Staff Summary Report

Tempe

Council Meeting Date: 09/12/02 **Agenda Item Number:** 15

SUBJECT: This is the first public hearing for Tempe Elementary School District #3 to amend an existing City Council condition of approval #23 (case #SGF-89.34), located at 3205 South Rural Road.

DOCUMENT NAME: 20020912dsrh04 **PLANNED DEVELOPMENT (0406)**

SUPPORTING DOCS: Yes

COMMENTS: Hold the first public hearing for **TEMPE ELEMENTARY SCHOOL DISTRICT #3** (Tempe School District #3, property owner) to amend an existing City Council condition of approval #23. This amendment will transfer the community foundation fund to Tempe Community Council (TCC), Rural/Geneva Neighborhood, and the Tempe Impact on Education (TIE). The following approval is requested from the City of Tempe:

#SFP-2002.63 An Amended Final Plan of Development for Tempe Elementary School District #3 to modify an existing City Council condition of approval #23 (case #SGF-89.34).

PREPARED BY: Hector Tapia, Senior Planner (480-350-8331)

REVIEWED BY: Steve Venker, Planning & Zoning Manager (480-350-8331)

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff - Approval
Public – None to Date

ADDITIONAL INFO: (See Attached)

ATTACHMENTS:

1. List of Attachments
2. History & Facts / Description
3. Comments / Reason(s) for Approval / Condition(s) of Approval

A. Location Map
B. Letter of Explanation/Intent
C. Letter of Authorization from Smith's
D. City Council Letter of Approval, #SGF-89.34, November 9, 1989.

HISTORY & FACTS:

November 9, 1989. The City Council approved a request by Tempe Elementary School District #3, located at 3255 South Rural Road for the following:

- A General Plan 2000 amendment from Educational designation to Commercial on 8.36 net acres.
- A zoning change from R1-6, Single Family Residential to PCC-1, Planned Commercial Center District on 8.36 net acres.
- A General and Final Plan of Development for Smith's Supermarket consisting of 86,000 s.f. on 8.36 net acres, including four (4) variances and twenty eight (28) conditions of approval.

DESCRIPTION: Owner – Tempe Elementary School District #3
Applicant – Tempe Elementary School District #3, Dr. Dale Despain

Attorney - David G. Beauchamp, Quarles & Brady, StreichLang, L.L.P.
Existing zoning – PCC-1

Previous Condition of Approval, #SGF-89.34
#23. Smith's shall create a $100,000 foundation fund for community activities. Smith's will receive proposals from the neighborhood and the district on how the income from this amount will be spent. Up to $25,000 of the income within the first 6 years shall be dedicated to improving open space in Meyer Park, in consultation with the Rural/Geneva Neighborhood Association and the Tempe Parks Recreation Department.

COMMENTS: On November 9, 1989, the City Council approved a condition of approval for the creation of a community foundation fund (case #SGF-1989.34, condition #23). Smith's administered that fund. Condition #23 stated that funds should be set aside for community improvement activities.

This request is to amend condition #23 and to transfer the community foundation fund to Tempe Community Council (TCC) for the benefit of the Rural/Geneva Neighborhood Association and the Tempe Impact on Education Foundation (TIE). Via the TIE Foundation, this condition of approval will be deemed satisfied upon the transfer of all funds due to the TIE Foundation. Distributions due to the TCC will be made from the TIE Foundation. TIE will continue overseeing the distribution of those funds, as intended by the 1989 approval, for community activities, educational programs, or other programs as requested by the neighborhood.

Staff supports the amendment of condition #23 as proposed by the Tempe Elementary School district subject to the attached condition #1.

REASON(S) FOR APPROVAL:

1. Via the TIE Foundation, condition of approval #23 (#SGF-89.34) will be deemed satisfied upon the transfer of all funds due to the TIE Foundation.

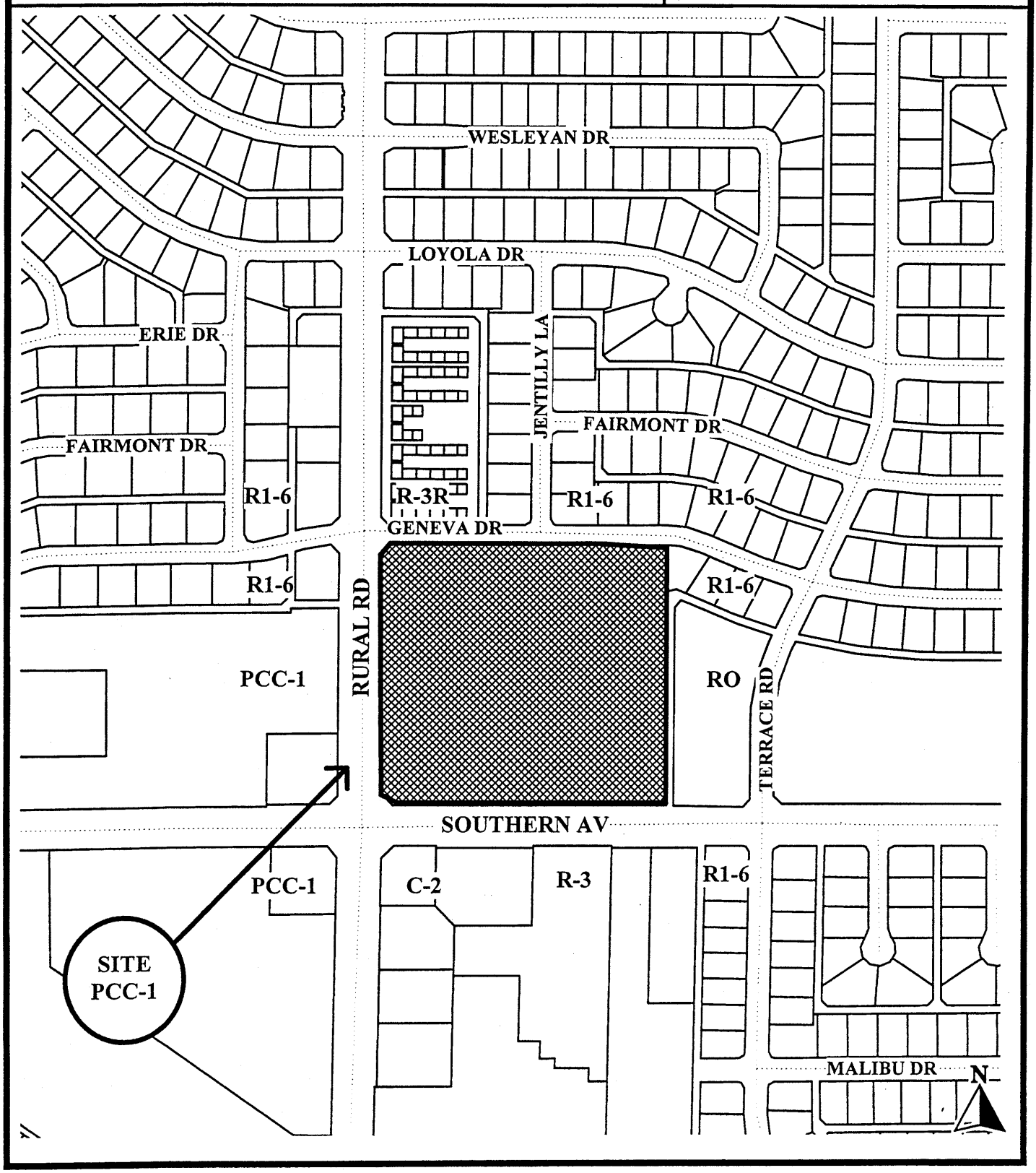
CONDITION(S) OF APPROVAL:

1. Smith shall pay $100,000 in principal plus $43,541.15 in interest to the Tempe Impact Education Foundation (the "TIE Foundation"). Upon proof of payment of these funds to the TIE Foundation, this condition of approval shall be deemed satisfied.

Tempe

TEMPE ELEMENTARY SCHOOL DISTRICT NO.3

SFP-2002.63



Location Map

A

Tempe
School District No. 3

AN AFFIRMATIVE ACTION
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August 19, 2002

Mr. David Fackler
Development Services Director
City of Tempe
31 E. Fifth Street
Tempe, Arizona 85281

RE: Tempe Elementary School District #3 (the District); condition of zoning approval for the property located at 3205 South Rural Road as set forth in zoning ordinance #ZON-89.14

Dear Mr. Fackler:

The purpose of this letter is to provide information relative to the request to modify zoning condition #24 of zoning ordinance #ZON-89.14. This condition is attached to a zoning approval for a retail grocery store developed by Smith's **(Food and Drug)** ("Smith's") at the northeast corner of South Rural Road and Southern. As a condition of zoning approval, Smith's agreed to the following condition at the November 9, 1989 City Council hearing:

23. Smiths shall create a $100,000 foundation fund for community activities. Smiths will receive proposals from the neighborhood and the district on how the income from this amount will be spent. Up to $25,000 of the income within the first 6 years shall be dedicated to improving open space in Meyer Park, in consultation with the Rural/Geneva Neighborhood Association and the Tempe Parks and Recreation Department.

The Rural/Geneva Neighborhood Association (the "Association") and Smith's have agreed (as evidenced by the attached letter) that the above-referenced zoning condition would be deemed satisfied by the two parties upon delivery, to the Tempe Impact Education Foundation ("TIE Foundation"), of $100,000 in principal funds together with accrued interest in the approximate amount of $43,541.15 (the "Funds") from the Smith's Rural & Southern Foundation. The TIE Foundation has agreed to administer and make available these Funds and the applicable proceeds from these Funds pursuant to a separate agreement between the Association and the Tempe School District No. 3.

B

Governing Board

Mrs. Karen Arredondo, President
Mrs. Kimberly Gomez, Vice-President
Mrs. Rose Crutcher, Member
Mr. O.S. Fees, Member
Mrs. Marilyn Glenny, Member

Dr. John M. Baracy, Superintendent

Accordingly, the applicant requests that the condition of approval be amended to state:

23. Smith's shall pay $100,000 in principal plus $43,541.15 in interest to the Tempe Impact Education Foundation (the "TIE Foundation"). Upon proof of payment of these funds to the TIE Foundation, this condition of approval shall be deemed satisfied.

If you have any questions or need additional information, please do not hesitate to call me.

Very truly yours,

Dr. John Baracy, Superintendent

Enclosure

B1

Quarles & Brady Streich Lang LLP

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Two North Central Avenue
Phoenix, Arizona 85004-2391
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e-mail:
dbeauchamp@quarles.com

August 27, 2002

VIA FACSIMILE (480/350-8872)
Mr. David Fackler
Development Services Director
City of Tempe
31 East Fifth Street
Tempe, AZ 85281

Re: Tempe Elementary School District No. 3 (the "District");
Condition of Zoning Approval for the Property Located at
3205 South Rural Road as set forth in Zoning Ordinance ZON-89.14

Dear Mr. Fackler:

Attached to this letter is the Letter of Authorization from Smith's Food & Drug Centers, Inc. d/b/a Fry's Food Stores. This Letter of Authorization should be sufficient for the City of Tempe to proceed in connection with the Amendment to an existing Tempe City Council Condition of Approval (No. 23 in Case No. SGE- 89.34) for the above-referenced parcel.

If you have any questions concerning this matter, please contact me.

Very truly yours,

David G. Beauchamp

David G. Beauchamp

DGB/mtv
Enclosure
cc: Dr. Dale Despain (w/encls.)
Mr. Fred Brittingham (w/encl.)
Mr. Hector Tapia (w/encl.)
QBPHX\1671987.1

C

Office of Corporate Counsel
Kyle S. McKay

Smith's Food & Drug Stores
1550 South Redwood Road, Salt Lake City, Utah 84104 • P.O. Box 30550, Salt Lake City, Utah 84130
Telephone (801) 974-1400 • Fax (801) 974-1243

August 26, 2002

David Fackler
Development Services Director
CITY OF TEMPE
31 East Fifth Street
Tempe, AZ 85281

Re: Property located at 3205 South Rural Road

Dear Mr. Fackler:

With respect to that certain Lease dated July 2, 1990, between Smith's Food & Drug Centers, Inc. ("Smith's") and Tempe Elementary School District No. 3 (the "District"), Smith's, dba Fry's Food Stores ("Fry's"), hereby authorizes Dr. Dale Despain and the officers of the District to represent Smith's and/or Fry's before the City of Tempe in connection with an amendment to an existing Tempe City Council Condition of Approval (No. 23 in Case No. SGE-89.34) for the above-referenced parcel.

Please call if you have any questions.

Very truly yours,

SMITH'S FOOD & DRUG CENTERS, INC.

Kyle S. McKay
Vice President/Assistant Secretary

KSM:st

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C1

City of Tempe
P.O. Box 5002
115 East Fifth Street
Tempe, AZ 85280

Tempe

Community Development
Department

FILE COPY

November 13, 1989

Dr. Augustin Orci, Superintendent
Tempe Elementary School District #3
3205 S. Rural Road
Tempe, AZ 85282

Re: ZON-89.14 SGF-89.34 GEP-89.33

Dear Dr. Orci:

At their regular meeting held on November 9, 1989, the City Council approved the request for **TEMPE ELEMENTARY SCHOOL DISTRICT #3** for the following at 3255 S. Rural Road:

RESOLUTION NO. 89.80. Adopt General Plan Amendment #GEP-89.33, changing the Map designation from School to Commercial for 8.36 net acres at 3255 S. Rural Road.

#ZON-89.14. Zoning change from R1-6 Single Family Residence District to PCC-1 Planned Commercial Center District for 8.36 net acres.

#SGF-89.34. General and Final Plan of Development for Smith's Supermarket consisting of 86,000 s.f. on 8.36 net acres. In addition the following are requested:

Variances

a. Reduce the required side yard setback from 40′ to 0′ in the PCC-1 Zoning District.
b. Increase allowed building height from 30′ to 40′ in the PCC-1 Zoning District.
c. Waive the 6′ masonry wall required between commercial and residential districts along the north property line.
d. Waive the 15′ landscaping strip and double row of trees required for a commercial use exceeding 50,000 s.f. adjacent to a residential district along the north property line.

The approval was subject to the following conditions:

1. a. Public Works Department approval of all roadway, alley and utility easement dedications, driveways, storm water retention and street drainage plans, water and sewer construction drawings, refuse pickup, and off-site improvements.

D

b. Off-site improvements to bring roadways to current standards include:

(1) Water lines and fire hydrants.
(2) Sewer lines.
(3) Storm drains.
(4) Roadway improvements including curb, gutter, and either a bikepath along arterial streets or a sidewalk along other streets.

c. Fees to be paid with the development of this project include:

(1) Water and sewer development fees.
(2) Street light investment costs.
(3) Water and/or sewer participation charges.
(4) Inspection and testing fees.

2. a. All street dedications shall be made within six (6) months of Council approval.

b. Public improvements must be installed prior to the issuance of any occupancy permits. Any phasing shall be approved by the Public Works Department.

c. All new and existing, as well as on-site and off-site, utility lines (other than transmission lines) shall be placed underground prior to issuance of occupancy permit for this (re)development in accordance with Ordinance No. 88.85.

3. Should this property be divided into two or more lots, review and approval of CC&R's in a form acceptable to the City Attorney and Community Development Director must take place prior to recordation of the plan or plat. These CC&R's shall provide (at a minimum) for all landscaping on site to be maintained by a single responsible entity according to the landscape plan approved by the City and that no amendments to the CC&R's or lot splits of the property may be recorded until reviewed and approved by the City.

4. Building permit shall be obtained and substantial construction commenced within two years of the date of Council approval or the zoning shall automatically revert to that in place at the time of application.

5. If this plan is recorded, then it shall reflect cross access to be maintained throughout this site over the driving aisles. No changes or modifications to the driving aisles will be allowed without the prior approval of the Engineering Department.

6. The developer shall provide the City with satisfactory evidence of cross access onto adjacent property to the north, prior to issuance of a building permit.

7. Smith's shall be responsible for resolving the details of closing Geneva Drive with staff prior to building permits being issued. The closure shall be upgraded in design and landscaping.

D1

8. The closing of Geneva Drive and installation of final solution shall occur prior to occupancy of Smith's.

9. All roof mounted mechanical equipment (Smith's) shall be screened by parapet walls. Details to be approved by the Design Review Board.

10. The Smith's project shall be processed to the Design Review Board prior to issuance of a building permit.

11. Public art (per Ordinance requirements) shall be installed prior to occupancy permit for Smith's.

12. Existing trees along Southern Avenue frontage and eastern property line shall be retained where possible. Details to be resolved with the Design Review Board.

13. Perimeter landscaping and walls including the trees immediately north of Smith's shall be installed in the 1st Phase of development. Details to be resolved with the Design Review Board.

14. The developer will preserve the existing mature evergreen trees which are located approximately adjacent to the east property line and wall. Landscape the area shown as parking on the plan where these trees exist.

15. The developer will appoint a specific contact individual to direct concerns during the construction of the project.

16. The developer will contact the adjacent property owners and review the proposed elevations and landscaping before a Design Review application is filed.

17. The developer will establish a $7,500 fund which will be made available to Ms. Johnson and Ms. Kelly to make physical improvements to their property which specifically mitigate the impact of the proposed Smith's development project.

18. The development shall be limited to 86,000 square feet on the property leased by the District for Smith's market.

19. The developer will pay particular attention to the design of the north wall of the Smith's Supermarket with efforts to incorporate landscape buffering, to detail that wall so that it does not appea as a "blank warehouse" and potentially to incorporate within it some of the required public art component.

D2

20. The average height of the Smith's store shall not exceed 30'. No architectural details shall exceed 35' in height on the north or west side of the Smith's Supermarket. Any 40' architectural element will not be visible from any adjacent single-family property.

21. No delivery trucks will be allowed to enter Smith's site after 11:00 p.m. at night or before 6:00 a.m. in the morning. During that period no maneuvering of trucks will be allowed at the loading dock and no truck would be allowed to run refrigeration units or have its engine idling.

22. The closure of Geneva shall take place during Phase One of construction. All details and cost of the closure shall be the responsibility of the developer.

23. Smith's shall create a $100,000 foundation fund for community activities. Smith's will receive proposals from the neighborhood and the district on how the income from this amount will be spent. Up to $25,000 of the income within the first 6 years shall be dedicated to improving open space in Meyer Park, in consultation with the Rural/Geneva Neighborhood Association and the Tempe Parks and Recreation Department.

24. There shall be no additional commercial development on the site other than the Smith's Supermarket and the School District Office.

25. All conditions shall be complied with prior to issuance of Certificate of Occupancy.

26. The trash compactor located on the east side of the supermarket shall be screened and have the ability to be internally sanitized for odor. Any additional garbage receptacles will be located within the loading dock areas.

27. The 6' masonry wall, separating the office project to the east from the applicant's property, shall be raised from 6' to 8'. The composition and finished completed condition of the wall will be reviewed in the next process of the Design Review Board.

28. The trees that will be supplied by the developer will be 24" box trees along the east property line between the office project and the applicant's property, placed 15' on center. The type tree will be a choice of the owner from a list that is approved during the design review process.

NOTE: Design Review Board process is necessary prior to recordation.

After compliance with the above conditions, the required copies of the General and Final Plan of Development **(three double-matte photo mylars 24" x 36"), with conditions and variances listed**, should be signed by the necessary parties and forwarded to our office. Also send a check made payable to the Maricopa County Recorder, for final processing and recording. (For fee charge, please check with one of our Planning Aides.)

D3

After recording the map, the City of Tempe requires as per Ordinance 381, the following prints of the recorded map:

3 - Full Size Bluelines 24" x 36"
2 - Xerox Copies (8 1/2" x 14")
5 - Reduced Photo Positives (8 1/2" x 14")
1 - Full Size Photo Mylar

This will be done by the City of Tempe. You will automatically be billed by a Blueprint Company.

Sincerely,

Terry Day
Community Development Director

TD:jrh
cc: File
Engineering Dept.
Building Safety Dept.
Public Works Dept.
Grady Gammage
Traffic Engineer
Real Estate Officer

D4