



# BOARD OF ADJUSTMENT STAFF REPORT

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**Date**                      **January 9, 2024**

**To**                            **Board of Adjustment**

**From**                        **Sarah Dircks**  
Planner

**Subject**                    **PCG Real Estate Investments Lots 1 & 2**  
Northeast corner of Peoria Avenue and 81<sup>st</sup> Avenue

## ***REQUEST***

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The applicant is seeking two variances from the Single Family Residential (R1-8) development standards, on two properties as follows:

1. Lot 1: A decrease in minimum lot size from 8,000 to 6,645 square feet and a reduction of the minimum lot width from 70 feet in width to 47 feet; and
2. Lot 2: A decrease in minimum lot size from 8,000 to 6,334 square feet and a reduction of the minimum lot width from 70 feet in width to 47 feet.

### **PURPOSE OF THE REQUEST:**

The requested modifications to the lot width and lot area on each of the two (2) lots would facilitate the applicant's eventual plans to construct a total of two (2) custom single-family residential homes; one (1) on each lot.

## ***LOCATION AND CONTEXT***

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### **SUBJECT SITES**

The subject site is comprised of two properties that are generally located along the northeast corner of 81st Avenue and Peoria Avenue and are currently comprised of area associated with Assessor Parcel Numbers 142-09-035 and 142-09-034, as shown in **Exhibit 1**. Parcel numbers may be modified through a subsequent replat in order to reorient the parcels in alignment with the subject proposal; however, the applicable area remains the same. Existing configuration is referred to as Property A and B, while the proposed lot reorientation is referred to as Lot 1 and 2.

The existing westernmost lot, Property A, is approximately 6,630 square feet in area, 60 feet in width, and is located at the northeast corner of Peoria Avenue and 81<sup>st</sup> Drive intersection. The existing easternmost lot, Property B, is approximately 8,847 square feet in area, 80 feet in width, and is located east of the northeast corner of Peoria Avenue and 81<sup>st</sup> Drive. The current properties share a common property line and are under the same property ownership with street frontages directing access to Peoria Avenue.

**CONTEXT**

The subject site is generally bound by similar Single-Family Residential (R1-8) zoned parcels to the north and east. To the south is Peoria Avenue, followed by the Peoria Fire Station and other non-residential uses zoned Light Industrial (I-1), and Planned Area Development (PAD) for commercial uses. To the west of the subject properties is 81<sup>st</sup> Drive followed by, Peoria Town Center, a commercial shopping center that is zoned Intermediate Commercial (C-2). The commercial center is anchored by State Trailer RV & Outdoor Supply (**Exhibit 1**).

The applicant is proposing to reorient the existing two lot configuration. Currently the lots are oriented north / south, fronting onto Peoria Avenue (**Exhibit 2**). The proposed configuration would orient the lots east / west to front on to 81<sup>st</sup> Avenue (**Exhibits 4**). The proposed lot configuration is in response to public health and safety concerns regarding direct access to Peoria Avenue. These access concerns are discussed in greater detail in subsequent sections of this staff report. For the purposes of this report, the existing lots in their current configuration will be referred to as Property A and Property B and the requested lots with an east/west orientation will be referred to in this report as Lot and Lot 2.

***APPLICATION / PROPERTY INFORMATION***

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<b>Applicant</b>	Kendra Chavez of Neah Designs
<b>Property Owner(s):</b>	PCG Real Estate Investments
<b>New Location:</b>	Lot 1: Northeast corner (NEC) of 81 <sup>st</sup> Avenue and Peoria Avenue Lot 2: North of the NEC of 81 <sup>st</sup> Avenue and Peoria Avenue
<b>New Lot Size:</b>	Lot 1: 6,645 Square Feet Lot 2: 6,334 Square Feet
<b>Existing Use:</b>	Vacant
<b>Proposed Uses:</b>	One single-family residential home on each lot
<b>Anticipated Future Lot Coverage:</b>	Lot 1: 2,311 square feet Lot 2: 2,311 square feet

***APPLICANT'S PROPOSAL***

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The applicant is requesting specified variances to reduce the minimum lot area and lot width required within the Single-Family Residential R1-8 Zoning District for two existing lots. The proposed reductions would facilitate the reorientation of the parcels to satisfy the City's Access Management Guidelines which prohibit new direct vehicular access onto an arterial roadway. The development standards for the R1-8 Zoning District are detailed within Section 21-420 of the City of Peoria Zoning Ordinance. The specific requests are as follows:

1. Lot 1:
  - a) Reduce the minimum lot size from 8,000 to 6,645 square feet; and
  - b) Reduce the minimum lot width from seventy (70) feet to forty-seven (47) feet.

2. Lot 2:
  - a) Reduce the minimum lot size from 8,000 to 6,634 square feet; and
  - b) Reduce the minimum lot width from seventy (70) feet to forty-seven (47) feet.

Per the attached Narrative (**Exhibit 6**), the applicant state that they have submitted the Variance request to reorient the lots in a manner that will meet the requirements of the City's Access Management Guidelines, accommodate prospective and/or proposed street improvements along Peoria Avenue, and redistribute land evenly between the two properties to provide adequate size to construct a single-family residential building on each of the two subject parcels.

## **STAFF ANALYSIS**

### **ZONING**

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The zoning designation for the subject site is Single Family Residential (R1-8), as shown in **Exhibit 3**.

### **PROPERTY HISTORY**

Between 1940 - 1950, a collection of single-family residential homes was developed north of Peoria Avenue between 81st Avenue and 80th Drive, and south of Lincoln Street. At the time of development, the residential area was primarily surrounded by agricultural uses. On June 7, 1954, the subject properties were annexed into the city. Subsequent to annexation, Single-Family Residential R1-8 development standards were applied to the existing residential neighborhood. Over the past 70 years development has occurred around the property and traffic has increased along Peoria Avenue.

On December 1, 2021, the applicant purchased the properties associated with the subject site. On January 4, 2023, the applicant team submitted building permits to build one (1) single family residential home on Property B, east of the northeast corner of 81<sup>st</sup> Drive and Peoria Avenue. On February 16, 2023, the applicant received revisional comments on their construction documents, in part due to Access Management Guidelines for direct access to an arterial (Peoria Avenue). As a result of this requirement, the applicant team requested a preliminary application meeting on June 21, 2023, to discuss the proposed layout of Property 1 and 2.

### **APPLICABLE DEVELOPMENT STANDARDS**

Each zoning district establishes a set of permissible land uses and development standards to ensure a cohesive development pattern throughout the City. Accordingly, all buildings, structures, lots, and developments are required to comply with the development standards of the zoning district in which they are located; unless otherwise approved through the Variance or Administrative Relief process.

## PCG REAL ESTATE INVESTMENTS LOTS 1 & 2: VARIANCE (V23-04)

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The subject site is within the Single Family Residential (R1-8) Zoning District. The development standards are detailed in Section 21-420 of the Zoning Ordinance and listed as follows:

- Minimum lot size: 8,000 square feet (subject of this request)
- Minimum lot width: 70 feet (subject of this request)
- Minimum front setback: 10 feet (side-entry garage) / 20 feet (front facing garage)
- Minimum rear setback: 15 feet
- Minimum side yard setback: 5 feet
- Total side yard setbacks: 15 feet

As the lots stand currently, only Property B meets the minimum lot area and width. Property A does not meet either requirement at this time. Additionally, both Properties A & B do not meet the City of Peoria Access Management Guidelines by providing direct access to an arterial roadway, and they do not meet minimum site visibility thresholds in accordance with the Peoria Engineering Standards Manual. The proposed variances would allow the reoriented two parcels (Lots 1 & 2) to better balance the distribution of area so that both parcels are as close as possible to the development standards on lot width and lot area.

### PROPOSED DEVELOPMENT STANDARDS

The applicant is seeking a reduction to the minimum lot width and minimum lot area required in a Single-Family Residential (R1-8) zoning district. More specifically:

- Lot 1: Approximately 47 feet wide and 6,645 square feet in area
- Lot 2: Approximately 47 feet wide and 6,635 square feet in area

### DEVELOPMENT PROPOSAL AND APPLICANT CLAIMS

The applicant team, represented by Kendra Chavez of NEAH Designs on behalf of property owners PCG Real Estate Investments, state that the Variance request is necessary to provide functional space on both lots and meet the requirements of the City (**Exhibit 6**). The proposed lot configuration seeks to address the concerns regarding visibility and access management related to the current configuration. In order to achieve the proposed configuration, the subject variance would need to be approved to allow the reorientation of the lots at an area and width that does not match the minimums of the subject zoning district.

The Conceptual Development Plans (**Exhibit 5**) identified the intent to construct an approximately 1,814 square foot single-story home with a front porch, rear patio, and garage on each of the respective lots. The proposed homes would meet all applicable setback requirements. The City requires that entitlement modifications pertinent to a development, including variance requests, be completed prior to the approval of construction documents or civil improvement plans to replat the properties. Subject to receiving approval of their variance request, the next steps for the

applicant team would be to re-plat the properties and submit new construction documents to build on each of the two respective properties.

### VARIANCE

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In accordance with the Zoning Ordinance, the Board of Adjustment is the decision-making authority for a Variance request.

### REVIEW CRITERIA

Section 21-323.G.3 of the Peoria Zoning Ordinance outlines the applicable criteria for evaluating a Variance request. The Zoning Ordinance prescribes five (5) criteria, all of which must be met to qualify the request for a variance. The criteria are as follows, with the applicant provided responses and justification for their variance request in **Exhibit 7**, as quoted below. Staff's analysis of the applicable criteria is presented in italics:

1. Special circumstances or conditions exist on the subject property that does not exist on other property in that zoning district.

*Applicant: "The plans have been changed to show both lots facing 81st Ave in order to meet the ordinance requirements for PUE's, side, rear, and front setbacks, utility and traffic construction both existing and proposed."*

*City Staff: Property A and B, identified in **Exhibit 1 and 2**, are existing currently vacant lots subject to the single-family residential R1-8 development standards. All new developments are required to dedicate right-of-way at the time of development when applicable (**Exhibit 4**). The required half-street right-of-way width for Peoria Avenue adjacent to the subject site is 55 feet. The current half-street right-of-way in front of the property is 40 feet adjacent to Peoria Avenue. The proposed lot configuration and orientation of Lots 1 & 2 takes this additional dedication into account, and is a crucial reason behind the reduction in lot area for the proposed parcels.*

*Peoria Avenue is an arterial roadway and as such requires dedications to address safety regulations for things like visibility. This necessitates the dedication of a minimum of 20-foot by 20-foot chamfer (sight visibility triangle) dedication on what will be Lot 2 (**Exhibit 4**). The current lot configuration does not have a dedication of the chamfer. In order to address this requirement the lot area is further reduced by the area of the additional dedication.*

*The summation of engineering requirements results in the dedication of approximately 2,498 square feet combined between the two lots. Based on the size of the properties and existing street frontage, the implication of these requirements adversely impacts the lot area of the proposed lots and represents a unique condition not present on most other properties within the subject zoning district. The applicant is seeking relief from the lot area and lot width requirement to reconfigure the two (2) existing lots to comply with City safety / sight visibility, and access management requirements.*

*Due to the conditions present on the site, this criterion is satisfied.*

2. The literal interpretation of the provisions of this Ordinance would deprive the appellant of rights commonly enjoyed by other properties in the same zoning district.

Applicant: "The individual lots aren't wide enough to adequately provide livable and non-livable space while still meeting as many zoning requirements as possible with their respective lot size."

City Staff: *The construction of one (1) single-family residential home on a single-family residential lot is a right commonly enjoyed by properties within the same zoning district. The imposition of the applicable engineering standards regarding site visibility and access management disproportionately impacts Property A, the smaller of the two lots, rendering it functionally undevelopable in the current configuration. The proposed reconfigured lots would equitably divide lot area of the existing two (2) lots to establish two (2) evenly sized lots, each with their own street frontage along 81<sup>st</sup> Avenue. The applicant is not seeking to add any additional lots, but rather to maintain the quantity that currently exists. To address the site visibility and access management guidelines orienting the lots to front on to 81<sup>st</sup> Avenue is necessary. The proposed Lots 1 & 2 address this need while requesting the minimum deviation from the Zoning Ordinance that is necessary in order to achieve rights commonly enjoyed by others within the same Zoning District.*

*As such, the applicant has demonstrated that this criterion has been satisfied.*

3. The alleged hardship caused by literal interpretation of the provisions of this Ordinance includes more than personal inconvenience and financial hardship and is not the result of actions by the appellant.

Applicant: "The proposed single-family dwellings on both lots would not be able to meet requirements for setbacks, PUE's, or ROW's, if the lots remained split facing Peoria Ave as they were initially. The current property owner was not involved in the decision of the initial lot split, and is working to meet all possible ordinance requirements with the changes reflected on the site plans for both lots."

City Staff: *Given the existing lot size, a strict interpretation of the Zoning Ordinance, in accordance with engineering and access management requirements, would limit access to Property B and functionally render Property A undevelopable. Strict adherence would also prevent the ability to retain 2 lots while reorienting them to address the aforementioned requirements.*

*Requiring that the subject site to develop solely in strict adherence to the existing development standards would result in hardships beyond those of a personal and financial nature. As such, this criterion has been satisfied.*

4. Granting the variance will not confer upon the applicant any special privilege that is denied by this Ordinance to other land, parcels, structures, or buildings in the same zoning district.

## PCG REAL ESTATE INVESTMENTS LOTS 1 & 2: VARIANCE (V23-04)

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Applicant: "With current traffic and utility improvements along Peoria, there was not adequate space to build a single-family residence and still meet all of the requirements respectively. With the current proposed plans, both lots will meet all" of the property development standards "with the exception of: Minimum Lot Area and Minimum Lot Width."

City Staff: *The proposed lot configuration is an attempt by the applicant to address current development requirements while maintaining the rights commonly enjoyed by others within the same zoning district. The proposed lots would result in compliance with the access management guidelines and sight visibility requirements while seeking the minimum deviation necessary from the Zoning Ordinance in order to achieve rights commonly enjoyed by others. The surrounding single family lots on 81<sup>st</sup> Avenue and 80<sup>th</sup> Drive were developed between 1940-1950. The typical lot width of the existing neighborhood is approximately 50-feet and the typical lot area is approximately 7,000 square feet. The proposed lots would have a width of approximately 47-feet, and lot areas between 6,645 and 6,334 square feet.*

*As such, staff believes this criterion has been satisfied.*

5. Granting the variance will not interfere with or substantially or permanently injure the appropriate use of adjacent conforming properties in the same zoning district.

Applicant: "Granting the variance wouldn't interfere with the rights of surrounding properties in that the variance is only required as the lots are less than the minimum (8000sq ft) lot area at 6,645 sq. ft. and 6,334 sq. ft., and fall short of the lot width for both the interior lot as well as the corner lot."

City Staff: *The requested reduction in lot width and lot area will not interfere with or otherwise injure the appropriate use of adjacent conforming properties. The City of Peoria has established that the Single Family Residential (R1-8) zoning districts setback requirements provide adequate separation between residential lots. The requested reduction in lot size and lot area, will not interfere with the existing setback or lot coverage requirements and as a result does not create an imposition on adjacent properties.*

*As such, this criterion has been satisfied.*

### COMMUNITY INVOLVEMENT

#### *Public Noticing*

The application was properly noticed pursuant to Section 21-315 of the Peoria Zoning Ordinance, which includes a Notice of Hearing to all property owners within 300 feet of the site and registered HOAs within one (1) mile, posting of a sign on the site, and placing an ad in the Peoria Times at least 15 days prior to the Public Hearing.

#### *Support / Opposition*

At the time of this writing, no correspondence has been received in support of or opposition to this request.

### BOARD OF ADJUSTMENT ACTION

In the event that the Board of Adjustment determines that the applicant demonstrates compliance with the aforementioned variance criteria, the Board may approve or conditionally approve the variance(s) with an affirmative vote of the majority of the Board members present. In approving or conditionally approving the variance(s), the Board shall find that:

1. The reasons set forth in the appeal justify the granting of the variance, and that the variance(s) is the minimum variance(s) that will make possible the reasonable use of the land, building, or structure; and
2. Granting of the variance(s) will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

### KEY FINDINGS

1. The applicant's proposal meets the Variance requirements, as identified within Section 21-323.G of the Zoning Ordinance, and as demonstrated in this report, and summarized below:
  - a. The required reorientation of the lots and associated dedications to accommodate public health, safety, and welfare along with the existing lots size create a special circumstance which hinders the development of Properties A and B;
  - b. A strict interpretation of the Zoning Ordinance would prevent the applicant from reorienting the lots and evenly distributing the area between the two lots to seek the minimum modifications necessary to establish two lots that meet engineering and sight visibility requirements;
  - c. The proposed layout meets sight visibility and Access Management Guidelines, while also minimizing the requested deviation from applicable development standards;

## PCG REAL ESTATE INVESTMENTS LOTS 1 & 2: VARIANCE (V23-04)

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- d. The resulting design is consistent in character with the surrounding community and prevents impacts to adjoining neighbors;
- e. The anticipated development on the subject site provides adequate sizing of the lots resulting in equivalency with other properties zoned similarly within the area.
2. The Variance requests facilitate the reorientation of lots that meet the City's Access Management requirements, thereby improving the health, safety and welfare; and provide for enhanced compatibility in the area; and
3. The applicant has submitted a signed and notarized Proposition 207 waiver, which will be recorded with the conditions outlined below.

### ***PROPOSITION 207***

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The voters of Arizona approved Proposition 207, which among other things requires municipalities to compensate property owners for actions, which have the effect of diminishing the value of property. The City Attorney's Office has drafted an agreement, which waives the applicant's rights to future Proposition 207 claims against the City. Accordingly, the applicant has furnished a signed and notarized Proposition 207 Waiver.

### ***RECOMMENDATION***

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Staff recommends that the Board of Adjustment take the following action:

**Approve the applicant's request for a Variance under Case V23-04, subject to the following conditions:**

1. The minimum lot width of Lot 1 shall be 47 feet.
2. The minimum lot width of Lot 2 shall be 47 feet.
3. The minimum lot area of Lot 1 shall be 6,645 square feet.
4. The minimum lot area of Lot 2 shall be 6,334 square feet.

### ***STAFF CONTACT***

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