is provided and no fencing or exterior lighting is involved. The project drawings and application have been reviewed by the Community Development Director and the Planning and Zoning Commission. All proposed features of the project comply with applicable standards and criteria for the RS-1 Zone and with the Design Review Evaluation Standards.**
3. The proposed design does not significantly impact the natural, scenic character and aesthetic value of hillsides, ridges, ridgelines, ridge tops, knolls, saddles, and summits in the City. **No significant negative impact will occur to surrounding natural features because the development will occur on the less constrained, least sloped open portion of the rear yard area of the lot adjacent to an extensive open hillside area zoned Open Space (OS) to the east. No significant slopes will be disturbed.**
4. The proposed design is in context and complimentary to adjacent properties. **Adjacent lots are developed with existing, detached single family residences, associated site improvements and mature screening landscaping. The landscaping, patio and trellis improvements will be sited in an area which is consistent with existing single family residential development adjacent to the north, west and south. The single family residential character of the area will be maintained and the project is in compliance with all applicable standards and requirements of the City Development Code for property within the Single-Family Residential (RS-1) Zoning District. The improvements are consistent and in context with, and complimentary to, surrounding residential development because of sensitivity in design and the rear yard location. The landscaping changes will blend in with and take advantage of the site's existing topography and drainage layout. The project application**

was publicly noticed by: 1.) publication in the Mtn. Express on Wednesday, February 6, 2013; 2.) mailing of notice to all property owners within a 300 foot radius of all project property lines; 3.) posting of notice in five prominent public places in the City; 4.) electronic notification to all parties who have notified the City of interest to receive agendas and notices; and, 5.) posting of the notice on the City's web site. One public comment letter in favor of the project was received from neighbor Rick Rutkowski. No other public email comments, phone calls or letters have been received by the City.

5. The proposed design is compatible with the community character and scale of the neighborhood. **The proposed design is compatible with the community character and scale of the neighborhood because the improvements lie in the rear yard area of the existing residentially developed site, are sensitively and appropriately placed, are designed to provide ancillary use to the primary property consistent with other improvements on other residential lots and are appropriately separated from any adjacent existing residential development by required setbacks.**
6. The proposed design adheres to standards for the protection of health, safety, and general welfare. **All applicable services such as sewer and water are available to fully serve the project. No site conditions or aspects of design have been identified that would be adverse to the protection of health, safety and general welfare of the community.**
7. The proposed design is of quality architectural character and materials. **The design of the rear yard landscape and patio project is of quality character because it incorporates similar plantings, drainage and grading as those implemented with the construction of the home on the lot. The project integrates into the topography and layout of the site, minimizes visual impacts and allows use of the rear yard area for the property owner consistent with the quality and design of surrounding development and the region.**
8. The use is not in conflict with the Comprehensive Plan or other adopted plans, policies, or ordinances of the City. **From a larger land use prospective, the subject site essentially remains unchanged by this landscaping and patio improvement project and is in accordance with the low density residential uses contemplated by the Comprehensive Plan.**

CONCLUSIONS OF LAW

That this project does meet the standards for approval under Title 9, Chapter 3A (Design Review Regulations), of the City of Sun Valley Municipal Code provided the below conditions of approval are met. Design review approval shall expire 365 days from the date of approval, unless extended as per Municipal Code Section 9-5A-8.

CONDITIONS OF APPROVAL

1. **The applicant(s) and their representatives shall comply with all IBC, IFC and applicable City ordinances.**
2. **Site review approval is good for one year from the date of approval, unless extended as per Municipal Code Section 9-5A-8.**
3. **Any requirements and/or approvals of private associations or other entities are the sole responsibility of the property owner.**
4. **Any permits issued during the 10-day appeal period provided for under section 9-3A-4 may be subject to a stop work order in the event of an appeal. Any work commenced during the appeal period shall be at the applicant's own risk.**
5. **The project shall be specific to the project drawings, consisting of six (6) sheets stamped received by the City on February 2, 2013 (all reviewed and approved by**

the Planning & Zoning Commission on February 21, 2013). Any changes or modifications to the approved design shall be reviewed by the Community Development Department pursuant to Code Section 9-5A-10, Substantial Conformance.

6. Prior to the issuance of any building permit for construction or improvements within the avalanche zone, the applicant shall submit to the Community Development Director and Building Official a written acknowledgment, signed by the applicant under seal of a notary public, of the applicant's actual knowledge that the proposed building or improvement will be located within the avalanche zone. The applicant will also acknowledge that he or she has actual knowledge of the studies conducted to date regarding the avalanche zone that are on file with the Community Development Department. The acknowledgment shall **state that the rear yard improvements are not for winter season use and include the following:**

I, (applicant's name), the applicant named in Building Permit Numbers (# of new permit and original dwelling building permit) intend to construct (type of building, outbuildings and/or improvements) on (property description, including legal description and (street address)). I acknowledge that this development and the parcel of land on which the development will be situated are within the low frequency avalanche zone. I have thoroughly read and fully understand the reports by Art Mears on file with the City of Sun Valley Community Development Department. I fully understand that building within the avalanche zone may pose a substantial hazard to life, health, and property for residents, guests, visitors, both invited and uninvited, children, city employees, utility workers, public servants, and animals. I also fully understand that City services, including but not limited to fire protection, police, and medical and ambulance service may be suspended during times _____ of _____ high _____ hazard.

I, on behalf of myself, my personal representatives and my heirs, assigns, successors, tenants, invitees and licensees hereby voluntarily agree to release, waive, discharge, hold harmless, defend and indemnify the City of Sun Valley and its officers, employees, agents, and contractors from any and all claims, actions, or losses which may arise out of the construction of the buildings, outbuildings, and/or improvements that are the subject of my Building Permit Numbers (# of new permit and original dwelling building permit).

I also promise and agree to file an executed copy of this Acknowledgment, confirmed or stamped as received by the City of Sun Valley Community Development Department as an addendum to my deed to the real property described herein with the County Recorder. I authorize the City of Sun Valley to record said document.

DECISION

Therefore, the Sun Valley Planning and Zoning Commission approves this Design Review Application No. DR2013-03.

Dated this 14th day of March, 2013.

Ken Herich, Chairman
Sun Valley Planning and Zoning Commission

Date Findings of Fact signed _____