

MINUTES OF THE REGULAR MEETING
OF THE
PLANNING AND ZONING COMMISSION

March 11, 2021
9:34 a.m.

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Phoenix, Arizona

MEMBERS PRESENT: Mr. Greg Arnett, Chairman
Mr. Jay Swart, Vice Chairman
Mr. Nathan Andersen
Mr. Erik Hernandez
Mr. Matt Gress
Ms. Kate McGee

MEMBERS ABSENT: Mr. Kevin Danzeisen
Mr. Jimmy Lindblom
Ms. Francisca Montoya
Mr. Lucas Schlosser

STAFF PRESENT: Mr. Darren Gerard, Planning Services Manager
Ms. Rachel Applegate, Senior Planner
Mr. Sean Watkins, Planner
Ms. Rosalie Pinney, Recording Secretary

COUNTY AGENCIES: Mr. Chad McBride, County Attorney
Ms. Rebecca Quince, OET
Ms. Pearl Duran, OET

CONSENT: **Z2020008, Z2020092, Z2021010**

REGULAR: **Z2020078**

Chairman Arnett made the standard announcements, and asked if there were any changes or comments to the minutes for January 28 minutes. None.

COMMISSION ACTION: Chairman Arnett approved the January 28, 2021 minutes as written.

CONSENT AGENDA

Zoning - Z2020008

District 2

Project name: **Arizona Game & Fish WCF**
Applicant: Steven Olson, Bechtel Infrastructure & Power Corporation
Request: Special Use Permit (SUP) for a new wireless communications facility – 41' monopole stealth designed as a Giant Saguaro - in the Rural-70 zoning district

Location: Generally located ¾ mile southwest of the southwest corner of Usery Pass Rd. and Indian School Rd. (alignment)

Zoning - Z2020092

District 4

Project name: **303 and Olive**
Applicant: Jacob Zonn, Becker Boards Small, LLC
Request: Modification of condition 'e' of Z2019129 to vary off-site sign standards in the C-2 CUPD Zoning District
Location: Generally located approx. 470' southwest of the SWC of Olive Ave. and Loop 303 in the Glendale area

Zoning - Z2021010

District 1

Project name: **Lucero Property**
Applicant: Maricopa County Planning & Zoning Commission
Request: Request for Commission initiation and rezone from R-4 to Rural-43 RUPD
Location: Generally located south of the southwest corner of Riggs Rd & Valencia Ave, in the Queen Creek area

Mr. Gerard presented the consent agenda.

Commissioner McGee asked what the maximum height of the wireless communication facility is. Mr. Gerard said the federal rules override every decision we make with wireless communication facilities. It is potential they can erect a new attachment 20 feet above the 41-foot maximum. They must maintain the integrity of the concealment element, and in this case the giant saguaro design. Companies are good in maintaining the same visual impact.

Commissioner McGee asked if the facility was not constructed safely or properly would the county have some say. Mr. Gerard said they still have to come in for construction permitting.

COMMISSION ACTION: Commissioner Andersen motioned to approve the consent agenda - Z2020008 with conditions 'a'-'l' with modification to conditions 'd.1' and 'd.3', Z2020092 with conditions 'a'-'j', and Z2021010 initiated with condition 'a'. Commissioner Gress second. Approved 6-0.

Z2020008 conditions;

- a. Development of the site shall be in substantial conformance with the Site Plan entitled "AZ Game and Fish WCF ", consisting of five full-size sheets, dated January 11, 2021, and stamped received January 27, 2021, except as modified by the following conditions
- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "AT&T AZ Game & Fish WCF", consisting of four pages, dated January 21, 2021, and stamped received January 27, 2021, except as modified by the following conditions.

- c. The following Planning Engineering condition shall apply:
 - 1. Engineering review of planning and/or zoning cases is for conceptual design purposes 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

- d. The following Wireless Communications Facility development standards and rural fence requirements shall apply:
 - 1. Maximum height of the Wireless Communication Facility shall be limited to 41 feet; unless increased height for an Eligible Facilities Request per federal rule can be accommodated with maintenance of integrity of stealth design.
 - 2. Minimum setback the Wireless Communication Facility from any property line shall be 23 feet.
 - 3. Maximum diameter of the antenna array of the wireless communications tower shall be 12½ feet; unless increased height for an Eligible Facilities Request per federal rule can be accommodated with maintenance of integrity of stealth design.
 - 4. Maximum diameter of the wireless communications tower's base shall be 44 inches. Unless increased height for an Eligible Facilities Request per federal rule can be accommodated with maintenance of integrity of stealth design.
 - 5. Maximum height for the Wireless Communications Facility perimeter fences shall be 12 feet.

- e. The wireless communication tower shall retain the stealth properties as originally designed. Any damaged or missing faux cactus shrouds shall be replaced within 60 days of such damage occurring.

- f. A Minor Amendment approved administratively shall be required to co-locate future carriers on the Wireless Communication Facility.

- g. This Special Use Permit is valid for a period of 20 years and shall expire on April 7, 2041, or upon termination of the use for a period of 90 or more days, whichever occurs first. All site improvements associated with the special use permit shall be removed within 90 days of such expiration or termination of use.

- h. 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.
- 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 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.

Z2020092 conditions;

- a. Development of the site shall comply with the Zoning Exhibit entitled "Loop 303 & Olive", consisting of 1 full-size sheet, stamped received July 7, 2020, except as modified by the following conditions.
- b. Development of the site shall be in general conformance with the Narrative Report entitled "303 & Olive Property Rezone", consisting of 11 pages, stamped received July 7, 2020, except as modified by the following conditions. Development of the site shall also be in conformance with the modification of conditions Narrative Report entitled, '303 & Olive', consisting of 6 pages dated January 26, 2021 and stamped received January 26, 2021.
- c. 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.
- d. The C-2 CUPD shall prohibit the following land uses: Medical Marijuana facilities, Adult Oriented facilities, Automobile repair shops and garages, and Drive-thrus for restaurants.
- e. The following C-2 CUPD standards shall apply for the offsite (billboard) signage:

1. Max. Height of Off-Site Signs: Max. 70' on side directly abutting and oriented to or within 150' of Loop 303. Max. 45' on side directly abutting and oriented to Cotton Lane
2. Maximum sign area: 672 sq. ft.
3. Min. Rear yard setback for APN 501-05-006M: 0' (east)
4. Min. Setback to Rural-43 zoning: 0' east and north/50' south
5. Min. Setback to Rural-43 zoning for illuminated sign: 0' east and north/50' south
6. Screening: no screening for billboard or nursery
7. Min. Off-Site Sign Separation Distance: Maximum 2 off-site signs oriented to or within 150' of Loop 303 at minimum 700' separation distance.
8. Off-Site Signs: Maximum of 2 off-site signs permitted on side directly abutting and oriented to Loop 303. Maximum of 1 off-site sign permitted on side directly abutting and oriented to Cotton Lane and setback a minimum of 500' from the centerline of Olive Avenue. No other off-site signs permitted

f. The following 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. Dedication of additional right-of-way along Cotton Lane may be required as part of future site entitlements (i.e. plan of development).
3. A Traffic Impact Study must be submitted with the application for future entitlements (i.e. plan of development).
4. An application for a CLOMR may be required concurrent with any future entitlement application that would impact the FEMA Floodplain along Cotton Lane.
5. Engineering design for site development 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.

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, 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.

- h. All buildings subject to noise attenuation as per ARS § 28-8482(B) and Maricopa County requirements.
- i. 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.

- j. The applicant shall submit a long-term maintenance plan for Lawrence Lane with any Plan of Development application.

Z2021010 conditions:

- a. Subject to all conditions of case Z2005006, including the following Rural-43 RUPD development standards:
 - 1. Average lot area per dwelling unit: 43,560 sq. ft.
 - 2. Minimum lot area: 35,000 sq. ft.
 - 3. Minimum lot width: 120'
 - 4. Maximum lot coverage: 20%
 - 5. Minimum Distance between buildings: 15'
 - 6. Minimum Front setback: 20'
 - 7. Minimum Rear setback: 25'
 - 8. Minimum Side setback: 5'
 - 9. Minimum Street-side setback: 10'
 - 10. Maximum building height: 30'
 - 11. Accessory Dwelling Units: One (1) secondary dwelling unit allowed with MCESD approval of liquid waste disposal system.

REGULAR AGENDA

Zoning - Z2020078

District 4

Project name: **Dakota Creek**
 Applicant: Joe Walsh, Walsh Design Group
 Request: Zone Change from Rural-43 to R-5 RUPD without a Precise Plan of Development
 Location: Approx. 1,300' south of the SWC of Glendale Ave. and El Mirage Rd., in the Glendale area

Mr. Watkins presented Z2020078 and noted the subject property is mostly vacant, with one metal building that will be removed as part of future development. The property is located in the vicinity of Luke Air Force Base and the proposed zone change and future residential development will not negatively affect flight operations. The property is in the White Tank/Grand Avenue Area Plan, which designates the subject property for rural density 0-1 dwelling units per acre. The section to the west of the property has approved zoning that entitles an eclectic mix of residential development at varying densities, commercial and industrial uses most of which would be greater intensity than the designated rural densities. The subject property is also designated general commercial by the City of Glendale 2040 General Plan, the designation provides for commercial nodes on individual parcels. The requested R-5 RUPD zoning designation includes two development standard modifications. The first is to reduce the required rear yard setback from 25 feet to 15 feet, and the second is to reduce the required 10-foot setback from alley line to alley access garages to 3 feet. The applicant is not proposing a plan of development (POD) at this time. A POD will be necessary to complete the entitlement for residential development of the subject property. The future POD approval is contingent upon prior approval of the current zone change request. The applicant complied with the Maricopa County Citizen Review process with the required posting of the site and notification to adjacent property owners within 300 feet of the subject parcel and interested parties. The applicant received four public opposition comments from three parties. The opposition concerns are negative impacts to neighboring property

values, increased traffic, crime, and noise resulting from the zone change, and future residential development. Staff received no comments from municipalities including the City of Glendale. The proposed zone change from Rural-43 to R-5 RUPD, including the requested development standard modifications and the residential development anticipated for the subject property appears appropriate for the area. It is consistent with surrounding land uses and development patterns. The requested R-5 RUPD designation are anticipated to provide a mix of housing products, including condominiums, apartments and single-family residences all of which are intended to be offered for rent/lease, under a single ownership. The 8.2 dwelling units per acre housing density appears to fit with the newer development to the north, south and west of the subject property and is anticipated to support a pedestrian friendly streetscape and community environment. This vicinity is characterized mainly by single-family residential development including Rural-43, designated lot split properties and residential subdivisions with zoning ranging from R-2 and densities as high as 7.7 d.u./ac. In Capistrano North, a subdivision to the west has typical zoning comprising of R1-6 RUPD, R1-8 RUPD, and R1-10 RUPD zones. Typical densities of approximately 1 to 3 d.u./ac. while the anticipated density of 8.2 d.u./ac. is higher than the surrounding properties. The applicant argues there is a strong market for the housing product anticipated for the subject property. Staff finds the subject property is served by a municipal water and sewer provider, immediate access to El Mirage Road and Glendale Avenue and the Loop 202 to the east. The subject property is separated from existing residences by a 140 ft. wide tract and 40 ft. wide street from Falcon View subdivision to the west. A charter school and church are located to the south, an elementary school and vacant Rural-43 zoned property to the north, and El Mirage Road to the east with vacant Rural-43 property with a mining exemption to the east. The requested R-5 RUPD development standard modifications are appropriate and necessary for the anticipated development of the subject property. Staff recommends approval subject to the conditions 'a'-'i'.

Chairman Arnett asked about the other uses and zoning in the area. Mr. Watkins said there is densities of up to 7.7 d.u./a.c. that is all the way to the western portion section of 11, and just southeast of the intersection of Glendale Avenue and Dysart. There is some industrial zoning and some commercial in this section.

Mr. Gerard said there is Rural-43 zoning, and it is actually a mobile home park with the highest density existing right now. Chairman Arnett asked is it grandfathered or an SUP. Mr. Gerard said there is an SUP, but it would be grandfathered.

Commissioner McGee asked what the dwelling unit per acre with an R-5 RUPD compared to RU-43 is. Mr. Watkins said RU-43 zoning requires each parcel to be comprised of one acre, 43,560 square feet. There is the possibility of having one additional dwelling unit on the one-acre property. R-5 is the minimum lot area, which is 6,000 square feet.

Mr. Gerard said R-5 is multi-family and would allow more than one primary dwelling unit, so you could have a single-family dwelling and an accessory dwelling same as Rural-43. You can also have multi-family units, two-family units and apartments. The average lot per dwelling unit is 1,000 square feet in R-5; it is the highest density the county has. If you have apartments on an acre, you can have up to 43 units.

Commissioner Andersen asked what the uses are immediately to the north and south. Mr. Watkins said to the north is Rural-43 zoning and vacant, and Rural-43 with a charter school. To the south is Rural-43 with a charter school and a church. To the west is Falcon View subdivision, R1-10 RUPD where we have two opposition comments. To the east is one large parcel zoned Rural-43 with a mining exemption.

Mr. Joe Walsh, the applicant said this property is vacant and he believes in the past there was a grandfathered use on the site as industrial by Dakota Fabricating with a machine shop and other uses on the property. There is 10 acres to the north of the site that is vacant with a school on the north and south, and a church on the south, and a mining operation across the street. There is an existing subdivision to the west – Falcon View. They are requesting R-5 RUPD on this site because it gives them the most flexibility, but they are limiting themselves with the density. Luke AFB supports the 8.2 density. His client was actually the developer of Marbella Ranch directly to the north of Glendale Avenue, which is also R-5 RUPD. They put together a conceptual plan with individual single-family units built in little clusters, with access from El Mirage Road, and emergency access on 125th Avenue on the northwest part of the site. These will look like single-family homes in these other neighborhoods around here. They will have their own two-car garages and individual rear yards. These are small single-family units, but a 'for rent' type of project in a subdivision. He supports staffs conditions.

Chairman Arnett asked if there is anyone from the public with a raised hand that wish to speak on this case. None.

Commissioner Andersen asked are we limiting density to 8.2 dwellings per acre or is the density going to be a function of what is proposed in the future POD. Mr. Gerard said if you want to ensure the density is limited, the time to do it is with the RUPD zoning. We could add a condition 'c.3' for maximum density of 8.2 d.u./ac.

Commissioner Andersen said he really likes this product; it really fits with the schools on the north and south, and the church and mining operation on the east. It is a good transition from the single-family Falcon View subdivision on the west. He is concerned the R-5 zoning could allow for a much greater density than that. He asked the maximum density in an R-5 zoning district is. Mr. Gerard said the R-5 zoning lot area per dwelling unit is 1,000 square feet. Every lot within the R-5 zoning can have up to one primary dwelling unit for every 1,000 feet of net area not including street. If this is zoned R-5 RUPD and there is not a limitation placed on the unit cap or density, 20 years down the road if they want to do apartments they can do that. If you are concerned about density and want it to be limited, there needs to be a condition applied. The most appropriate place would be under condition 'c.3' – the R-5 RUPD zoning district shall be limited to a maximum density of 8.2 dwelling units per acre or whatever density you want to set.

Commissioner Andersen asked if it were just R-5 zoning, potentially there could be 550 plus dwelling units. Chairman Arnett asked if that could be possible. Mr. Gerard said yes that is possible.

Commissioner Andersen said he would like the applicant to respond to his concern, and the possibility of limiting density in condition 'c.3' and staff proposed. Mr. Walsh said they fully support that amendment.

Commissioner McGee asked what would that density be. Chairman Arnett said his understanding it would be the 8.2. Mr. Walsh said yes, a density of 8.2 dwelling units per acre.

Commissioner Gress said this is a great addition to the neighborhood, and he fully supports this with the proposed modification.

COMMISSION ACTION: Commissioner Andersen motioned to approve Z2020078 with conditions 'a'-'l' with inclusion of condition 'c.3'. Commissioner Hernandez second. Approved 6-0.

- a. Development of the site shall be in substantial conformance with the Zoning Exhibit entitled "Dakota Creek", consisting of 1 full-size sheet, dated January 2, 2021, and stamped received January 29, 2021, except as modified by the following conditions.
- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "Project Narrative for Rezone of Dakota Creek", consisting of 7 pages, dated January 29, 2021, and stamped received January 29, 2021, except as modified by the following conditions.
- c. The following R-5 RUPD standards shall apply:
 1. Rear yard: 15 ft.
 2. Garage setback to alley line: 3 ft.
 3. **The R-5 RUPD zoning district shall be limited to a maximum density of 8.2 d.u./ac.**
- d. 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 number of proposed building lots/units, 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. The 125th Avenue abandonment will be made a condition of the plan of development approval. See <https://www.maricopa.gov/4578/County-Road-Abandonment> for more information.
 3. A traffic impact study must be submitted with future preliminary plat or plan of development (POD) application(s).

4. R/W dedication (32 feet to provide an ultimate width of 65 feet) along the development site's El Mirage Road frontage will be required as part of any future entitlement application(s).
 5. Engineering review of re-zone cases is conceptual in nature. 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.
- e. 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.
 - f. 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.
 - 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, 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.
 - h. The following Luke Air Force Base condition shall apply:
 1. James Shade / Crown Charter School, Inc. and/or Dakota Fabricating, Inc. and/or the future property owner shall notify future occupants/tenants that they are located near a military airport with the following language:
 2. "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.

3. 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.
 4. 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.
 5. 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.
 6. 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."
 7. 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.
- i. Zoning approval is conditional per Maricopa County Zoning Ordinance, Article 304.6, and ARS § 11-814 for five (5) years, within which time all parcels within the R-5 RUPD zoning district shall be subject of an approved plan of development or final subdivision plat, and an issued infrastructure permit for ultimate residential development. If this term is not met the Planning and Development Department may present the R-5 RUPD zoning for Z2020078 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.

Chairman Arnett adjourned the meeting at 10:20 a.m.

Prepared by Rosalie Pinney
Recording Secretary
March 11, 2021