

**MINUTES OF THE REGULAR MEETING**  
**OF THE**  
**PLANNING AND ZONING COMMISSION**

January 14, 2021  
9:30 a.m.

Gotowebinar.com  
Phoenix, Arizona

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**MEMBERS PRESENT:**

Mr. Lucas Schlosser, Chairman  
Mr. Greg Arnett, Vice Chairman  
Mr. Nathan Andersen  
Mr. Jimmy Lindblom  
Ms. Francisca Montoya  
Mr. Jay Swart

**MEMBERS ABSENT:**

Mr. Bruce Burrows  
Mr. Matt Gress  
Mr. Robert Zamora

**STAFF PRESENT:**

Mr. Darren Gerard, Planning Services Manager  
Ms. Rachel Applegate, Senior Planner  
Ms. Rosalie Pinney, Recording Secretary

**COUNTY AGENCIES:**

Mr. Wayne Peck, County Attorney  
Ms. Rebecca Quince, Senior Project Manager, OET  
Ms. Pearl Duran, OET

**CONTINUANCE:**

**Z2020087**

**CONSENT:**

**S2020017, Z2019078**

**REGULAR:**

**Z2018106, Z2019136**

Chairman Schlosser called the meeting to order at 9:31 a.m. and requested election of officers for 2021.

**COMMISSION ACTION: Commissioner Swart motioned to elect Commissioner Arnett to Chairman for 2021. Commissioner Montoya second. Approved 6-0.**

**COMMISSION ACTION: Commissioner Montoya motioned to elect Commissioner Swart to Vice Chairman for 2021. Commissioner Lindblom second. Approved 6-0.**

Chairman Arnett made the standard announcements, and asked if there were any changes or comments to the minutes for October 22 and December 10, none.

**COMMISSION ACTION: Chairman Arnett approved the October 22 and December 10, 2020 minutes as written.**

## CONTINUANCE AGENDA

### Zoning - Z2020087 (Cont. from 12/10/20)

District 1

Project name: **Casselberry Property**  
Applicant: Todd Casselberry  
Location: Generally located on the east side of Lemon Ave. between Indiana Ave. and Cherry Hills Place in the Chandler Heights area  
Request: Request for Commission initiation, and rezone from R-4 to Rural-43 RUPD

Mr. Gerard said the applicant requested an indefinite continuance. No action required by the Commission.

## CONSENT AGENDA

### Preliminary Plat - S2020017

District 4

Project name: **White Tank Vistas**  
Applicant: Joshua Robinson, HilgartWilson LLC  
Location: Generally located 2,900' west from the corner of Perryville Rd. and Northern Ave. in the Waddell area  
Request: Preliminary Plat for 243 lots and 18 tracts in the R1-6 RUPD zoning district

### Zoning - Z2019078

District 1

Project name: **Thompson Event Center**  
Applicant: William E. Lally, Tiffany & Bosco, P.A.  
Location: Generally located approximately 828' north of the northeast corner of Alma School Rd. and Red Mountain Frwy.  
Request: Zone change from Rural-43 to C-3 CUPD to enable the development of amusement, entertainment, and commercial land uses

Mr. Gerard said item #2 – Z2018106 is moving to the regular agenda due to comments received from the City of Surprise.

Mr. Gerard presented the consent agenda.

Chairman Arnett asked if there are any comments or questions from the Commission or any members of the public that wish to speak. None.

**COMMISSION ACTION: Vice Chair Swart motioned to approve the consent agenda, S2020017 with conditions 'a'-'l', and Z2019078 with conditions 'a'-'k'. Commissioner Andersen second. Approved 6-0.**

### **S2020017 conditions;**

- a. The Final Plat shall be in substantial conformance with the Preliminary Plat entitled "Preliminary Plat for White Tank Vistas" consisting of 13 full-size

sheets, dated stamped received December 14, 2020, except as modified by the following conditions.

- b. Development and use of the site shall in substantial conformance with the Narrative Report entitled "White Tank Vistas Preliminary Plat Narrative", consisting of 9 pages, dated stamped received December 11, 2020, except as modified by the following conditions.
- c. The following Engineering conditions shall apply:
  1. Prior to final plat approval, drainage waiver case DRB2019005 must be approved.
  2. At the time of acquisition of building permits, a right-of-way permit will be required for work within the Northern Avenue right-of-way.
  3. Erosion protection, in accordance with ADWR SSA 5-96 will be required for lots within the erosion setback limits of the Beardsley Canal Wash.
  4. Berms used to separate retention basins and channels, or otherwise used to divert or convey flow must contain top widths of at least eight (8) feet.
  5. Prior to final plat approval, the CLOMR must be approved by the Flood Control District and submitted to FEMA.
  6. The applicant must obtain ROW Permit(s) from the Flood Control District for the extension of Northern Avenue across the Beardsley Canal Wash. This may necessitate extension of the District's box culvert.
  7. The applicant must obtain approval from the Maricopa Water District (MWD) for work affecting MWD property.
  8. Maricopa County Department of Transportation Stipulations:
    - a. Offsite drainage easements may be required for drainage structures conveying flows under Northern Avenue. These easements must be procured by the owner/applicant and recorded prior to approval of the final plat. Easements in favor of the County must be reviewed and approved by the County Attorney prior to recordation.
    - b. As part of the subdivision infrastructure, Northern Avenue must be constructed to an Urban Minor Arterial road cross-section west of the 191st Avenue alignment.

- c. As part of the subdivision infrastructure, Northern Avenue must be extended from the site to Perryville Road. A minimum 28 foot wide pavement section with adequate drainage provision so that historic drainage patterns are maintained, and that the maximum depth of flow over the roadway will not exceed six (6) inches will be required. This may necessitate extension of the Maricopa Water District's culvert under across the Northern Avenue alignment.
  - d. The final plat shall include right-of-way dedications as follows:
 

Jackrabbit Trail	65 feet
Northern Avenue	65 feet
  - e. Prior to approval of the final plat, the access easement across APN 502-09-011S must be recorded.
  - f. An offsite maintenance easement may be required as part of the District's box culvert extension to accommodate Northern Avenue.
- 9. 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.
  - 10. Detailed Grading and Drainage (Infrastructure) Plans must be submitted with the application for Final Plat Approval and Building Permits.
  - 11. 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.
  - 12. Engineering 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 Drainage Policies and Standards; Floodplain Regulations for Maricopa County; and the MCDOT Roadway Design Manual.
- d. Concurrent with submittal of Final Plat, Improvement Plans shall be submitted to the Planning and Development Department.

- e. After Final Plat recordation and prior to any zoning clearance for building permits, the applicant shall obtain a final Grading and Drainage and Infrastructure permit from Maricopa County.
- f. Prior to Final Plat approval, Water and Wastewater Plans shall be submitted to and approved by the Maricopa County Department of Environmental Services Department (MCESD) subject to their procedures.
- g. Prior to Final Plat approval or issuance of a grading permit, developer(s) and/or builder(s) shall establish emergency fire protection services, covering all real property contained within the project area during course of construction and shall obtain a 'will serve' letter substantiating coverage from the applicable Fire District servicing the project. This information shall be included in the narrative report for the Final Plat and the associated public report for the subdivision. The Final Plat shall contain a note referencing the will serve letter.
- h. The master developer shall notify future homeowners that they are located within the state-defined "territory in the vicinity of a military airport" with the following language:

"You are buying a home or property in the 'vicinity of a military airport' as described by State of Arizona statute ARS §28-8481. Your house should include sound attenuation measures as directed by State law. You will be subject to direct over flights and noise by Luke Air Force Base jet aircraft in the vicinity.

Luke Air Force Base executes over 200,000 flight operations per year, at an average of approximately 170 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 training 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.

Such notification shall be recorded on all Final Plats, be permanently posted on not less than a 3 foot by 5 foot sign in front of all home sales offices, be permanently posted on the front door of all home sales offices on not less than an 8½ inch by 11 inch sign, and be included in all covenants, conditions, and restrictions (CC&Rs) as well as the Public Report and conveyance documents.

For further information, please check the Luke Air Force Base website or contact the Maricopa County Planning and Development Department.”

- i. Streetlights installed in County public streets must be approved and permitted by the Maricopa County Department of Transportation. When public streetlights are provided, construction costs for said streetlights shall be borne by the Developer and said streetlight facilities will become property of the local power utility company. In addition, streetlights that are installed within public streets accepted by the Board of Supervisors must establish a Street Lighting Improvement District (SLID) or comparable authority to purchase or pay for the energy expended by the streetlights. The Developer should contact the Office of the Superintendent of Streets at (602) 506-8797 for information regarding the SLID establishment process.

NOTE: Maricopa County is not responsible for public street lighting operation or maintenance. Please contact the local power utility company regarding streetlight operation and maintenance.

- j. The applicant/owner shall comply with the standard assurance provisions as set forth in the Maricopa County Subdivision Regulations.
- k. Preliminary Plat approval shall expire three (3) years from the date of Commission approval.
- l. The Final Plat shall include a note that states that there shall be no further division of land or delineation of parcels within the area of this subdivision plat without approval by the Board of Supervisors.

**Z2019078 conditions;**

- a. Development of the site shall be in substantial conformance with the Zoning Exhibit entitled “Thompson Event Center”, consisting of one full-size sheet, dated November 6, 2020, and stamped received November 9, 2020, except as modified by the following conditions.
- b. Development of the site shall be in substantial conformance with the Narrative Report entitled “Thompson Event Center”, consisting of 11 pages, dated November 6, 2020, and stamped received November 9, 2020, except as modified by the following conditions.
- c. The following Planning Engineering conditions shall apply:
  1. Without the submittal of a precise plan of development, no development approval is inferred by this review, including, but not limited to drainage design, access and roadway alignments. These items will be addressed as development plans progress and are submitted to the County for further review and/or entitlement.

2. 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.
  3. Engineering 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 Drainage Policies and Standards; Floodplain Regulations for Maricopa County; and the MCDOT Roadway Design Manual.
  4. The project limits are located within a Special Flood Hazard Area. The FEMA Flood Zones are AE Floodway & Floodplain and X. The Floodway is called Salt River South Split. New development in the watershed is expected to acknowledge and assess their project for compatibility with the Floodway/Floodplain. For more information about the Floodway and Floodplain contact Richard Harris of the District at (602) 506-4528 for specific information about the FEMA Flood Zones.
  5. The applicant must coordinate with the Maricopa County Department of Transportation (MCDOT) to properly access the site. The applicant must coordinate with the MCDOT to dedicate the appropriate Right-of-Way.
  6. Access to the property will need to be established during the Plan of Development.
  7. The Traffic Impact Study will be reviewed at the time of the Plan of Development.
- d. The following Maricopa County Department of Transportation conditions shall apply:
1. If access to the site from Alma School Rd. cannot be negotiated with the Salt River Pima-Maricopa Indian Community then the east access proposed in the Driveway Analysis, dated August 4, 2020, must be improved to meet MCDOT standards. These include, but not limited to, adjusting the access to intersect closer to 90 degrees with Alma School Rd., providing a southbound left turning lane in the raised median. Left turn out from the site onto Alma School Rd. must be restricted by the installation of a curbed median at the east access point (refer to figure 7.2 in the MCDOT Roadway Design Manual).

2. A traffic control plan must be submitted and approved by MCDOT prior to any large events on the site.
  3. Any Plan of Development for off-site signage shall be processed without the need for traffic improvements .
- e. Only the following uses shall be permitted in this CUPD:
1. Churches and houses of worship, including columbarium subject to the conditions listed in Article 803.2(11) of the Zoning Ordinance.
  2. Privately owned or operated stations for fire protection, police or security service, ambulance or other emergency providers.
  3. Private clubs and fraternal organizations.
  4. Marijuana dispensary facilities, subject to the conditions listed in Article 804.2 (45) of the Zoning Ordinance.
  5. Amusement enterprises, outdoor amusement parks, circus, and carnival grounds with permanent facilities.
  6. Auction sales and feed stores with indoor storage.
  7. Dance halls and nightclubs, including outdoor amplified music, except adult oriented facilities.
  8. Drive-in or outdoor theater.
  9. Miniature golf courses, driving ranges, and outdoor racetracks.
  10. Mobile home, travel trailer, and recreation vehicle sales and services.
  11. Permanent facilities for rodeos, auctions, swap meets, campgrounds, and sites rented for private parties.
  12. Commercial storage facilities of mobile homes, manufactured homes, travel trailers, recreation vehicles, boats, and aircraft.
  13. Public or private outdoor recreation uses and facilities, including structures, fields, courts, playgrounds, parks, and nature exhibits.
  14. Spectator sport and music facility, including arenas, riding stables, water based recreational arenas, resort, group camos, auditoriums, concert halls, outdoor amphitheatres, music shells, and other outdoor recreation.



15. Ancillary uses to the above permitted primary use.
- f. The following C-3 CUPD and commercial signage development standards shall apply:
    1. Maximum height for amusement structures, excluding signage, of 140-feet.
    2. Minimum front and side yards of zero feet.
    3. Property lines adjacent to rural/residential zoned properties shall not be screened.
    4. Maximum height for freestanding signs of 65-feet, regardless of adjacent zoning districts.
    5. Maximum sign area for freestanding signs of 500 square feet and no required setbacks for freestanding signs.
    6. One freestanding sign oriented and located adjacent to the Red Mountain Frwy. and Alma School Rd. irrespective of proximity of any driveway.
    7. The square footage of any freestanding sign shall not be included in the square footage calculation of the total number of other freestanding signs.
    8. Maximum height for off-site signs of 65-feet.
    9. Maximum sign area for off-site signs of 675 square feet and no required setbacks for off-site signs.
  - g. All existing buildings/structures on site shall either be removed or obtain a required commercial construction permits prior to occupancy or establishing a commercial use.
  - h. Unless an access agreement can be made with the Salt River Pima-Maricopa Indian Community there shall be no access to the site from Alma School Rd. on land in the jurisdiction of the Salt River Pima-Maricopa Indian Community.
  - i. 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.
  - j. 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.

- k. 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.

### **REGULAR AGENDA**

#### **Zoning - Z2018106**

#### **District 4**

**Project name:** Storage Surprise  
**Applicant:** Rod Jarvis, Earl & Curley P.C.  
**Location:** Generally located approximately 390' southeast of the intersection of 163<sup>rd</sup> Ave. and 162<sup>nd</sup> Dr. in the Surprise area  
**Request:** Rezoning from Rural-43 to C-3 CUPD WHSC zoning district for a commercial outdoor storage and self-storage facility

Ms. Applegate presented Z2018106 and noted the applicant is proposing to rezone the site for outdoor commercial storage and self-storage uses including RV, boat and single-story self-storage building. It will be located adjacent to another outdoor storage facility. The facility will include a 1,000 square foot building to accommodate an office. The site will be secured with a solid CMU fencing ranging in height from 7' to 9' along the northern, eastern and western boundaries. There is an existing 6' CMU wall on the southern perimeter. Operating hours will be from 6 a.m. to 10 p.m. 7 days a week with customers having the ability to access the property after hours with a gate code and key card. No signage or outdoor lighting is proposed. The facility will have 373 storage units, RV parking and storage pods. Access will be a driveway through the adjacent parcel owned by the property owner and located in the Surprise jurisdiction. The drive-thru parcel is not part of this application. There will be two decomposed granite driveways that connect through the adjacent parcel to 162<sup>nd</sup> Drive. It will be landscaped consistent with the landscaping for the existing outdoor storage facility located to the south. The applicant is requesting variations to the C-3 zoning district standards to include reduced setbacks, reduction in parking, and elimination of the sight visibility triangles. The site will be served with onsite well and septic, and the applicant has provided a will serve letter from Arizona Fire and Medical Authority for fire protection. The rezoning is consistent with the City of Surprise Land Use Designation which allows for regional commercial office and mixed uses. The applicant has complied with the citizen participation process with posting and notifications, and there's no activity from the public. The City of Surprise provided comments at 11:37 p.m., the evening before the hearing. The letter states they are

requesting a continuance to allow the applicant time to address issues with the city, and if the Commission decides to proceed they would like their 8 conditions included. Many of the comments are towards the other parcel located outside County jurisdiction.

Staff has identified concerns with the City of Surprise recommended conditions.

1. Facility required to connect with City Water & Sewer.
  - The project identifies use of on-site well and on-site septic.
2. Dedication of western 40' of parcel 004C to the City as half-width right-of-way for 162nd Dr. and inclusion of an 8' PUE.
  - This dedication is not part of the MCDOT roadway network or required with this application upon review by Planning Engineering.
3. Setbacks – front of 5', street-side north 20' in addition to Williams Rd. R/W for a total northern property line setback of 45', side south of 15', and rear of 15'.
  - Applicant is requesting 0' from all property line due to the outdoor storage uses.
4. Decorative masonry columns with faux stone to be placed at each corner with spacing 80' apart. This would account for possibly 4 columns. The County does not have design review standards for walls or columns.
  - Walls to be setback to allow for a 20' landscape area along west property line. Previous comment #3 indicated a front setback of 5', conflicts with the proposed 20' setback for the wall.
5. Improvements to 162nd Dr. R/W to include right turn and left turn pockets.
  - Roadway improvements is outside of our jurisdiction, staff notes that 162nd Dr. has approximately 8 parcels that front to this R/W and is about ¼ mile in length.
6. Interior drive aisles to meet turning radius. The site plan shows the drive aisles at approximately 30' in width.
  - Received will serve letter from Arizona Fire & Medical Authority to serve the site.
7. Primary access to allow vehicle turn around. Entrance to public right-of-way shall be through forward motion of the vehicle.
  - The site plan as presented for the Commission does show access with the driveway on parcel 004C and includes forward motion of vehicles in compliance with MCZO regulation 1102.7.3.
8. Maintenance of landscaping within 162nd Dr. R/W adjacent to the site is the responsibility of the applicant.
  - This comment is outside our jurisdiction, the base C-3 zoning does not require landscaping.

There is existing outdoor commercial storage uses directly to the south, and the proposal complies with the City of Surprise Land Use Designation and is within the future annexation area. This project has been in progress going on 3 years. Reviewing county agencies do not have any concerns with the application. Staff is in support of the zone change, and recommends the Commission motion for approval with conditions listed in the staff report.

Vice Chairman Swart said the City of Surprise had the opportunity to have all the information on this case, then to get a letter late last night is not fair to owner.

Chairman Arnett asked about the outreach with the City of Surprise. Ms. Applegate said the application was routed to the areas of interest and with the City of Surprise. They did provide comment with the initial application back in 2019. There were some staff changes with various planners and it was reassigned. A notification card did go out in December and the City of Surprise contacted Mr. Gerard. The latest revisions were routed at the end of December. This project has gone through 5 different reviews, and it was routed to the City of Surprise for comment. Staff expected comment but didn't expect to be at that late hour.

Commissioner Schlosser asked the applicant about the City of Surprise proposed stipulations. Mr. Rod Jarvis, representing the applicant said none of the city's stipulations is appropriate given the parcel they are primarily concerned with is not in County jurisdiction. The proposed stipulations are in the fear the facility will annex into the city. There is no reason or motivation for his client to agree to annex into the city. These stipulations are unnecessary and inappropriate.

Mr. Jarvis said an extensive outreach was done with the City of Surprise beginning in 2018, and they were made fully aware because of the two parcels where one was in the city and the other in the county. We intended to go to a zero setback in the front and all the way around. They invited comments from the city but they hesitated and received very little information from them. It did not surprising not to see comments from the city, because we thought we had done our work over the course starting in 2018.

Mr. Robert Kuhfuss, the Planning Supervisor for the City of Surprise said they are not out to torpedo this project. It is an appropriate use with good access to Grand Avenue and the 303. There is a need for this type of use in a high growth area. If the property were to annex the use would be allowed in C-3. They did receive the original application back in late 2018 and we provided comment in February 2019, and for some reason the comments didn't get into the county record, and weren't included in the review. We didn't see the final version until the notice of public hearing a couple of weeks ago. He reached out to Mr. Gerard and received the site plan and routed it to their various internal agencies. He apologizes for the last second comments, but we worked hard to get these comments submitted. He understands the applicant doesn't want to go with a continuance and he did include stipulations of approval to mitigate some of the issues. Given the geometry of the site design in terms of turning radius it would be very difficult for a fire truck to maneuver. A lot of the people using this facility are amateur drivers and it would be difficult to maneuver within the facility. Immediately west of the property is a parcel that is 55 feet in width and that parcel is entirely in the City of Surprise. Our requirement is for a 40 foot half width right-of-way and that leaves 15 feet that can be attributed to a front landscape. Our development standards would want a 20 foot setback and if they move the building back 5 feet that's where that 20 feet comes from. They respect the applicants desire to move forward and ask the Commission to include their stipulations provided in their letter.

Chairman Arnett said we do this outreach because there are different standards with different cities and we want to recognize that, but this is in the jurisdiction of the county and most of the cities standards are different. He asked if there are any other things he would like to mention. Mr. Kuhfuss said there is no immediate plans for annexation, but if

it does annex it will take on like zoning. They don't want vehicles have to back out into the public right-of-way.

Mr. Jarvis said we are in compliance with the county regulations and this is not going to annex into the City of Surprise in its current form. The city's concerns are not founded here. Nobody annexes in when they already have their zoning, and they don't need city services because we have water and sewer on site. They agree with the County stipulations and are asking for approval.

Chairman Arnett asked if there was any other members of the public that wish to speak. None.

**COMMISSION ACTION: Vice Chairman Swart motioned to approve Z2018106 with conditions 'a' –'j'. Commissioner Schlosser second. Approved 6-0.**

- a. Development of the site shall be in substantial conformance with the Zoning Exhibit entitled "Z2018106 Surprise Storage – Zoning Exhibit", consisting of 1 full-size sheet dated October 6, 2020, and stamped received October 21, 2020 except as modified by the following conditions.
- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "Storage Surprise Narrative Report", consisting of 21 pages, dated October 6, 2020 and stamped received October 21, 2020 except as modified by the following conditions.
- c. The following C-3 CUPD zoning district standards shall apply:
  1. Maximum Height: 33' (Compliance with Wickenburg Highway Scenic Corridor)
  2. Front Yard Setback (west property line): 0'
  3. Side Yard Setback (south property line): 0'
  4. Street-side Yard Setback (north property line): 25', 0' after dedication of Williams Dr. r/w
  5. Rear Yard Setback (east property line): 0'
  6. Maximum Lot Coverage: 75%
  7. Screening: 7' – 9' (h) masonry block wall for north, east and west property lines. 7' – 9' (h) CMU to be constructed within the Williams Dr. R/W reservation. Northern 25' on western property line and northern 25' on eastern property line.
  8. Site Enclosure: Storage may occur within the 0' setbacks. Storage products and materials may exceed the height of the enclosure.
  9. Sight visibility triangles: No sight visibility triangles
- d. The following Planning Engineering conditions shall apply:
  1. Drainage review of planning and/or zoning cases if 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.

2. 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.
  3. All obstructions, including the wall and the pods, shall be removed upon required dedication of the 25-foot Williams Drive half-street right-of-way to MCDOT at the owner's expense.
  4. Drywell shall be installed with at least a 50-foot spacing in order to avoid drywell interference.
  5. A minimum of 33,500 cubic feet of onsite stormwater retention plus a foot of freeboard meeting the Drainage Policies and Standards of Maricopa County is required.
- e. All habitable buildings are subject to noise attenuation as per ARS § 28-8482(B).
  - f. Use of the existing 6' (h) block wall along the southern perimeter for self-storage structures shall require a 4 hour fire-rated wall at the property line.
  - g. The CUPD overlay is applied to restrict the use of the site. Until such time as the site is served by sewer, uses on the site shall only be those acceptable to the Maricopa County Environmental Services Department (MCESD) that can be accommodated by septic systems. A public water system and public sewer system shall be required prior to establishment of any non-residential use that requires potable water.
  - h. 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.
  - i. 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.
  - j. 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 owner 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.

**Zoning - Z2019136**

**District 2**

Project name: **Symmetry at 56<sup>th</sup> St. & Lone Mountain**  
Applicant: William E. Lally, Tiffany & Bosco, PA  
Location: Generally located ¼ mile southeast of the southeast corner of Lone Mountain Rd. and 56<sup>th</sup> St. in the Phoenix area  
Request: Zone change from Rural-43 to R1-18 RUPD

Ms. Applegate presented Z2019136 and noted the applicant is proposing to develop the site as a single-family residential subdivision limited to 56 lots with a density of 2.0 dwelling units per acre. The original application was for R1-10 RUPD which received a recommendation of approval by the Planning and Zoning Commission on March 12, 2020. On April 9 the Board of Supervisors continued the case to May 6<sup>th</sup>, at this hearing the Board continued the case indefinitely to allow the developer time to work with the neighbors on issues and concerns. In late November 2020, the applicant amended the rezone application to R1-18 RUPD to address concerns raised by the community and held three virtual outreach meetings with the community in December. The proposed subdivision would be limited to 56 lots with a reduction from 65 with the original submittal, and 2.0 dwelling units per acre, a reduction from 2.7. A preliminary plat has not been submitted. This will be a single phase with a completion date of March 2022. Shea Homes is proposing to develop the site for high quality single-family residential community with a centralized open space that accounts for 35 percent which is an increase of the original proposed of 25 percent. The R1-18 RUPD includes deviations to reduce the front, side and rear setback, modifications to lot area and lot width, and lot coverage. The amended development standards will allow the site to develop with current residential markets in the area. Access will be provided from the single gated access along 56<sup>th</sup> Street with a secondary emergency access to Wildcat Drive, and no access is proposed along Montgomery Road. Staff notes that planning engineering has indicated the drainage design, engineering and access with roadway alignment will be evaluated and addressed as part of the preliminary plat process. A traffic study will be submitted with the preliminary plat. Water and wastewater will be provided by Scottsdale and Phoenix. The applicant complied with the citizen review process with required posting and notification and held three virtual meetings regarding the amended application. Letters of opposition were received after the printing of the staff report. Staff received a signed petition with 70 signatures in opposition, 14 letters/emails in opposition and 1 letter in support. Concerns raised were high density, increased traffic, drainage, dust and impact to existing rural equestrian lifestyle. The City of Phoenix did not provide comment. The project meets the City of Phoenix residential land use designation of 2.0 dwelling units per acre. This region of Phoenix has been developed with higher density. Staff is in support of the zone change, and reviewing county agencies do not have any objection to the request.

Commissioner Andersen asked staff about the drainage for the site, traffic and impacts to adjacent roadways. Ms. Applegate said the lots will be graded to convey the water to the streets and stored in an onsite retention basin. The engineering detail is not provided at this time since it is just the zone change application. The applicant has documentation indicating there will be minimal traffic impact. Engineering will require a traffic impact study as part of the preliminary plat submittal.

Commissioner Andersen asked is Wildcat Drive is a public or private street. Ms. Applegate said it is a public county right-of-way, and it is proposed as a secondary emergency access only.

Mr. Peck said rezoning property and what impact it would have on traffic is appropriate. When they come in for a subdivision they get a traffic impact statement that is really for MCDOT to determine what kind of improvements may be required to the roads. When you are doing zoning, one of things you have to consider is how would changing the zoning fit into the overall developmental scheme of the area. Questions of drainage is really a subdivision question.

Mr. Bill Lally with Tiffany and Bosco said the residents in the area will say this entire area is large lots and is equestrian and should remain RU-43. To the south and east there is a large amount of Rural 43, but if you look all around its R1-18, and across the street is a 40 acre planned future municipal park. The Monte Vista project southeast is R1-18, same zoning that we are proposing today but has smaller lots than we are proposing. The Monte Vista project has been built and occupied for many years. This is six parcels owned by the same person, and the resident in that home will continue to live there. Over the past year we spent a lot of time working with the community, and this proposal came to the commission 10 months ago with a compromise to drop 10 units. This is 28 acres and 10 home sites is quite a bit of a reduction. We increased the open space by 10 percent, and are increasing the buffers for the adjacent properties to the south, and homes built around the site. In the southwest corner, a few of those homes closest to the site will have a building setback of anywhere from 35 to 55 feet building to building from those neighbors. We agreed to a single-story stipulation in the staff report for no two-story homes. The Commission approved a much more dense application 10 months ago unanimously, and after that there was more requests for additional outreach. We did a lot of door-to door outreach and we compromised in response to that outreach by reducing the density. We did very aggressive mailings, and the initial mailing only required about 15 letters, and we did two mailings in December of 150 mailings, and the other at 200 mailings. We had three zoom calls and they were put on the website they created, so all the community could go back and listen to the calls. They added a total of 5 public hearing signs so nobody could say we did not do our outreach. We tried to reach out to everybody and get their comments. The revised application meets the City of Phoenix General Plan, and is larger in density than some of the surrounding projects. In the last few days we had a number of conversations with the neighbors along Wildcat Drive, and even though the narrative says Wildcat will be used only as emergency access they are proposing a new stipulation 'o' - Access shall be limited to emergency access only on Wildcat Dr. Making it very clear the intent of that right-of-way and driveway. We have had a professional engineer on the project since day one and Maricopa County drainage has articulated the codes we have to follow, and there are always drainage



issues in unincorporated county islands especially with washes and being around the mountains. When you come in and do a subdivision you have to abide by all of the county requirement for drainage. The drainage engineers are confident we will meet all of the requirements and will have no impacts on adjacent properties. We did an initial traffic study that shows the 28 acres, and 56 lots are not going to have an impact on 56<sup>th</sup> street where major street lights would have to be added. This will be vetted through MCDOT through the platting process, just like the drainage plan review will be.

Mr. Mathew Arnold said his dad purchased this property in the early 1980's to raise his kids and for the future of his kids. Now the ultimate purpose is to sell the property to benefit his kids and his family which will be a live changing opportunity. He doesn't have the ability or the money to develop the property himself, the only option is to partner with a developer like Shea Homes. They took the time to reach out to all the neighbors to make it good for everybody. He is looking forward to getting this completed.

Mr. Gary Elbogen said he is a real estate lawyer and developer and understands the process. He does not see any good land use purpose in making the zone change other than to benefit the family and Shea Homes. This is not consistent with the Vision 2030 Plan with the county. The county must evaluate the cost and benefits for taxpayers in unincorporated areas. They did a great deal of outreach but did nothing but get negative comments and nobody supports this. This is totally out of character to what we have, and yes the surrounding areas have more density but that's the City of Phoenix. We moved out here to get away from the density with limited services, and this is the lifestyle we chose.

Mr. Peter Langlois said he is against this proposal and it doesn't work. The examples given are in Phoenix and not unincorporated Maricopa County. He can see the development from his property, this is very rural and there is a wash that runs across Montgomery and it just doesn't fit. He has talked to people and collected signatures a quarter mile away and they heard nothing about this project. There are signs there but you have to literally stop your car to figure out what it is.

Mr. Barrett Guthrie said his house is on the north side of this 28 acre parcel. His property is separated from this property by the wash. In reading the staff's report, a statement from engineering said this site would pose significant challenges with stormwater management. It was stated this would be handled after the zoning, but this is totally inappropriate where this needs to be done now. This RU-43 parcel is clearly not zoned for R-18 and the 2030 plan does not call for it. Those that purchased property in this area because it suited our needs. Dropping R1-18 development in the middle of this is out of character of the property in the RU-43 zoned area. This area consists of unpaved roads, natural desert vegetation, and has natural washes, then it would be artificial landscaping and irrigation. All of us in the RU-43 area are against this because it devalues our property and interferes with the intended use of the property.

Mr. Charles Kuehl said everything proposed from staff and the applicant does not fit with the current zoning. They have received all negative and opposing comments except from the land owner. There should be other opportunities to sell that property to keep it zoned RU-43 and develop it as 1-1/4 acre minimum.

Chairman Arnett said there are others registered that do not wish to speak - Kelly Clay and Derek and Danielle Wilson in opposition, and Rod Myers in support.

Ms. Applegate read an email she received from Chad and Erin Gunderson - they feel the Shea proposal is not consistent with the surrounding homes and are not in agreement with the R1-18 with amended standards. These are similar to R1-10 and have four lots on our lot line alone. We are agreeable to development but want development that is thoughtful about preservation rather than a developer's bottom line.

Mr. Gregory Harmon said he has been in opposition since he was aware of this project last spring. He was the president of Lone Mountain Ranch HOA and he still didn't know about this proposal until last spring. They failed to mention all of those properties in R1-18 to the west and north are in the City of Phoenix and not in the county island which was to remain RU-43 in the 2030 zoning plan. There's no road improvements in the plan for 56<sup>th</sup> Street, or Montgomery Road which is a dirt road. If you take 56 houses and four trips a day that is 224 cars going out to an unimproved road on 56<sup>th</sup> Street, and all the other new developments in the area increasing traffic would have a definite impact. They want it to remain RU-43.

Mr. Homer Savard said they own two parcels which immediately backup to this project across Montgomery Road. We would have six homes at the back of our property where it should be four, or two depending on which way they split the property. He did speak to a Shea Homes representative about another project in north Scottsdale which is lower density R1-35, and asked why they couldn't do that size of project on this property. The representative said it just doesn't pencil out for them. This is a very profit motivated zoning request, and has nothing to do with fitting in with the surrounding neighborhood. Every parcel around this property is 1-1/4 acres per home or larger. That's why there is opposition to this project along with traffic and drainage, but the main thing is density. We all moved out here for a low density desert lifestyle. We are hoping our County Commissioners and the Board of Supervisors will help protect the lifestyle we moved out in this area for.

Mr. Robert Young said he lives on the southwest portion of this development. The applicant didn't disclose that these other developments are in Phoenix and not in the County. They are really not compromising, they started at R1-10 while the entire time were going to go to R1-18, and will now use 55 percent of the land and have amended the standards to go to 13,000 square feet which is slightly over R1-10. We are willing to work with them but most of the lots here are well over one acre. We need to find a compromise around 30 homes at 35,000 square feet. He would like them to take a step back and have an in person meeting and get everybody together so we can work together.

Mr. Lally said we spent 1-1/2 years and changed the density a number of times and added multiple changes to the site plan and many buffers. He disagrees with the comments about no compromise. They had open meetings and sent four times the amount of letters, and had three separate meetings open to the public, and the active members in the community went out of their way to alert as many of people as possible, plus we have a public website. There is no impediment to provide comments or seek

information during the last year and a half. This is one of these cases where they don't want it in their backyard. Montgomery Road to the south is an existing roadway used by many neighbors, and we are not showing any access or improvements. We are showing a large landscape setback to Mr. Homer Savards property. There are a number of homes 50 to 60 feet away from each other in Rural-43, and Homer is going to have a 132 foot buffer from parcel line to the roadway. We are trying to do as much as we possibly can. The drainage issues will be worked out in the pre-plat, and if MCDOT says we need to do improvements along 56<sup>th</sup> Street, we will do improvements. This is a fundamental agreement on how the area should grow up, this is 28 acres of undeveloped property and we are following the development plans. Regardless if they are in City of Phoenix or unincorporated Maricopa County, those developments were planned within hundreds of feet of this development. To say everything in the area is Rural-43 is just not true. Right across the street is Monte Vista Subdivision with 250 smaller lots, and there are other subdivisions to the north that have been approved in the past four to five years. He urges the Commission's support with the additional stipulation of 'o'.

Commissioner Swart asked about the comment made about the Lone Mountain HOA. Mr. Lally said at the time of the initial mailing that HOA was not a public HOA and it was not registered with Maricopa County, and it was missed. Mr. Harmon did receive a letter in the process but not as the HOA president. During the continuance we made sure we over notified everybody by sending a letter outside the notice area, and everybody we had an email address for received an email from us. Plus we sent additional letters over and above what was required. The HOA certainly was included in this last round when we restarted the entire process with the new application.

Commissioner Schlosser said we approved this back in March for more lots and more density from R1-10 to R1-18. Mr. Gerard said that is correct, this body recommended it to the Board of Supervisors but there was never any action on it.

Chairman Arnett said yes it was approved for 65 lots and now before us today for 56 lots. Mr. Peck said a zone change does not approve any number of lots, it just changes the zoning designation. When they come back in for the subdivision they could have a different lot count as long as they meet the zoning requirements.

Chairman Arnett said there is a stipulation that says lots not to exceed 56.

Mr. Peck asked staff if this is an RUPD or just a straight zone change. Mr. Gerard said it is an RUPD. Mr. Peck said then you can stipulate to the number of lots. You are not approving the subdivision at this time, you are setting the limits of the zoning.

Chairman Arnett asked the applicant about the stipulation to single-story. Mr. Lally said it's in the staff report under stipulation 'c.1' calls out single story homes. Stipulation 'd' is the total number of residential units shall not exceed 56. As we get through the drainage review, we may end up with 48 lots or 50 lots. That depends on the drainage requirements and final engineering. In no case will we have more than 56 lots. Even though the narrative includes limited access on Wildcat Drive he encourages the Commission to add stipulation 'o' – Access shall be limited to emergency access only on Wildcat Dr. It is important to articulate these concerns.

Mr. Peck said stipulation 'c.1' should read - Max Height: 30', all homes limited to single story, not lots.

Mr. Jack Farmer said he lives on the northern perimeter of the 28 acres and is the largest property owner in the 300 foot boundary. They have referenced the City of Phoenix General Plan, but we are in Maricopa County not the City of Phoenix. A traffic study would show a significant impact on 56<sup>th</sup> Street. He lives about 800 to 1,000 feet south of the traffic light and every morning there are buses and cars backed up to his driveway. The additional 300 to 400 cars a day they'll need to add turning lanes or widened the road and maybe pave the west side of 56<sup>th</sup> Street and a center lane. The density is a big issue, there are other projects in the area that has 1.1 homes per acre not 2.1 homes per acre. Shea Homes wants to basically grade the 28 acres and put streets in and have the drainage go down the streets, it is contrary to the entire neighborhood at double the density.

Mr. Charles Schultz said he owns 2-1/2 acres on the east side of this project and the right-of-way going out to Montgomery Road. He doesn't think this fits in this area. We are not under the City of Phoenix Plan we are a County Island. There are three washes into that property and he doesn't see how they will control the drainage.

Mr. Lally said there have been a couple references to the City of Phoenix General Plan, the comprehensive plan for Maricopa County requires the county look to and adhere to the jurisdiction a county island is in. This is in the City of Phoenix planning area, and some cities will comment on cases in their planning area. It is relevant to look to the City of Phoenix General Plan for appropriate densities.

Chairman Arnett said the last thing any of us want to do is something that will change the character or intent of the neighborhood. There are rights of the landowner and there are rights to those that live around this. This is the process to make sure traffic is accounted, safety and they notified the neighbors. We have a difference in opinion on what is good, and in the current zoning you can put houses much closer to others. The applicant is proposing to put homes further away from them, the people that will buy those houses are okay with it. They have reduced the density with the number of homes/lots per acre and there is a lot of open space and buffers. They also protected the homeowners in this area by limiting the height. We take these decisions seriously. There is a need, and how can we not listen to the property owners rights as long as it doesn't impose on the rights of others. He is in support of this proposal and the additional stipulation.

Commissioner Andersen said the balance between the rights of property owners and the impact to surrounding properties can be tricky. He appreciates all the neighbors willing to participate in the process. He also appreciates the public outreach from the applicant which has gone above and beyond from any case he has seen in the past. They have listened to the concerns from the neighbors by making modifications to their initial proposal. He agrees with stipulation 'o', and the change to the stipulation 'c.1' and is in favor of this case.

Commissioner Montoya said she applauds the applicant who went beyond what is required and they listened to the community. She thanked the property owners that took time to participate. She appreciates the increased area of green space and the setbacks proposed. She is in support of this case.

Commissioner Swart said thank you to the Shea Homes and Mr. Lally for the last year and a half going through this process, and the neighbor's that spoke who care a lot as we do.

**COMMISSION ACTION: Commissioner Andersen motioned to approve Z2019136 with conditions 'a' –'o' with modification to condition 'c.1' and inclusion of condition 'o'. Vice Chairman Swart second. Approved 6-0.**

- a. Development of the site shall be in substantial conformance with the Zoning Exhibit entitled "56<sup>th</sup> St. & Lone Mountain", consisting of 1 full-size sheet, dated December 2020 and stamped received December 27, 2020, except as modified by the following conditions.
- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "56<sup>th</sup> Street & Lone Mountain", consisting of 20 pages, dated December 14, 2020, and stamped received December 27, 2020, except as modified by the following conditions.
- c. The following R1-18 RUPD standards shall apply:
  1. Max. Height: 30', all ~~lots~~ **homes** limited to single story
  2. Min. Front Yard: 20' front loaded garage, 10' side loaded garage or livable area of dwelling unit.
  3. Min. Side Yard: 5'
  4. Min. Street-side Yard: 10'
  5. Min. Rear Yard: 20'
  6. Minimum Lot Area: 10,125 sq. ft.
  7. Minimum Lot Width: 75'
  8. Average Lot Area per Dwelling Unit: 18,081 sq. ft.
  9. Maximum Lot Coverage: 55%
  10. Min. Number of Off-Street Parking Spaces: 2
- d. The total number of residential units shall not exceed 56.
- e. The developer shall provide a 25' open space buffer on the northern perimeter of the property to be maintained by the Homeowners Association.
- f. The developer shall provide a 40' landscape buffer on the north side of the southern perimeter of the property to be maintained by the Homeowners Association.

- g. The developer shall provide a view fence on the southern perimeter of the property.
- h. The following Planning Engineering conditions shall apply:
  - 1. The development of the site will pose significant challenges with respect to storm water management. Without the submittal of a precise plan of development, no development approval is inferred by this review, including, but not limited to drainage design, access and roadway alignments. These items will be addressed as development plans progress and are submitted to the County for further review and/or entitlement.
  - 2. A traffic impact study must be submitted with any future entitlement application (i.e. preliminary plat).
  - 3. Dedication of right-of-way along 56<sup>th</sup> Street (section) and Montgomery Road (mid-section) will be required as part of future entitlement (i.e. final plat), unless otherwise waived by MCDOT.
  - 4. If required for site development, the CLOMR application must be submitted to the Flood Control District prior to or concurrent with any future entitlement application (i.e. preliminary plat).
  - 5. 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.
- i. Zoning approval is conditional per Maricopa County Zoning Ordinance, Article 304.6, and ARS § 11-814 for five (5) years within which time the initial subdivision infrastructure permit or construction permit must be obtained. The applicant shall submit a written report every five years from the date of Board of Supervisors approval of Z2019136 which details the status of this project, including progress on obtaining subdivision infrastructure and/or construction permits. The status report to be administratively reviewed by Planning and Development with the ability to administratively accept or to carry the status report to the Board of Supervisors (Board), upon recommendation by the Planning and Zoning Commission (Commission) for consideration of amendments or revocation of zoning for undeveloped parcels. Status reports will be required until completion of the initial subdivision infrastructure and/or construction permits for each zoning parcel (R1-18 RUPD).
- j. Prior to approval of the initial final plat, the applicant shall provide the Maricopa County Planning and Development Department with the approved Intergovernmental Agreement between the Cities of Phoenix and Scottsdale that is referenced in the February 26, 2020 letter issued by Brian K. Biesmeyer, Executive Director of Scottsdale Water, or other document acceptable to Maricopa County which assures sewer service.

- k. Prior to initial final plat approval, the applicant shall provide the Maricopa County Planning and Development Department with a 'will serve' letter from the City of Scottsdale or City of Phoenix for water service, or other document acceptable to Maricopa County which assures water service.
- l. Noncompliance with any condition herein or Maricopa County Regulation shall be grounds for initiating a revocation of this Zone Change as set forth in the Maricopa County Zoning Ordinance.
- m. 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.
- n. 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.
- o. **Access shall be limited to emergency access only on Wildcat Dr.**

Chairman Arnett adjourned the meeting at 11:51 a.m.

Prepared by Rosalie Pinney  
Recording Secretary  
January 14, 2021