

MINUTES OF THE REGULAR MEETING
OF THE
PLANNING AND ZONING COMMISSION

April 22, 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. Erik Hernandez
Ms. Kate McGee
Ms. Francisca Montoya
Mr. Lucas Schlosser

MEMBERS ABSENT:

Mr. Matt Gress
Mr. Jimmy Lindblom

STAFF PRESENT:

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

COUNTY AGENCIES:

Mr. Wayne Peck, County Attorney
Mr. David Anderson, Business Engagement Manager, OET
Ms. Erin Novotny, Management Assistant

CONSENT:

Z2021016

REGULAR:

Z2019034

Chairman Arnett made the standard announcements, and asked if there were any changes or comments to the minutes for February 25 and March 11. None.

COMMISSION ACTION: Chairman Arnett approved the February 25, 2021 and March 11, 2021 minutes as written.

CONSENT AGENDA

Zoning - Z2021016

District 5

Project name: **Tempe Dance West Laveen**
Applicant: Benjamin Graff – Quarles & Brady LLP
Request: Zone Change from Rural-43 to C-2 CUPD with a Plan of Development (POD) for a dance studio
Location: Generally located approx. 1080' southeast of the SEC of 35th Ave. and Baseline Rd. in the Laveen area

Mr. Gerard presented the consent agenda, case Z2021016.

COMMISSION ACTION: Commissioner Danzeisen motioned to approve the consent agenda, Z2021016 with conditions 'a'-'g'. Vice Chair Swart second. Approved 8-0.

- a. Development of the site shall be in substantial conformance with the Site Plan entitled "Tempe Dance West Laveen", consisting of 3 full-size sheets, dated March 25, 2021, and stamped received March 25, 2021, except as modified by the following conditions.
- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "Tempe Dance West Laveen", consisting of 9 pages, dated April 1, 2021, and stamped received April 1, 2021 except as modified by the following conditions.
- c. The following Planning Engineering conditions shall apply:
 - a. Retention basins must drain within 36 hours.
 - b. 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.
 - c. Detailed Grading and Drainage Plans showing the new site improvements must be submitted for approval and acquisition of building permits.
 - d. Prior to the issuance of the building permit the applicant will need to obtain a SWPPP permit from Maricopa County PND.
- d. The following C-2 CUPD Zoning District standards shall apply:
 1. Parking – 1 space required per 400 sq. ft. of floor area for dance school, daycare or preschool. All other permitted uses shall be subject to Chapter 11 requirements for commercial or public assembly uses.
 2. Sight Visibility Triangles – Waiver of all required sight visibility triangles
 3. Uses Permitted – All uses are prohibited except for the following uses: conservatories or studios (art, dancing or music and related performances); art galleries; day nurseries and nursery schools; photographer's and artist's studios, and; accessory buildings and uses customarily incidental to the above listed uses.
- 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, 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.

REGULAR AGENDA

Special Use Permit - Z2019034

District 5

Project name: **Rancho Ochoa**
 Applicant: Manuel A. Inurriaga P.E., M&M Civil Engineering
 Request: Special Use Permit (SUP) Major Amendment for an existing event site within the Rural-43 zoning district
 Location: Generally located approx. 350' east of the NEC of Broadway Rd. and 67th Ave. in the Estrella area.

Mr. Banker presented Z2019034 and noted the original SUP area only included portions of the parcel, and the original boundary did not include areas to the north or an area in the southeast corner, which is now being requested with this new SUP Major Amendment. The zoning of the site is Rural-43 and it is surrounded by other Rural-43 property and City of Phoenix to the west. This amendment would increase parking to 584 spaces where 224 is existing, and a proposed 17,000 square foot banquet hall building at the southeast corner of the site. There is a 20-year request to expand the SUP entitlement, currently approved for 10 years with their current SUP set to expire next year. They are also proposing an increase in occupancy to 1,600 for the banquet hall building and 800 for other types of events. They are currently approved for a maximum of 250 occupancy. The increase will be significant depending on the day of the week and time of year. The hours of operations would increase to 2:00 a.m. The current SUP restrictions allow them to be open until 10:00 p.m., that is depending on the day of the week and it is more restrictive during the summer months. They would remain closed on Mondays and Tuesdays and limited to a maximum of 22 events per year, currently they are allowed 21 events. The banquet hall building would maintain the underlining zoning of Rural-43, the

setbacks would be 30 feet from the side yard, east property line and 40 feet from the south. It also includes a 6-foot solid wall that surrounds the site, which is required for any development on commercial or industrial zoned sites. Staff received two documents of opposition including one received after the writing of the staff report. The opposition is from an individual that resides to the east on an adjacent parcel on Broadway Road. The opposition has concerns with traffic, dust, loud music, and not adhering to the existing SUP restrictions. Staff has received one document of support that speaks highly of Mr. Ochoa and noted the site brings entertainment to the local community. The applicant hosted a public meeting last June, which was not required. There has been subsequent revisions submitted with many changes to their request since the public meeting, and staff is unsure if the public has the full scale of the project today. Staff is in support of this SUP request as well as the 20-year extension and other changes as described, and recognizes the concerns of the opposed. The use has been in operation for years, the setbacks meet the underlining requirements, and the screening is adequate based off a commercial use. There would be an additional driveway added east of the existing driveway. This will help with the ingress/egress to the site during the event days. MCDOT did approve a traffic statement, and requires a right turn deceleration lane included with recommended condition 's-1'. Music, loud speakers, and live bands to be shut off by 11 p.m. on Saturdays, and 8 p.m. on Sundays, and be prohibited during other days of operation, recommended with condition 'h'. Staff agrees with City of Phoenix recommendation, no noise, odor or vibration be emitted from the new banquet hall building with condition 'i'. Staff recommends approval with conditions.

Commissioner McGee asked if they are doubling the scope of the existing business. She wants to be clear to what they asked to approve. Mr. Banker said the two expansion areas would be on the north side with the additional parking, and the banquet hall building. There are 224 existing parking spaces, and proposing 584 spaces. The capacity for just the banquet hall to be 1,600, and 800 for all other events. The hours of operation will increase based on the day and time of year. The latest was 10 p.m., and now they are asking for 2 a.m., depending on the day of week. In addition to the 20 year extension.

Commissioner McGee asked what part of the request falls within their purview. Mr. Banker said the extension of 20-year SUP entitlement, their 17,000 square foot multi-purpose banquet hall, and the new driveway off Broadway Road, increase the parking to 584 spaces, increase events to 22 total per year. Increase the occupancy 1,600 for the banquet hall and maximum of 800 for all other events, and change the hours of operation based on specific days. They want the music to be allowed outdoors until 11 p.m. on Saturdays and 8 p.m. on Sundays. Patrons can continue festivities in the banquet hall until the allowed times of the facility.

Commissioner Andersen asked is the legal standard for granting a Special Use Permit with no negative impact on the surrounding properties. Mr. Peck said the legal standard for granting an SUP is the same for rezoning property. You take into account what the zoning ordinance provides for, and what would be the impact on the surrounding area. Those impacts include the effect on neighboring properties. You would be zoning this property for 20 years and all the things the applicant is asking. You consider all of those things to decide if this is appropriate for this particular piece of property.

Mr. Cristian Avila representing the applicant said he has been a witness to the work that's been provided to the public; it has been a safe place for people to practice their culture and traditions with this facility. This place is for family gatherings with parking spaces accessible for disabled people, providing security personnel, and taxi service available for those that need it. The banquet hall will also serve as a community-gathering place, and possibly host town hall events and other needs of the community. In the past, the facility was used for some of the youth leadership programs to engage with the community. There has only been two public comments with concerns. They have added asphalt and concrete to minimize the dust concerns; they water the dirt areas as much as they can so the dust is minimal. They direct traffic within the property so it does not clutter Broadway as much.

Commissioner Montoya said she lives close to this location and has lived in the area for 22 years. She has serious concerns with the engagement done with the neighboring community. They would be adversely impacted by this extension of an SUP for an additional 20 years. She does not think having a community meeting last year in the middle of COVID actually suffices the community input, especially with so many changes made in the process. She would like a continuation for community input.

Ms. Cristina Arzaga-Williams said she is the chief of staff for Supervisor Gallardo, and he has met with the applicant. They worked with staff to address many of the concerns. Other than the two registered in opposition, this is the first time hearing there are others in opposition to this application. Mr. Gallardo is in support, and his concerns were addressed in the staff report along with some of the stipulations that were added.

Ms. Lisa Perez said she lives west in the Sienna Vista neighborhood she is speaking as a resident, and she is the president of the Sienna Vista Block Watch. She echoes the request for a continuance because she does not believe enough outreach completed in the area. Staff said they had a community meeting in June and it wasn't required, but this is an aggressive expansion of an area that is still very rural and deserves communication to the neighbors that will be directly impacted. It is too aggressive for this area; Broadway is a one-way road both east and west. At night it is not a very safe area, and for this to go as late as 2 a.m. is not conducive for the neighborhood around this. This plan is almost tripling the amount of people coming to this area. The 1,600 people event center, and to extend to 20 years is a very aggressive footprint to put on an area that is sprinkled with county properties as well as the City of Phoenix. If this moves forward she is opposed to the 20 years, and the 10 years was in place for a purpose to review the SUP for a reason. There are current occupancy limits, and she asked who enforces that? If they work with the neighbors more maybe, they can meet a happy medium. If not her position is no.

Mr. Josh Verburg said he lives in the area and asked who is enforcing the occupancy limits? If you drive by on a Saturday during an event, the traffic is out of control. There is noise, and people are riding horses out of the facility at night. He is sympathetic of the neighbors. A 20-year SUP does not fit the area.

Ms. Natividad Traslavina said she lives immediately next door to Mr. Ochoa on the east, and she is opposed to the rodeo and dance hall events. They do not adhere to the permit. They are supposed to close at 10 p.m., and they go until 2 a.m. The noise is

extremely loud with her bedroom right next to them. It disturbs all of us. They are packed in like sardines right now on the 10 acres, and extending this will be more of the same thing. She has called the police many times, but they will not stop. Nobody has been listening to us with all the noise and dust, and this has been going on since the permit was issued. There is not enough space to have more cars in this is a neighborhood. People come from all over the County and they do not live here, and stay until 2 a.m. This is not consistent with our neighborhood, and needs to be somewhere else in the county. She urges the commission to deny this permit.

Mr. Jose Ochoa, the property owner said since they had the permit they have been working with the County with every step. We have the Sheriff and the Fire department, and traffic control to help people get in/out of the facility so everyone is safe. He is trying to keep the Mexican traditions in place and that is what he is trying to do. He has requested 20 years because to build and expand is very expensive. He will take care of the traffic, and it does not stop in the entrance of the parking lot. Right now, traffic already exists from the 202 all the way up, and he is not the only creating the traffic. The events are on Saturday and Sundays afternoons with minimal traffic.

Mr. Avila said they have taken in many of the concerns and that is why they added asphalt and concrete to minimize the dust. They would be happy to speak to them to come up with a happy medium; they have been doing so for the last years. They work hand in hand with Sheriff's and Fire department and the County to meet the guidelines needed. He has been present to many of the events and they have stopped at the designated times. The Sheriff's department help us get folks out of the facility with traffic control to minimize any accidents coming out on Broadway. Our goal is to let the people practice their traditions in a safe place, inside and outside of the premises. The staging arena was built strategically so the noise is minimal to the neighbors. The banquet hall will also minimize the noise being indoors instead of outdoors.

Vice Chair Swart said he does not see a detailed plan to how many officers are on site, and where they are positioned, and he does not see a traffic study to the expansion proposal. He cannot understand to stay open until 2 a.m. for community events. Mr. Avila said the 2 a.m. request is just for indoor events in the banquet hall. The rodeos would go until 11 p.m. on Saturdays, and 8 p.m. on Sundays. We have two Sheriff's around the premises, and we have diagrams to where we have the security personnel. They do have in-house traffic control to direct traffic in and out of the property.

Vice Chair Swart said the magnitude of these events should have a traffic plan and he does not see it in his packet materials. The Sherriff's on duty will not stay at an event because it is your obligations to hire off-duty Sheriff or Police officers that understand how to route traffic and close down roadways if need be. Mr. Avila said they have Sheriff's walking around the premises during events. They have security personnel helping with entering and existing the premises, and key areas of the rodeo.

Mr. Ochoa says they do hire off-duty Sheriff Officers; they roam around the premises and parking lot to make sure there is no consumption of alcohol, and go outside the premises to make sure nobody is parking outside on the street. They stay until our events end. Our events have never gone until 2 a.m. and we never had music on that late.

Chairman Arnett said there is some concern amongst the commission with a possible continuance, and asked does the applicant want to continue to see where this goes, and is this something they would oppose. Mr. Ochoa said they would like to keep going.

Chairman Arnett asked if anyone else from the public wished to speak. None.

Commissioner Schlosser said he appreciates the efforts of the applicant, but hearing the opposition and the concerns from Vice Chair Swart. He would like to defer things back to Commissioner Montoya since this is her district.

Commissioner Danzeisen said he has had quite a few people call him in complete opposition to this permit. An extension or continuation is important.

Commissioner Montoya said she would like to make a motion to continue this case and require the applicant to have community engagement for more input because they will be immediately impacted.

Commissioner McGee asked with the additional community input, would that allow for revisions to the existing plan or will they come back with the same plan. She is questioning the plan and proposal itself, and is not clear how community input will fix that.

Chairman Arnett said community involvement would not solve some of the issues. He asked her to specify the concerns for the community and applicant to work on. Commissioner McGee said the business owners acknowledged there has been violations, plus the footprint of this request. Being in a residential area, along with the concerns from the residents. She questions the enforceability of the conditions they approve.

Commissioner Montoya said we have had cases where the applicant agreed to community engagement and made changes to the original plan where there has been agreement. Her concerns are the more than doubling in size, the 17,000 square foot banquet hall, the hours of operation, the impact on traffic, the dust, noise and lighting. It is her hope that all these issues be discussed, and the applicant will hear and understand, and try to engage with the community to come to some resolution.

COMMISSION ACTION: Commissioner Montoya motioned to continue Z2019034 to the July 22, 2021 hearing. Vice Chair Swart second. Continued 7-1.

Chairman Arnett adjourned the meeting at 10:41 a.m.

Prepared by Rosalie Pinney
Recording Secretary
April 22, 2021