

MINUTES OF THE REGULAR MEETING
OF THE
PLANNING AND ZONING COMMISSION

March 25, 2021
9:32 a.m.

Gotowebinar.com
Phoenix, Arizona

MEMBERS PRESENT:

Mr. Greg Arnett, Chairman
Mr. Jay Swart, Vice Chairman
Mr. Nathan Andersen
Mr. Kevin Danzeisen
Mr. Matt Gress
Mr. Erik Hernandez
Mr. Jimmy Lindblom
Ms. Kate McGee
Mr. Lucas Schlosser (left at 11:28 a.m.)

MEMBERS ABSENT:

Ms. Francisca Montoya

STAFF PRESENT:

Mr. Darren Gerard, Planning Services Manager
Ms. Rachel Applegate, Senior Planner
Mr. Adam Cannon, Planner
Mr. Jose Castañeda, Planner
Mr. Sean Watkins, Planner
Ms. Rosalie Pinney, Recording Secretary

COUNTY AGENCIES:

Mr. Wayne Peck, County Attorney
Mr. David Anderson, Business Engagement Manager, OET
Ms. Pearl Duran, OET

CONSENT:

Z2020101

REGULAR:

Z2020075, Z2020089, Z2020098

Chairman Arnett made the standard announcements.

CONSENT AGENDA

Special Use Permit - Z2020101

District 4

Project name: **Wickenburg Ranchos**
Applicant: Joseph Levie, SAC Wireless on behalf of AT&T
Request: Special Use Permit (SUP) for a wireless communication facility in the Rural-43 zoning district
Location: Generally located 780' southwest of the SWC of Vulture Mine Rd. and Maguire Dr. in the Wickenburg area

Mr. Gerard presented Z2020101 on the consent agenda.

COMMISSION ACTION: Commissioner Schlosser motioned to approve the consent agenda - Z2020101 with conditions 'a'-'g'. Vice Chair Swart second. Approved 9-0.

- a. Development of the site shall be in substantial conformance with the Site Plan entitled "FirstNet Wickenburg Ranchos", consisting of 17 full-size sheets, dated stamped received on February 16, 2021, except as modified by the following conditions.
- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "Commnet-Wickenburg Ranchos", consisting of 3 pages, stamped received February 16, 2021, except as modified by the following conditions.
- c. The following SUP standards shall apply:
 1. The maximum height of the Wireless Communication Facility shall be limited to 49', including all attachments and lighting rod.
 2. The maximum diameter of the tower shall not exceed 34 inches.
 3. The barbed-wire chain link fence with privacy slats shall be allowed as screening for the facility.
- d. A Minor Amendment shall be required to co-locate future carriers on the Wireless Communication Facility.
- e. This Special Use Permit shall expire 18 years from the date of approval by the Board of Supervisors on April 21, 2039, or termination of the use for a period of 90 or more days, whichever occurs first. All of the site improvements shall be removed within 120 days of such termination or expiration.
- f. Noncompliance with any Maricopa County Regulation shall be grounds for initiating a revocation of this Special Use Permit as set forth in the Maricopa County Zoning Ordinance.
- g. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, and at the time of expiration of the Special Use Permit, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, or the expiration of the Special Use Permit, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation or

expiration of the Special Use Permit. The Special Use Permit enhances the value of the property above its value as of the date the Special Use Permit is granted and reverting to the prior zoning results in the same value of the property as if the Special Use Permit had never been granted.

REGULAR AGENDA

Zoning - Z2020075

Districts 4 & 5

Project name: **Sun Streams Expansion Solar Project**
Applicant: Sun Streams Expansion, LLC
Request: Zone Change from Rural-43 to IND-2 IUPD
Location: Generally located between the 323rd Ave. alignment to the east, 351st Ave. to the west, Union Pacific Railroad to the south, Southern Avenue to the north

Mr. Cannon presented Z2020075 and noted the site is approximately 3,221 acres located in the Tonopah/Arlington area. The request is for a zone change from Rural-43 to IND-2 IUPD and include a plan of development that would be approved administratively. The request includes a photovoltaic solar development. Staff is recommending approval of the request with additional conditions. Staff believes the site and location are suitable for future solar development and it will have a positive economic benefit, and have an environmental benefit in promoting renewable clean energy. The applicant conducted a robust citizen participation process with a virtual public meeting of 19 participants, 29 inquiries, and responded to all of the inquiries. Staff received five support letters that focused on the environmental benefits of the site. Early in the process, staff received opposition letters with concerns the development would disturb the Le Conte's Thrasher bird breeding site. There were eight opposition letters regarding this issue. The applicant conducted a thorough outreach with the Arizona Game and Fish Department, the National Audubon Society and the Maricopa Audubon Society including an onsite visit. The applicant made significant changes to their Plan of Development and will be leaving over one-third of undeveloped land to preserve the bird and natural drainage ways. Since the study was produced, the applicant contacted Mr. Horlings to work with the Audubon Society on appropriate preservation methods. A hand out was produced to the commission with additional conditions proposed by the applicant and modified by staff. There are additional protective measures that are being proposed including hiring a qualified biologist at the developer's expense, construction or ground disturbing activity occurring outside of the birds breeding season. Pre-construction surveys to be completed if construction needs to take place during the season, and space buffers around nests and county review of the biologist findings.

Commissioner McGee said there was a Major Comprehensive Plan Amendment approved by the Board of Supervisors December 9, 2020, and asked was this project part of that. She asked if this area is a flood plain, and if so, does it make a difference. Mr. Peck said whether there is flood plain on the property really is something the commission does not need to concern itself. If there were flood plain, they would need to obtain flood plain use permits from the flood control district. The applicant can address if they made that application.

Commissioner Gress said the Board of Supervisors designated this lot for utilities, and asked what is being proposed in this zoning case, and is the work conforming to what the Board adopted. Mr. Cannon said there is a 2030 Comprehensive Plan for the county and with the major CPA that occurred in December, the applicant was amending two area plans because the site was so large. They amended that land use to utilities which was adopted by the Board of Supervisors. There is a list of zoning districts that go hand in hand with the land uses that have been applied.

Ms. Carolyn Oberholtzer said last fall, the Board of Supervisors gave approval on the CPA case to change to utilities. The Sun Streams 1-4 and this project will all transmit to the Hassayama Substation that has capacity for this power and for that reason and the proximity to the transmission corridor, which is an ideally situated property for solar arrays. This will generate 385 megawatts of power. It is 2/3's State Trust Land and 1/3 private property on the 3,200 acres, and devoting more than 1/3 of the project area to open space. There is flood plain and floodway beyond it, the solar panels can be installed in the flood plain with the proper permits, but they did not place arrays in those areas. They have thousands of contiguous feet that are maintained as open space. These are going to be photovoltaic solar modules used worldwide, and manufactured in the United States. They are safe and durable and extremely low maintenance and require very little water. They need a little heat and stop working at night, and are dark sky compliant. Because it is on two-thirds State Trust Land, it will generate long-term income to the trust and the beneficiary, the K-12 Common Schools Fund through the lease payments. Following discussions with the Audubon Society, and understanding the presence and importance of the Le Conte's Thrasher we did remove the additional 67 acres of solar arrays to create wider expanses where there would not be solar panels, and created contiguous open space. Also created stipulations that create protections for when we do need to have a disturbance within the solar array areas. The stipulations require a multi-phase analysis with step one to hire a biologist to determine the disturbance area in a suitable nesting habitat. This will help with our decisions to sequence construction outside of the breeding season. When construction outside of the breeding season cannot be avoided we have a process where a Game and Fish biologist will conduct a pre-construction survey to determine if there are active nests and to buffer around the nests, and monitor until they are no longer active. The report will be sent to the county and be kept on file with the zoning inspector. This will help to not disrupt the breeding species and not jeopardize the viability of the project. These birds are not protected species like the burrowing owl, and the developer will follow the prescribed Game and Fish protocols. We also made changes to move solar arrays back from property boundaries by 100 feet or more where they abut residential, and slated fencing would help minimize the view of the solar field.

Mr. Mark Horlings, representative of Maricopa Audubon Society said this is not just a spot of random low vegetation desert, it is known for years to be the place people come from around the country to see four species of desert dwelling thrashers. More people have seen the Le Conte's Thrasher at this site than anywhere else in the United States. It is unfortunate this site was chosen because it is close to transmission lines. When we heard about this project we had a scientific survey done by two biologists and the report summarized their findings. They investigated all the land that is part of the State Land Department, and looked in the different plots looking for the birds. They found the

majority of the birds are located in the thousand acres kept as a conservation area, but there are also birds in the 2,400 acres where they intend to develop, and those birds will lose the habitat that they have enjoyed. The biologists made recommendations there were four areas that were rich in bird life, two were in the "thrasher spot" very close to the parking lot, and the other across Salome Road. They appreciate the changes in the conditions which do provide some protection for the birds. The language did vary from what they talked about before. The construction period is 18 months and if that is continuance, it will be through the breeding season January to June. We were hoping that could be avoided. There is no guarantee this will be successful if construction goes on during breeding. In addition to the buffer around nesting sites there is scientific literature that says what approximates the breeding territory these birds need to go through mating and feeding of the young, and for the Le Conte's Thrasher it is about 18 acres. We would like there to be a specific reference to how large a territory will be carved out for the nests that are found. We also ask First Solar to not only document what they find before construction begins, but also to document what they find after construction is over. There is no guarantee this will keep any of the birds on the territory, and we need to know if this worked or didn't work and if the birds are still there. There are threats to birds from installations like this where birds mistake windows for passageways and mistake solar arrays for water. If birds strike a window and fly away, 50 percent of those birds are going to die. We want to find out if there are bird strikes in the area. We ask that the 1,000 acres that are going to be left undisturbed not be used as construction staging areas or storage areas. In order for the birds to survive it's habitat, they can't be building on the 2,400 acres and also have construction equipment moving through the 1,000 acres. They also ask that no new roads be allowed to be developed in the 1,000 acres during construction and maintenance. This is the best Thrasher area in Arizona. He asked the commission to consider additional changes in the conditions to help preserve that.

Chairman Arnett asked is there anywhere in the country that talks about solar arrays and how it affects the birds. Mr. Horlings said no, that is one of the reasons he is asking for a follow-up study. Wildlife often disappears when people come around and we can't always trace the reasons. These solar arrays will be 13 feet high, and a lot of them will cover a lot of land. We will never know all the reasons why the birds disappear.

Ms. Oberholtzer said there are four species that congregate out there. The area we are leaving open is largely outside of the area where these birds were seen. The reason they developed these stipulations was to determine a process. These species are not on the protected list, so this is something that is well beyond the Game and Fish requirements to ensure we are trying to protect the ability of these species to breed in this area. The language in stipulation 'o' - If active LeConte's or Bendire's Thrashers nests are found during pre-construction surveys or during construction, a spatial buffer would be established around the nest and monitored by the qualified biologist. The biologist will be engaged. If they find the nest, they establish the buffer. It is important we not subscribe an area because there is no prescriptive requirement for these species. The qualified biologist will determine what the buffer is and it is very important to leave this up to the biologist to make that determination. When there is an active nest, the ground disturbing activities within the buffer would be postponed until the qualified biologist confirms the nest is no longer active. The parking area is an area where people tend to

go. They are not precluding the continued access to the area, that is why efforts were made to create very condensed fence lines adjacent to the panels to keep all development as proximate to the necessary locations. These panels rotate with the sun, which should work to not be a fixed target, and there are no new roads being proposed with this application. There are right-of-ways and road preservations that will be maintained, and stipulation 'c' already covers disturbance in the wildlife corridors. They have reduced back the solar arrays as much as they can.

Commissioner Hernandez asked what the timeline of this project is. Ms. Oberholtzer said it will be a multiple year construction project that will be in phases. Construction would probably begin in 2022 and continue through 2024.

Chairman Arnett said he appreciates the outreach on this application and everyone working together. There has been some very generous changes, and this is what good planning looks like.

Commissioner Schlosser said the applicant has gone above and beyond and the added stipulations should cover the concerns.

COMMISSION ACTION: Commissioner Schlosser motioned to approve Z2020075 with conditions 'a'-'p' with inclusion of conditions 'j'-'p'. Commissioner Lindblom second. Approved 9-0.

- a. Development of the site shall be in substantial conformance with the Site Plan entitled "Sun Streams Solar Expansion", consisting of 20 full-size sheets, dated March 3, 2021, and stamped received March 3, 2021, except as modified by the following conditions.
- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "Sun Streams Expansion Solar Project", consisting of 22 pages, dated February 26, 2021, and stamped received March 1, 2021 except as modified by the following conditions.
- c. Subject to the discretion of the Zoning Administrator or their designee, alterations of a substantial nature to the conservation area provided in Figure 3 on page 22 of the Narrative Report entitled "Sun Streams Expansion Solar Project" shall be grounds for requiring a Zone Change Major Amendment.
- d. The following Planning Engineering conditions shall apply:
 1. Final design of drainage infrastructure shall be based on Rational Method calculations, except in situations where drainage areas significantly exceed 160 acres.
 2. Drainage Waiver case DRB2021002 must be approved prior to issuance of building permits.

3. Detailed Grading and Drainage Plans showing the new site improvements must be submitted for the acquisition of building permits. On-site (solar field) areas must be designed in such a manner so that flows area directed to retention basin(s). Basin bleed-offs and overflows must be directed to well defined drainage corridors, to the maximum extent possible.
4. Drainage review of planning and/or zoning cases is for conceptual design only and does not represent final design approval nor shall it entitle applicants to future designs that are not in conformance with Section 1205 of the Maricopa County Zoning Ordinance and the Maricopa County Drainage Policies and Standards. All development and engineering design shall be in conformance with Section 1205 of the Maricopa County Zoning Ordinance and current engineering policies, standards and best practices at the time of application for construction.
5. Owner or owner's agent shall be responsible for identifying and procuring any permit(s) for disturbance of, or work within delineated jurisdictional (404) washes.
6. Any work within a regulated SFHA (floodplain) will require as Floodplain Use Permit (issued concurrent with the required building permit(s) for the site improvements).
7. Pads for inverters and other electrical equipment; and any buildings within the Zone A or AE Floodplain must be elevated to the regulatory flood elevation or otherwise designed to meet the requirements of the Floodplain Use Regulations. All development and engineering design shall be in conformance with the most current version of the Floodplain Use Regulations for Maricopa County.
8. The following right-of-way preservations shall be required and shown on the plans submitted for building permits:

Required Preservation:

- a. 65' half width, 130' full width right-of-way for Salome Highway
- b. 65' half width, 130' full width right-of-way for 331st Avenue
- c. 55' half width, 110' full width right-of-way for Dobbins Road
- d. 65' half width, 130' full width right-of-way for Baseline Road (east of Salome Highway)
- e. 65' half width, 130' full width right-of-way for 339th Avenue (north of Salome Highway)
- f. 100' half width right-of-way for Southern Avenue
- g. 30' half width right-of-way for 339th Avenue (between Baseline and Dobbins Road)

- h. 40' half width right-of-way for 335th Avenue (between Dobbins and South Mountain, and Vineyard and Southern)
 - i. 40' half width right-of-way for South Mountain Avenue
 - j. 40' half width right-of-way for Vineyard Road
 - k. 55' half width right-of-way for Elliot Road
 - l. 55' half width right-of-way for Baseline Road (west of Salome Highway)
 - m. 55' half width right-of-way for 347th Avenue (section line alignment)
- e. The following IND-2 IUPD Zoning District standards shall apply:
- 1. Min. Front Yard – 25' except as shown on sheet C1.2 of the Site Plan
 - 2. Min. Side Yard – 0' except as shown on sheet C1.2 of the Site Plan
 - 3. Min. Rear Yard – 0' except as shown on sheet C1.2 of the Site Plan
 - 4. Max. Lot Coverage – 60%; Solar panels shall not be counted as lot coverage
 - 5. Parking Spaces Required – None required
 - 6. Loading and Unloading Spaces Required – None required
 - 7. Landscaping – No landscaping areas required
 - 8. Sight Visibility Triangles – No sight visibility triangles are required at driveways, mid-section lines intersecting alignments, section line intersecting alignments
 - 9. Article 902.91 – All utility uses shall be permitted to be conducted outdoors
 - 10. Site Enclosure and Screening – Chain-link fencing including 1' of barbed wire permitted; Slatted chain-link fencing required in all areas abutting subdivided parcels in accordance with sheet C1.2 of the Site Plan
- f. The IND-2 IUPD shall limit the use of the site exclusively to public utility treatment and generating plants including sewage, wastewater, power, electrical, nuclear and solar, and including ancillary offices. Attendant facilities and appurtenances to the above uses as well as uses associated with service to the public of water, gas, telephone and cable television. Where an electrical generating plant is in operation, evaporation ponds and other appurtenances may be permitted provided such evaporation ponds or appurtenances are associated with the facility being served. All other site uses shall require a Zone Change Major Amendment.
- g. Noncompliance with any Maricopa County Regulation shall be grounds for initiating a revocation of this Zone Change as set forth in the Maricopa County Zoning Ordinance.
- h. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.
- i. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this

approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, and at the time of expiration of the Zone Change, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, or the expiration of the Zone Change, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation or expiration of the Special Use Permit. The Zone Change enhances the value of the property above its value as of the date the Zone Change is granted and reverting to the prior zoning results in the same value of the property as if the Zone Change had never been granted.

- j. **Prior to commencement of construction, a qualified biologist will delineate a suitable nesting habitat for LeConte's and Bendire's Thrashers.**
- k. **All costs or expenses associated with the biologist and their work in association with the development shall be borne by the property developer.**
- l. **The property developer shall submit a letter from AFGD approving the credentials of the selected biologist.**
- m. **Construction will be phased so that ground-disturbing activities in a suitable nesting habitat for LeConte's and Bendire's Thrashers will be conducted outside of the breeding season for LeConte's and Bendire's Thrashers (defined as January through June) to the greatest extent practicable.**
- n. **If ground-disturbing activities in a suitable nesting habitat for LeConte's and Bendire's Thrashers must be conducted during the breeding season (defined as January through June), a preconstruction survey to identify active nests would be performed by a qualified biologist prior to the commencement of ground-disturbing activities.**
- o. **If active LeConte's or Bendire's Thrashers nests are found during pre-construction surveys or during construction, a spatial buffer would be established around the nest and monitored by the qualified biologist. Ground-disturbing activities within the buffer would be postponed until the qualified biologist confirms that the nest is no longer active.**
- p. **Written documentation of the biologist's findings regarding active nests shall be provided in writing to and for acceptance by the Zoning Inspector or his or her designee prior to initiating construction activity.**

Special Use Permit - Z2020089**District 1**

Project name: **Cars & More Storage**
Applicant: Frank Waszkiewicz, Arizona Family Holding Trust
Request: Special Use Permit (SUP) to allow outdoor RV, boat, automobile and trailer storage in the Rural-43 RUPD zoning district
Location: Approx. 350' south of the SWC of Riggs Rd. & Lime Dr. in the Queen Creek area

Mr. Watkins presented Z2020089 and noted the applicant's single-family residence attached and detached accessory buildings are not part of the requested SUP area or use. The SUP area is currently vacant except for chain-like fencing along the east and north sides. The proposed facility includes 40 vehicle parking spaces of various sizes, and an ADA-accessible parking space and ADA-accessible bathroom, which is the only new building, proposed. The total coverage would be less than six percent where 20 percent lot coverage is allowed in Rural 43 RUPD district. The parking spaces proposed is natural dirt, and the ADA parking and loop driveway will be decomposed granite which complies with Air Quality regulation. Eight foot tall fencing is proposed around the entire SUP area. Fencing on the north, west and south sides is 6 ft. tall chain link with view-obscuring slats and 2 ft. of barbed wire at the top. 8 ft. tall solid CMU walls and two view-obscuring rolling gates are proposed on the east side of the SUP area. All the proposed fencing complies with the maximum fence/wall height and material requirements of the Rural-43 RUPD zone. No utilities are proposed to be used. Access to and from the site will be provided by two sliding non-automated gates. One 4 ft. x 8 ft. perimeter wall sign is proposed on the east block wall, between the two gates. The applicant and his family, who live in the existing residence, will run the business. Customers will use a website to lease spaces and obtain access via solar-power, and key-coded locks on the gates. Hours of access will be 8 a.m. to 7 p.m. daily. To date, staff has received 1 support comment submitted by one party and 19 opposition comments submitted by 14 parties. Most of the opposition comments include concerns about fugitive dust emanating from the subject property and traffic on Lime Drive, and objections to a commercial use located within an existing rural residential area. Other concerns are noise, safety issues with pedestrians especially children at a bus stop, horseback riders, and potential damage to Lime Drive with increased traffic. The Applicant coordinated with Air Quality for the current site design, including the proposed natural dirt parking spaces and compacted decomposed granite loop driveway, which Air Quality has confirmed to be compliant with the applicable regulations. While no dust control permit is currently required for the proposed use, in the future it will be a violation of Air Quality regulations if fugitive dust escapes the boundary of the SUP area. MCDOT issued a Traffic Impact Statement (TIS) waiver for this proposal citing "fewer than 100 weekday daily trips and 25 peak hour trips; therefore, site traffic would have a negligible effect on nearby roadway infrastructure." Per MCDOT, Lime Drive is not a verified MCDOT right-of-way, nor is it MCDOT open and declared, although it is a 33 ft. wide public right-of-way. It is the responsibility of the adjacent landowners to maintain Lime Drive. The applicant states since March 2015, he has graded Lime Drive to Riggs Road south of the subject property line with his equipment and at his expense to help maintain Lime Drive. The only development standard modification requested is to allow a perimeter wall sign for the proposed outdoor storage use where perimeter wall signs are to be used at the entry of subdivisions, churches, schools and/or public buildings in the Rural-43 RUPD zone. The

applicant complied with the Citizen Review Process with the required posting of the site and notification to adjacent property owners within 300' of the subject parcel, and to interested parties. Staff finds the proposed outdoor vehicle storage use is allowed in the Rural-43 RUPD zone as a special use per MCZO 1301.1.22, and the proposed use is appropriate for the surrounding development and land use patterns. Potential fugitive dust generation from the site and Lime Drive as well as traffic safety on Lime Drive and Riggs Road are key concerns of the opposition comments. The applicant has satisfied Air Quality and MCDOT's standards with the current site design. The applicant commits to maintaining Lime Drive from Riggs Road to the subject property line as he's done since 2015. He will sprinkle for dust suppression as necessary to prevent dust from escaping the site. No dust control permit is currently required, but will be in the future if a violation in Air Quality regulation if the dust escapes the property. Staff recommends a 10-year SUP entitlement.

Commissioner Gress said in the staff report it was noted the proposed use appears appropriate for the surrounding development and land use patterns, but this area seems to be heavily residential versus a business corridor. Mr. Watkins said the statement is based on other SUP's in other similar areas.

Commissioner Gress asked has the commission approved other storage facilities in residential neighborhoods. Mr. Watkins said there are many cases particularly RV and boat storage has been allowed under SUP's in rural and residential areas.

Commissioner Gress said he recalls he voted for some storage facilities but they were uniquely different in terms of paving, located adjacent to a high traffic area than imbedded in a neighborhood.

Vice Chair Swart said he agrees with Commissioner Gress' concerns. The neighborhood concerns are dust, traffic, horseback, safety and children. The safety of the children and citizens is very important, and concerned with the close adjacency of residential.

Commissioner McGee said she shares the same concerns. She asked how the dust would be enforced, and she doesn't see how easily it would be enforced with so much dirt road. According to the images of the property there is a lot of brush, and asked would they be cutting those trees and brush down and change the conditions to what we are approving. Mr. Watkins said Air Quality regulations is not our purview, but he understands there is an initial period of 35 days where the regulations are not as authoritative. It is after 35 days in business where it becomes a zoning violation for dust to escape the boundaries of the SUP area. In terms of tracking where the dust comes from is difficult, it would need to be initiated by a neighbor complaint and be reported to Air Quality. They would inspect if dust were coming from the site in order to cite them. Removing the vegetation from the site is through the grading and drainage plan to control dust and mitigate storm water issues. It is all controlled through the grading and drainage permit.

Mr. Frank Waszkiewicz, the applicant said all the trees are gone that were in the picture. The trees were dead, it was a fire hazard and were hauled away, burnt or given away for the wood. Only two trees remain on the property now. He has maintained Lime Drive since 2015, and it is really a river bottom that people are driving on. Irrigation water and

rain water is what washes the road away. Everybody complains about the road and nobody does anything about it. We are each to maintain the road in front of our properties and nobody is doing that. He purposely had the hours of operation start at 8 a.m., because there is no school traffic after 7:30 a.m. with no more kids and cars on the road. There should be no safety issues with the kids and school buses.

Chairman Arnett said he realizes this is a permitted use with an SUP, and that is why we are here today to make sure this is an appropriate place for this use. However, this is anything but a commercial area, and asked why here in this neighborhood. Mr. Waszkiewicz said there is an existing RV park in the area, and he will be putting up a visual barrier around his property. The land is open and he pays taxes on it, and he believes this is best use for it. There is a need for this use in this area.

Chairman Arnett asked where the other facility is located. Mr. Waszkiewicz said it is on the corner of San Tan Blvd. and Power Road, facing Power Road.

Mr. John Mahon said Lime Drive is the only way to get to his home, and it is a dirt road. His concern is with the dust that large RV's and boats will make as they drive down Lime. When it rains it is hard to make your way through here, and irrigation overflow goes down Lime Drive. With the large vehicles, it will make Lime Drive very challenging. He has four children that go to school in the area and they ride their bikes down Lime Drive to go to school and cross Riggs Road. There is a bus stop on the corner of Riggs and Lime, and there was a significant accident on that corner about a month ago. We live in a rural neighborhood; this does not have the feel or the need for a commercial property. Dust, safety, and traffic concerns along with the 19 oppositions should be considered.

Ms. Deb Carey said she has lived in the neighborhood for 20 years. Her main concern is safety, this is a residential area and kids are on the road. The school is across Riggs Road and there is an LDS church with kids attending classes on the weekends at the church, and kids playing and horseback riders. In the past, the county stipulated Citrus Heights needed to maintain the roads and they decided it was too cost prohibited and no longer maintain the roads. It is great the neighbor is trying to maintain the road, at times the road can be in poor condition. There will be access from the south as well the north, and who will be maintaining the south side. There are three large RV facilities so close in industrial and commercial areas already, and why do we have to have this in our neighborhood. We just can't stop coming to this neighborhood, we live here, and we never anticipated having to deal with a business in our neighborhood. She is opposed and ask the commission to decline this request.

Mr. Paul Keith said he has been a resident here for 26 years. His primary concern is the traffic on Lime Drive. There are two bus stops and students walk up and down the road. This is a residential area. Once you grant the one business in our neighborhood, what is to stop somebody else to have car lots in our residential area? He knows the plan is to have vehicles to go north and pull out on Riggs Road, but with the amount of traffic on Riggs they will instead go south on the unmaintained road to San Tan.

Mr. Waszkiewicz said the large vehicles will only go 400 feet, and what kind of speed will they pick up to create dust. The dune buggies are making the most dust, and it is the

speed making the dust not the vehicles going slow. He already addressed the bus stop, where he is making the hours of operation at 8 a.m. after the buses and school start. The other neighbors are not taking care of this road, and the water stays on the sides of the road and it is in very good shape. The other RV parks are full and have a waiting list and they are not fulfilling the needs of the area. People are not going to take their \$50,000 - \$100,000 trailer and go down a road that is in rough shape. Riggs is a large road, and it is easy to get in and out when school buses are not running. The RV's do not come and go every day, and some of the opposition comments are blown out of proportion.

Mr. Peck said when the commission is asked to do a rezoning of a piece of property, that is a general decision whether the property or properties involved should have their zoning changed to a specific zoning district that allows many uses. If you feel a specific property is appropriate for a use that is not otherwise allowed in the district now. You are being asked to grant them a permit that would permit them to do which is basically a commercial operation on the property. A commissioner had a question of what they would have to do in order to make the property appropriate for that commercial use. The answer is yes, you have to decide whether this particular piece of property is appropriate for the specific thing they want to do. This is different from a general zoning consideration.

Chairman Arnett said he has been part of approving many SUP's in the past, and this one feels different. He does not have many concerns with the traffic or the dust, and storage is a light use, but it is through a neighborhood and it changes the intended use of that property.

Commissioner Andersen said his primary concerns is the additional commercial traffic on Lime Drive. He is familiar with this area and has driven on Lime Drive, and it is not a well maintained road. Additional commercial traffic, even when it is going slow, will have impacts that go beyond what was intended for this residential area. Controlling the dust is a concern and there are not a whole lot of improvements that are being proposed to maintain the dust. The commercial traffic in a residential area will impact the character of the area and perhaps open the door for additional commercial uses. It would be inappropriate to approve this Special Use Permit request.

Commissioner Hernandez said he agrees there won't be an opportunity to create that much dust, and there's only 40 spots that are being proposed with 28 to 30 foot in length. We do have to look at the actual use and he does not think an RV/Boat storage is the right use for this property. It is a little deeper into the neighborhood, and he is not in favor of granting this Special Use Permit.

Vice Chair Swart said this is not a proper use in this residential area, and the safety of the children and people are his may concern.

Commissioner Lindblom said Lime Drive is a big concern to how it is undeveloped. If it were paved he might consider at different direction, and the applicant demonstrated that Lime Drive would not be an issue. He is inclined not to support this.

**COMMISSION ACTION: Commissioner Andersen motioned to deny Z2020089
Commissioner Lindblom second. Denied 9-0.**

Commissioner Schlosser left the hearing.

Zoning - Z2020098

District 4

Project name: **Innovation Villas at Camelback**
Applicant: Michelle Santoro, Earl & Curley
Request: Zone Change from Rural-43 to R-5 RUPD
Location: Generally located approx. 1,400' east of the NEC of Camelback Rd & Dysart Rd.

Mr. Castañeda presented Z2020098 and noted the applicant is proposing to develop the site as a multi-family residential development, and have applied for an RUPD overlay as part of the zone change. They are requesting a reduction to the rear yard setback from 25-foot minimum to 20 feet, and a proposed density of 11.4 dwelling units per acre. After the publishing of the staff report, the applicant presented an additional condition to possible changes to the urban principal arterial cross-section, subject to approval by MCDOT and other affected jurisdictions. There are no violations on the property; staff received one letter of opposition from a resident located within 300 feet of the site. While the proposed rezone is inconsistent with the county area plan exceeding the residential density in the area plan. It is in concert with the land use development pattern in an area that has developed primarily as medium density housing and commercial uses. Staff recognizes the west valley has rapidly urbanized in recent years with similar projects in the area that have exceeded the density outlined in the area plan. Staff recommends approval.

Commissioner McGee asked how big or how dense can the development become with this approval. Mr. Castañeda said the applicant is proposing a density of 11.4 dwelling units per acre.

Mr. Taylor Earl with the law firm of Earl & Curley said they met with the one person in opposition and has concerns with other projects in the area. Height of new developments is the major concern he hears, to not have two-story homes. Everything they will be doing will be single-story. A canal is on the west side that provides a 30-foot buffer between the projects. This is a very compatible development. With all the notices they sent out they only had two people come to the neighborhood meeting, and one that continues to express concerns. This development will be just off Camelback Road, and it's a five lane arterial road with a lot of capacity, and is in proximity to several freeways which makes this a great location for additional housing density. The homes to the east are a small lot subdivision at 4,500 square feet, and southeast they are 5,200 square feet. When you have a property site that is a triangle lot, you have challenges since buildings are squares and rectangles you have inefficiencies. A product like this can accommodate the inefficiencies because of the smaller units and with a rental product you can position things a little bit better. We are proposing to be at the higher end of this type of community, and one of our differential points is the architecture. It will have very attractive architecture with a variety of color schemes. This will be a home and

not just a rental unit; this is a premium rental product. They are renters by choice where they don't want to go into the market right now or in a situation where they will just rent for a few years, or they liquidated the equity in their home and want a rental situation. These are clearly rentals by choice far from a low-level renter product. The benefit of having a single owner, the community remains nice over time. The owner has a built-in financial incentive to make sure to get higher rent rates and he does not do that by letting the property deteriorate. It ensures the community to stay nice over time. Yes, this is multi-family, because it is one owner, one lot and will have multiple units on it, but it will feel and function in many ways like a single-family detached community. The square footage is 624 to 995, all single-story, high tech interior amenities and finishes. There will be central amenities with a resort-style pool and spa, BBQ amenities and gathering areas with seating and shade trees. The management company will maintain the backyards for each residence. The location is in proximity to major employment centers - Luke Air Force Base, the Stadium and PV303, which is huge employment center where we need to have corresponding and compatible growth for residential opportunities.

Chairman Arnett asked if they would be willing to stipulate a maximum density of 11.4 dwelling units per acre just in case for whatever reason the project doesn't go forward and it reverts back to the most aggressive zoning in the county. Mr. Earl said they would be fine with that, but in the first stipulation talks about conformance to the narrative.

Commissioner Gress asked what substantial conformance means. Is it entire conformance or would the density be an element that would trigger substantial conformance provision. Mr. Gerard said substantial conformance does not mean full conformance, there is room for discretion with regard to site plan and narrative changes. If your concern is with the density, once you approve the zoning R-5 zoning is entitled. The Plan of Development is an administrative feature, and if for some reason this is not developed it will have R-5 RUPD zoning, and the only deviation from the R-5 standards is that you are setting up a 20-foot minimum rear instead of 25 feet. If you are concerned about density, you may want to consider adding a new stipulation 'e.2' to indicate maximum unit count, or a maximum density.

Mr. Earl said they are happy to stipulate but this is not a conceptual site plan it is an actual site plan. They have no concerns stipulating the density.

Chairman Arnett asked if anyone from the public wishes to speak on this case. None.

Commissioner Andersen said he did not think stipulating density is necessary and the protection of density is already built into the request.

Chairman Arnett asked if this is rezoned along with the POD, and for some reason this project does not happen could they submit something else. Mr. Peck said if you rezone to R-5 then someone down the road could develop to the maximum density allowed in the zoning district. Since the applicant asked for an RUPD which is a request to modify certain requirements of the underlining zone. The only deviation they are asking for now is the setback; they could add another deviation, which would be limited to the number of dwelling units per acre. As long as the zoning stays in place, and twenty years later they want to knock down and rebuild a building they would be limited only to the density

that is allowed by the underlining zoning district. If you are concerned, then the stipulation suggestion by staff makes sense.

Chairman Arnett said it is an entirely a different discussion if this was a four-story apartment building. The applicant said he was okay with the stipulation, and why not stipulate to that. Commissioner McGee said she agrees.

Commissioner Andersen asked if this were to be approved and not built or knocked down to do something else, wouldn't they need to go back through the public process to get approved with more density under this RUPD. Mr. Peck said when you zone a piece of property anything that can be done under that zoning district then applies to that property. Applicants present to you site plans and narratives about what it is they plan to do with the property, but you have no authority to approve a Plan of Development, a site plan or narrative. The answer is no, there would be no public process. Approval of a Plan of Development is an administrative approval and be done by staff. The way you lock in density is a zone change through the RUPD process. Unless you specifically modify an underlining standard of the zoning district, it is not modified. If four-stories are allowed under the zoning district, they can come in for a four-story building if that is what they want to do. What staff considers in approving a POD is very different from what the commission considers when approving a zone change.

Chairman Arnett asked staff for the new language to consider for an additional stipulation. Mr. Gerard said you could consider adding new stipulation 'e.2' - the R-5 RUPD zoning district shall have a maximum density of 11.4 dwelling units per acre.

Chairman Arnett asked the applicant if they agree. Mr. Earl said if they would consider 11.5, so there is no issues in the engineering process. Mr. Gerard staff is good with 11.5.

Commissioner Hernandez said he is very familiar with this area, and there are several others like this development in the area. There has been tremendous growth in the west valley with the all the development at the 303 and the amount of jobs at Luke Air Force Base, and it is important we get affordable housing in the west valley. He is in favor of this project and the additional stipulations.

COMMISSION ACTION: Commissioner Hernandez motioned to approve Z2020098 with conditions 'a'-'j' with inclusion of conditions 'e.3' and 'j'. Vice Chair Swart second. Approved 8-0.

- a. Development of the site shall be in substantial conformance with the Narrative Report entitled "Innovation Villas on Camelback", consisting of 12 pages, dated February 18, 2021, and stamped received February 21, 2021, except as modified by the following conditions.
- b. The following Engineering conditions shall apply:
 1. The MCDOT Major Streets and Routes Plan requires a detached sidewalk for the Urban Principal Arterial Cross Section. Final Plat and

building permit submittals must show the detached sidewalk along Camelback Road.

2. The subject premises is located within the County's Urbanized Area and will disturb more than one (1) acre. A Storm Water Pollution Prevention Permit (SWPPP), issued by the County (PND), will be required prior to issuance of any building permits required for site development. See: <https://www.maricopa.gov/DocumentCenter/View/6577>
 3. Engineering review of planning and/or zoning cases is for conceptual design only. All development and engineering design shall be in conformance with Section 1205 of the Maricopa County Zoning Ordinance; Drainage Policies and Standards; Floodplain Regulations for Maricopa County; MCDOT Roadway Design Manual; and current engineering policies, standards and best practices at the time of application for construction.
 4. Based on the conceptual design nature of the information submitted, changes to the site layout and/or a reduction in the number of building lots may be necessitated by the final engineering design of the subdivision drainage infrastructure.
 5. Detailed Grading and Drainage (Infrastructure) Plans must be submitted with the application for Final Plat Approval and Building Permits.
- c. The applicant/property owner shall submit a 'will serve' letter for fire protection services for the project site. A copy of the 'will serve' letter shall be required as part of the initial construction permit submittal.
 - d. All buildings subject to noise attenuation as per ARS § 28-8482(B).
 - e. The following R-5 RUPD standards shall apply:
 1. 20-foot minimum rear yard setback.
 2. **The R-5 RUPD zoning district shall have a maximum density of 11.5 d.u./ac.**
 - f. The following Luke Air Force Base condition shall apply:

The Innovation Villas on Camelback shall notify future occupants/tenants that they are located near a military airport with the following language:

"You are locating in a residential dwelling outside the "territory in the vicinity of a military airport," however aircraft flying in this area are authorized to fly as low as 1,500 feet above the ground. You will be subject to direct overflights and noise by Luke Air Force Base jet aircraft in the vicinity.

Luke Air Force Base executes an average of approximately 165 overflights per day. Although Luke's primary flight paths are located within 20 miles from the base, jet noise will be apparent throughout the area as aircraft transient to and from the Barry M. Goldwater Gunnery Range and other flight areas.

Luke Air Force Base may launch and recover aircraft in either direction off its runways oriented to the southwest and northeast. Noise will be more noticeable during overcast sky conditions due to noise reflections off the clouds.

Luke Air Force Base's normal flying hours extend from 7:00 a.m. until approximately midnight, Monday through Friday, but some limited flying will occur outside these hours and during most weekends.

For further information, please check the Luke Air Force Base website at www.luke.af.mil/urbandevelopment or contact the Maricopa County Planning and Development Department."

Such notification shall be permanently posted on not less than a 3 foot by 5 foot sign in front of all leasing offices and be permanently posted on the front door of all leasing offices on not less than 8½ inch by 11 inch sign.

- g. Noncompliance with any Maricopa County Regulation shall be grounds for initiating a revocation of this Zone Change as set forth in the Maricopa County Zoning Ordinance.
- h. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.
- i. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation of the Zone Change. The Zone Change enhances the value of the property above its value as of the date the Zone Change is granted and reverting to the prior zoning results in the same value of the property as if the Zone Change had never been granted.
- j. **There is a canal that runs along Camelback so there may have to be some deviations from the Urban Principal Arterial Cross Section to adjust to the canal. Any such deviation must be approved by MCDOT and/or other affected jurisdictions.**

Chairman Arnett adjourned the meeting at 12:03 p.m.

Prepared by Rosalie Pinney
Recording Secretary
March 25, 2021