

Cholla Cove and Desert Cove Neighborhood Concerns and Requests

RE: Proposed Rezoning and Assisted Living Complex at St. Joseph's Catholic Church  
11001 N. 40<sup>th</sup> St. Phoenix, Arizona 85028

Request for Information made to:  
Shea Connelly Development, LLC & Cadence Living

For Review:  
City of Phoenix Planning  
City of Phoenix Street Transportation  
Phoenix Fire Department  
Phoenix City Council  
Mayor Kate Gallego  
St. Joseph's Catholic Church  
Roman Catholic Diocese of Phoenix

October 4, 2022

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## *Notes about Requests*

These requests and questions are a result of the neighborhood meeting with Shea Connelly Development (SCD), LLC and Cadence Assisted Living on September 28, 2022 and the Neighborhood need for greater information.

Instructions for these requests:

1. We request that you (SCD and Cadence Assisted Living) please answer these requests and questions before the next rezoning meeting (date TBD), as they articulate neighborhood concerns addressed in the September 28<sup>th</sup> meeting.
2. Please also note if SCD and Cadence will complete the action being requested (with proposed timeline for completion), or decline the request.
3. We request answers in writing.

With this additional information you provide, we hope that we as concerned neighbors will be able to be more informed decision makers in this rezoning process. Thank you!

## *Residential Health and Safety*

Request: Traffic Impact Analysis completed by independent 3rd party traffic engineer to include Risk Mitigation during construction phase and after.

Analysis to Include:

- a. Expected change to traffic flow and density on Shea, Cactus, and 40<sup>th</sup> St. and residential streets within a one-mile radius during the 2-3 year expected construction and after.
- b. Expected number of vehicles and type/function entering and exiting daily during construction and after.
- c. First responder and EMT traffic after construction
  - i. Number and Frequency. Additional consideration: Are EMT response times being considered, given the small size of Station 27? Station 27 is the 5<sup>th</sup> busiest station within PFD, and the next closest station with an ambulance is at 7<sup>th</sup> St. and Dunlop. Drain of an elder care facility with already strained resources.
- d. Potential impact on individuals with special needs. We have at least one neighbor directly adjoining church property who is a veteran with medically diagnosed PTSD. Their doctors caution them to avoid sirens and flashing lights as they can trigger seizures.

*Construction Traffic and Risk to Children and Adults utilizing streets for pedestrian travel and recreation*

- e. You stated construction will take between 2-3 years. On any given evening/weekend in this residential neighborhood, children play in the adjacent streets: ride scooters/bikes, play baseball and kickball etc. Watching trucks and trade people come and go from the build site, children will undoubtedly have a new pastime during construction phase.
- f. Many people are out biking and walking their pets in the streets. 40<sup>th</sup> Street has heavier bike and pedestrian use due to people heading to the Piewesta Peak trailhead south of Shea on 40<sup>th</sup> Street.
- g. Residents will now be sharing roadways with larger construction trucks and equipment thereby increasing risk of accidents.

*Include: Study should include risk to children and residents during construction and risk mitigation.*

- h. What insurance and what insurance limits will SCD carry on this build? Please comment.
- i. The Registrar of Contractors shows your construction bond at \$14,000. This seems low for the projects of your size and scope. Please comment.

Request: Environmental Impact Study completed by an independent 3rd party as it relates to:

- a. Noise pollution
  - i. This includes: first responders, industrial equipment (HVAC and other mechanicals), construction machinery, and traffic.
- b. Light pollution

- c. Heat island effect (*Currently, the streets surrounding the church property are part of the Cool Pavement Program. Consideration of increased heat from building type and size, asphalt, diminished green space.*)
- d. Storm water and run off. Infrastructure requirements?
- e. Ground water impact
- f. Power grid impact
- g. Trash generation

Request: Fire Mitigation Analysis by an independent third party as it relates to these minimum setbacks.

Given the very recent history of the massive fire at St. Joseph's Church (and some neighbors having sustained damage to their roofs from exploding debris), there is high concern by neighbors in close proximity to the facility regarding easy spread of potential building fires.

*Request for Information on Past Legal Cases and any Pending Legal Actions +  
Perceived Legal Risks to Neighborhood*

**In 2016, our research indicates that SCD filed a notice of claim against the Town of Fountain Hills in Maricopa County Court during SCD's MorningStar assisted living construction. A notice of claim is sometimes used to put an entity on notice for potential civil action.**

Our research indicates that in 2016, you a filed a notice of claim against the Town of Fountain Hills during construction of your MorningStar assisted living project citing the amount of \$600,000 from damages stemming, as you claimed, "Since the inception of the MorningStar project the town has intentionally and wrongfully interfered with SCD's Developments ways and means of construction." The claim appeared to cite several specific items of inappropriate action by the town causing delays and economic damages to SCD including,

- "causing inappropriate and unwarranted redlines to SRP construction drawings"
- "causing new inspection categories such as plumbing at the slab and new inspection criteria for shaft liner in pre-rock"
- "causing inappropriate and unwarranted inspections on the trusses"
- "requiring a development agreement for a retention pond on private property"
- "creating conflict with the replat process"
- "creating delay in the improper review and modifications of construction documents that were to be solely handled through third party review"
- "insisting that deferred submittals be approved by the town prior to ordering materials"

Request: Please comment. What was the outcome of that case? Have you ever had civil legal action against towns in which you have construction projects? Do you currently have other pending legal cases?

What assurances can you give the City of Phoenix and the Cholla/Desert Cove Neighborhood that you will not sue them for what you perceive to be interference of this proposed assisting living project? How would you and did you define "interference." Please explain, as this is of concern to the neighborhood.

**Registrar of Contractors, Suspension of SCD's contractor's license.**

Our research indicates that beginning in 2018 and ending in 2022, SCD was involved in a complaint with the Registrar of Contractors with one of your subcontractors that resulted in SCD's KB-1 general contractor license being suspended by the Registrar of Contractors.

Our research indicates SCD appealed this decision with the Arizona Court of Appeals. The registrar's website indicates SCD was not successful in that appeal with the Registrar of Contractors and the court upheld the suspension of your license in 2022. Our research further indicates you then went to another court to appeal the Registrar of Contractors decision.

Request: Please comment on this case. This appeared to be a very long legal process lasting several years with one of your subcontractors. How long was your suspension with the Registrar of Contractors? Have you ever received other suspensions under your entity SCD or any of your other company names and entities associated with SCD? Is SCD or any of your other company entities involved with any complaints currently with the Registrar of Contractors? If so, please specify.

### *Neighborhood Market Need Analysis of Assisted Living Facility*

Request: Updated market study using current 2020 census data to support the need for this type of facility in 85028. SCD has stated the Value Proposition to Neighborhood is that residents will utilize this assisted living facility. Neighbors strongly disagree.

- a. If you have completed a recent market study, we would like to see it and your specific data as it relates to 2020 Census demographics in 85028 supporting your claim.
- b. Please clearly articulate the 85028 Neighborhood Value Proposition for this facility in as you see it. We are not referring to the value proposition to persons in the extended church archdiocese, but specifically to neighbors in the 85028 zip code impacted by the proposed build.

*Larger Neighborhood Awareness for those Impacted*

Request: We request SCD send all future mailings about this project to all residents within a 6-mile radius of the proposed build. Initial mailing from SCD Development went out to minimum of residents (260) per rezoning requirement; those within 600 ft of the proposed build.

We perceive neighbors beyond the initially notified group will be heavily impacted by this project and it is important they receive the information.



## *Financial Transparency*

Request: We request transparency surrounding finances - your financial viability impacts the Neighborhood. Please answer these questions and requests

- a. What is the total projected cost of this build?
  - i. Note: Financing was mentioned at the meeting as a risk. As Feds raise interest rates, this has borrowing ripple effects across the board. The Feds are trying to curb inflation and head off a recession. All of this spells risks in borrowing. We all remember in 2010 when developers abandoned projects in mid construction and left neighborhood to deal with the blight.
- b. How is this lending deal structured? Will SCD and Cadence invest? If so, will they do so equally? Please specify investment breakouts.
- c. Who will ultimately be the guarantor of the project and how will it be secured?
- d. Have Candance and SCD already raised the capital needed? If so, what percentage of total?
- e. What role will investors play? Do you have an investor or potential investors? Where are you in the process of securing needed capital? Have you worked with any of these investor(s) in the past?
- f. What oversight will investor(s) have?
- g. Will you form a new BOD for this particular deal/partnership?
- h. What happens in case of default?
- i. What contingency types of plans do SCD and Cadence have in place in case of another Covid-type crisis?
- j. You said that over 80% of banks are rejecting lending requests for assisted living facilities given fall out of Covid and a looming shortage of worker crisis. What makes SCD different?
- k. How will Cadence deal with the increasing worker shortage? Currently, assisted living facilities across the U.S. are closing due to staff shortages of qualified workers.

Request: Can neighbors see copies of recent SCD and Cadence financials YTD 2022 and 2021 tax returns? We want to ensure that builders and financial stakeholders are financially sound and can weather build and start-up costs and potential pitfalls in light of rising material costs, inflation and interest rate hikes.

Request: We would like to see your proposed tax base contribution analysis and how these monies will contribute percentage rise to increased need for road, sewer, water, and power grid infrastructure maintenance and expansion.

## *Contracts, Memos of Understanding, and Transparency with Neighbors*

Request: Can Neighbors and/or our legal counsel review Memo of Understanding and future contracts between SCD and the Church? These agreements significantly impact neighbors. For instance, a neighbor asked in the meeting if the facility can be sublet at a later date. Mr. Shea said he did not know. Please comment.

- a. Who is your current legal counsel? Is it still DKL Law Firm?

Question: Is the rezoning specifically for the empty lot? Or is it for the entire property that encompasses the current church? From the information letter: "the building footprint is approximately 51,000 SF with a site coverage of 25%." However, when examining the site map, the proposed complex takes up well more than 25% of the current empty lot and proposed site. Please clarify.

Question: What are the implications of the entire property being rezoned? Can other buildings be added? Can other land be leased, divided etc.?

## *Property Values*

Request: Mr. Shea stated that he has data that property values in other developments he has built have increased when factoring out general across the board rise in property values. We request to see that data.

- a. While we are concerned about property values in general, we are especially concerned about property values for those who are directly adjacent to the property.

Request: an independent real estate consultant to help determine potential value outcomes for homes in the area.