MINUTES OF THE REGULAR MEETING
OF THE
PLANNING AND ZONING COMMISSION

March 22, 2018
9:30 a.m.

Board of Supervisors Auditorium
301 W. Jefferson Street
Phoenix, Arizona

MEMBERS PRESENT:
Ms. Jennifer Ruby, Chairperson
Mr. Greg Arnett
Mr. Bruce Burrows
Mr. Michael Cowley
Mr. Broc Hiatt
Mr. Jimmy Lindblom
Mr. Robert Zamora

MEMBERS ABSENT:
Mr. Nathan Andersen, Vice Chairman
Mr. B.J. Copeland

STAFF PRESENT:
Mr. Darren Gerard, Planning Deputy Director
Mr. Derek Scheerer, Planner
Mr. Farhad Tavassoli, Planner
Ms. Rosalie Pinney, Recording Secretary

COUNTY AGENCIES:
Mr. Robert Swan, County Attorney

REGULAR:
Z2017051, Z2017100, Z2017104, S2018008

Meeting called to order at 9:30 a.m.

Chairperson Ruby welcomed Commissioner Zamora from District 5 to the Planning and Zoning Commission.

REGULAR AGENDA

Z2017051 (Cont. from 2/8/18) – Zoning **District 2**

Applicant: William F. Allison, Withey Morris, PLC
Location: Generally located at the northeast corner of Loop 202 and Warner Rd. in the Mesa area
Request: Rezone from Rural-43 to C-2 CUPD to allow a child daycare facility and off-site sign – Warner Rd. & Loop 202/NEC Rezoning

Mr. Tavassoli presented Z2017051 and noted the rezone request is to have two distinct uses on the site, to maintain the existing childcare facility and to allow a 672 sq. ft. billboard. There are no violations on the property, but the existing 8,000 sq. ft. childcare

facility is not allowed under the existing zoning conditions. The building was originally a group home in 1995, under LU19950003 and it's since been converted. A zone change is required in order to bring this use in compliance with the Maricopa County Zoning Ordinance (MCZO). The facility operates Monday through Friday, 6:00 a.m. to 6:00 p.m. A staff of four assists with up to 25 children and six of them infants. The parking area has 22 stalls, including 2 ADA stalls and is accessible from Warner Road. The parcel is a little over 5,000 sq. ft. and is the proposed location for the double-faced billboard that will be directed towards north and southbound traffic along the Loop 202 and the SR 24 off ramp. The proposed billboard is 60 feet in height with both sides consisting of 672 sq. ft. The applicant provided photo simulations of how the billboard would appear in both directions along the Loop 202 freeway. Staff and the applicant have discussed changes to the conditions of approval which have been revised in legislative format and provided in a memo. Staff is in support of the changes and there is no known opposition and staff recommends approval.

Commissioner Lindblom noted in the original report staff was in opposition of the billboard and asked if that has changed. Mr. Gerard said yes that's correct, there were concerns on the billboard but they are working on a departmental directive for future consistency. Staff believes the billboard may be in an appropriate location.

Commissioner Arnett asked if nothing has changed in the request other than in light of the future County plans. Mr. Gerard said that is correct, the previous concerns from staff from the revolving and inconsistent interpretation of street orientation. It is clear this is oriented to SR 24 and it's also viewable from the Loop 202. It is impossible for it not to be viewed from both, there's a sound wall in order for it to be viewed on SR 24, and it has to be raised. Barring any future text amendment to remove ambiguity of interpretation or interpretational drift, these type of issues will come up from time to time. We believe the zoning is appropriate and the deviations proposed will allow a billboard toward the north and south end of that property.

Chairperson Ruby asked if staff has thought about a text amendment to clarify it in the future. Mr. Gerard said the County has a moratorium on any increased regulatory burden, but there is likely to be an applicant driven text amendment in the imminent future.

Commissioner Lindblom asked if there's been any comments or opposition from Mesa or Queen Creek. Mr. Gerard said they have not registered any comments.

COMMISSION ACTION: **Commissioner Hiatt motioned to approve Z2017051 with conditions 'a' – 'h', with modifications to 'a', 'b', 'c' and 'd'. Commissioner Cowley second. Approved 7-0.**

a. **~~Per the requested zone change from Rural-43 to C-2 CUPD, the use of the property shall be limited to the existing childcare center only.~~ The CUP 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.**

b. The ~~childcare center~~ **uses** shall be in conformance with the ~~site p~~**Plan of Development** entitled "Site Survey", consisting of 1 full-sized sheet, dated July 25, 2017, and stamped "RECEIVED" on July 31, 2017, except as modified by the following conditions.

c. The ~~childcare center~~ **uses** shall be in conformance with the narrative entitled "D & G Development, LLC", consisting of 17 pages, dated July 31, 2017, and stamped "RECEIVED" on July 31, 2017, except as modified by the following conditions.

d. The following C-2 CUPD standards ~~for the childcare center~~ shall apply:

1. Front Yard Setback: **4.6'**
2. Screening from residential zone: **No screening**
3. Max. Billboard Height: **60'**
4. Max Billboard Sign Area: **672 sf (14' x 48') double-faced or v-shaped; embellishments shall not exceed 10 percent of sign area**
5. Min. Billboard Sign Spacing: **590' to an off-site sign on the west side of Loop 202 and north of Warner Road**

e. The following conditions from the Engineering division shall apply:

1. The applicant shall dedicate right-of-way (65 feet) along the site's frontage of Warner Road; or obtain a right-of-way waiver from MCDOT within 60 days of approval of this application.

f. Noncompliance with any Maricopa County Regulation or condition of approval shall be grounds for initiating a revocation of this Major Amendment as set forth in the Maricopa County Zoning Ordinance. 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 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, a hearing shall be scheduled with the Board of Supervisors for consideration to revert 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 Amendment. The Amendment enhances the value of the property above its value as of the date the Amendment. Change is granted and reverting to the prior zoning results in

the same value of the property as if the Amendment had never been granted.

h. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.

Z2017100 (cont. from 3/8/18) – Special Use Permit **District 3**

Applicant:	Jennifer Corey, Zoning Strategies, LLC
Location:	Generally located approximately 585' south of the southwest corner of Carefree Highway and 14th St.
Request:	Special Use Permit (SUP) for a dog training and limited breeding facility - The Teacher's Pet

Mr. Tavassoli presented Z2017100 and noted the use is already in operation. There are no violations cited against the property and a Special Use Permit is required to continue the operation. The facility operates between 8:00 a.m. and 6:00 p.m. daily. The average number of dogs in training are three to five per week, and boarding 10 to 15 per week in addition to the owner's dogs. No new construction is planned, and the main yard is enclosed with a six foot block wall and the pets board in the 1,000 square foot casita on the property, and are monitored by security systems. There are shaded areas and over 3,000 square feet of artificial turf for playing and training, including a full size obstacle course for large dogs. Also on the property is a 20' x 40' fenced puppy proofed area for litters, puppies or other small dogs with a mini obstacle course. Since the submittal date of October 6, 2017, staff received three letters of opposition. One letter from the vacant land owner from the north, another from a residence about 1,900 feet to the south, and the other from the Desert Hills Community Association. Due to opposition staff believes the SUP should be limited to a 10 year time period and at that time if the business owner wishes to continue operations, the SUP can be revisited whether or not the SUP is consistently compatible with the neighborhood land use patterns. Staff recommends approval. The applicant is requesting changes in language to some of the conditions.

Mr. Gerard said he received a call from a representative of the Desert Hills Community Association and they scheduled a meeting with the group. They requested to consider continuing this for a month and perhaps they could be swayed from their recommendation of a five year SUP. Mr. Gerard said he spoke with the applicant this morning and she believes there is no need for a continuance, and if there's any project modifications it could be addressed prior to the Board of Supervisors.

Ms. Jennifer Corey, the applicant with Zoning Strategies representing the owner said she has copies of letters of support from the surrounding neighbor's. She did speak with the New River Desert Hills board and they will be meeting next Tuesday, and they have recommended a five year expiration of the SUP. Ms. Corey said she is asking for a 20 year SUP with a five year review which would be a happy medium with staff concerns, and the clients desire to not have to revisit this on a continual basis. This is an existing use, and it started out as a small scale home-based occupation business. Ms. Kelly Charais, the owner retired a few years ago and now it is a full-time operation. The Teacher's Pet is located south of Carefree Highway and the southwest portion of 14th Street. This is not a

puppy mill, not a dog rescue, and not a shelter. The use is exclusively for therapy dogs, training dogs, and service dogs. There is only a couple of employees, one comes in the morning for a couple hours to make sure the site is kept clean and one in the evening, and Kelly is there all day long, so it is a very low intense use. Training dogs will be on site for four to six months, a therapy dog about six weeks, and a companion dog two to six weeks. Dogs come and they stay, they are not in and out like a doggy day care facility. There is limited boarding on the property for people going out of town and that's restricted only to the people that had their dogs in the training facility. Kelly has been living at this property since 2010 and operating the facility, before that she had a smaller scale facility in Anthem. Her husband passed away a number of years ago from ALS and she got her start training a service dog for her husband. Since he passed she continued on, and her reputation has been out there as doing a great job training these service dogs. There is vacant property to the north and south, when you go down 14th Street there are lot splits with a plethora of different uses such as construction yards, landscape yards, and a lot of horses and a lot of animals. Then along Carefree Highway there's a feedlot and veterinary services, so it is an animal oriented area. When you look at the house, most people don't know what's been operating here at the property. There is a fence around the property, the dogs are restrictive on how they operate in the back yard, you don't hear any barking or have any smell, and it's an invisible use. Kelly lives in the main house and the dogs are in the back in a casita set up with tile floors. The dogs spend the night in crates and have their own area and do not go out on their own. The dogs are highly trained and have learned to relieve themselves on command, and there is no free roaming. There is a letter of support from every house surrounding the facility, and there are more letters from properties to the south. It is a quiet use and there have been no issues with it. There's a few letters of opposition, one is from the property to the north which is a vacant parcel, and the other is 2,000 feet to the south and these people don't necessarily live here and are not familiar with the use. They have concerns of noise, smell and traffic which is unfounded here. With the letter from Desert Hills they said in the event staff recommends approval they would like to see a five year SUP, and the reason is so they can re-evaluate it in five years. Ms. Corey said Kelly has been working on this project with the County for a couple years, she paved her driveway and did driveway aprons for engineering, started the zoning case and then her zoning attorney retired. When she came on board the hearing was delayed for a posting error so it had to be continued. This has been a long drawn out process, and for a small business owner it is a lot of money and a lot of uncertainty. They are requesting a 20 year SUP with five year review period, and what's nice about the project, they have very specific criteria and it is easy to please with the requirements of the number of dogs and the upkeep with the property of what must happen, and there's tangible ways to monitor this project and make sure they continue to be in compliance. So if you do a 20 year with a five year review, it's a happy medium with the client, the staff and the community. Desert Hills concerns primarily deal with home occupations, they see the privation of these home based occupations, these zoning violations and people using these as storage yards, and in reality we are none of the above. Once you understand what they are actually doing and the uniqueness of the property a lot of those concerns go away.

She had a very good conversation with one of the Desert Hills board members and they will sit down next Tuesday, and if there's any changes that need to happen they can easily incorporate those with the Board of Supervisors. They would hate to have a one month continuance since they have been working on this way too long, and would like

to get through the process and to have this facility a legal operation. Ms. Corey addressed the letter of opposition concerns and said there is no noise, the entire property is surrounded by a six foot, four inch block wall and the dogs can't free roam and there are no dog runs. The dogs are trained not to bark, if a new dog comes in and wants to bark they use E-collars and the dogs learn quickly not to do it. If the dog is determined to be aggressive or have negative behaviors they are immediately terminated from the program, so you see really well behaved dogs. This has been in operation since 2010, and there has been no complaints from the neighbors or the County. As far as traffic, there are limited employees, it is Kelly and one employee comes in the morning and then again in the afternoon, and only one or two clients a day which is less than most home based businesses. It is a very compatible use for this area. This facility doesn't smell, because the dogs just don't go to the bathroom whenever they want to, they learn to only go on command. It is immediately picked up and disposed of and sprayed with a disinfectant. There is literally no dog smell inside or outside and every morning the indoor facility is mopped and the outside is checked to make sure everything is fine. Ms. Corey said staff is in support and are recommending approval. There's a couple of minor changes, in stipulation 'g' talked about the number of dogs that were there with 3 to 5 in training and 10 to 15 in boarding, they need to change it back to what was in the staff report 20 dogs and in addition to her own dogs. They would like to have the 20 years, and to make sure and codify the 5, 10 and 15 year status report periods.

Mr. Frank DeGeorge, a neighbor that lives southwest to the property said he totally supports everything that's been said. He has lived there for 15 years and there is no noise. The property is pristine, and she is a model to the neighborhood. There's a dozen horse properties in the area, and they create more odor than these dogs would create. He supports the 20 year plan and it is invisible to everybody. Two properties up from him there is a polo school, with more dust and noise by that operation then she can ever match. He is totally in agreement with this project.

Chairperson Ruby asked about the proposed changes to the conditions. Mr. Gerard said on paragraph 21 in the packet, the first proposed stipulation for revision is 'c' where it presently reads – "This Special Use Permit shall expire in 10 years or upon termination of the use, whichever occurs first. All the site improvements shall be removed within 60 days of such termination or expiration." The last sentence should be struck since it doesn't apply to this particular special use. They are proposing a change from 10 years to 20 years, so it should read the "Special Use Permit shall expire in 20 years, March 22, 2038, or upon termination of the use, whichever occurs first." It ties in with the proposed change to stipulation 'd' – "the applicant/owner shall submit a written report outlining the status of the development at the end of 5, 10 and 15 years from the date of approval by the Board of Supervisors. The status report shall be reviewed by staff to determine whether the Special Use Permit remains in compliance with the approved conditions" he suggests they add language that reads "and/or whether the special use should be revisited by the Board of Supervisors with recommendation of the Commission for consideration of amendment or revocation" this takes away concerns about the timeline if those two are paired together, but he has not discussed this with the applicant and doesn't know how they feel about the additional language. Stipulation 'g' proposed change – "the facility shall be open only between 8 a.m. and 6 p.m. daily, no more than 5 dogs in training per

week and no more than 15 dogs per week in boarding, "in addition to the owners licensed dogs."

Chairperson Ruby asked if staff is in support of the 20 year period or were they just presenting the suggested conditions. Mr. Gerard said he believes the concerns that staff had which was trying to convey some of the neighborhood concerns can be alleviated with that additional language he discussed, but does not know if the applicant is amenable to this.

Commissioner Arnett said he liked the language that was proposed, but would like some detail with the 5 years and some explanation of the process. Mr. Gerard said the status report is a trigger for staff to review a special use, there's not a proactive check for special uses around the County. It is a trigger for the applicant to come back and provide a report which lists the conditions of Board approval and how they have been addressed. If they have not been addressed, then there needs to be some type of amendment or a zoning violation, or it needs to come back before the Commission for a recommendation to the Board. To address the neighborhood concerns if this is an appropriate use, there has to be a review whether or not that special use that's normally not permitted in the zoning district is appropriate giving the land use patterns which could change over 20 years. Staff would do an administrative review, and if there is concern and the neighborhood has changed or the use is evolved and is no longer appropriate for the neighborhood, we would bring it before the Commission at a public hearing and the Commission would make a recommendation to the Board whether or not this should be continued, amended or rescinded.

Commissioner Arnett said it will be 20 years unless there are complaints, then every 5 years it will go through this process again. Mr. Gerard said there is a requirement for it to be reviewed every 5 years, and in the administrative review if there is belief that conditions are not met, or the conditions of the neighborhood warrant reconsideration it could be brought back.

Chairperson Ruby said it stays administrative as long as everything looks good, and if there are problems then it comes back through a public process. Mr. Gerard said correct.

Ms. Corey asked if staff is saying 20 years with all those caveats. Mr. Gerard said correct.

Ms. Corey said that it is the appropriate action, and they intend to operate as they propose and do not see any problems.

Commissioner Lindblom said he wanted clarification on stipulation 'g', and asked how we determine the amount of dogs, is it 15 different dogs a week in boarding or 15 dogs at any given time. Mr. Gerard said there may be 15 dogs boarded, 5 dogs being trained for a total of 20 dogs, in addition the owner can have licensed dogs. Ms. Corey said they are comfortable with that.

Chairperson Ruby said when she first went through the staff report she liked the recommendation to do a 10 year SUP, but with the added language to do 5, 10, and 15

year reports she feels comfortable with the 20 year period, and the neighbors' interests are still protected.

Commissioner Arnett said it is a great use and a great facility. The challenge is it is great until it changes and the review gives them the opportunity.

COMMISION ACTION: **Commissioner Cowley motioned to approve Z2017100 with conditions 'a' – 'g', with modifications to 'c', 'd' and 'g'. Commissioner Arnett second. Approved 7-0.**

a. Development of the site shall comply with the Site Plan entitled "The Teacher's Pet", consisting of 1 full-size sheet, dated December 28, 2017, and stamped received January 5, 2018, except as modified by the following conditions.

b. Development of the site shall be in conformance with the Narrative Report entitled "Narrative Report", consisting of 6 pages stamped received January 5, 2018, except as modified by the following conditions.

c. This Special Use Permit shall expire **~~10~~ 20 years (March 22, 20~~23~~38),** or upon termination of the use, whichever occurs first. **~~All of the site improvements shall be removed within 60 days of such termination or expiration~~.**

d. The applicant/owner shall submit a written report outlining the status of the development at the end of 5**, 10 and 15** years from the date of approval by the Board of Supervisors. The status report shall be reviewed by staff to determine whether the Special Use Permit remains in compliance with the approved conditions**, and/or whether the special use should be revisited by the Board of Supervisor with recommendation of the Commission for consideration of amendment or revocation.**

e. 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.

f. 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.

g. The facility shall be open only between 8:00 am and 6:00 pm daily, with no more than 5 dogs in training per week and no more than 15 dogs per week in boarding **(20 total),** ~~**including**~~ in **addition to** the owner's own **licensed** dogs.

Z2017104 - Zoning **District 1**

Applicant:	JCL Design Build – Jeremy N. Fischer
Location:	Generally located at the northeast corner of 182nd Place and Nunnelley Road in the Gilbert Area.
Request:	Zone change from AD-2 to IND-2 IUPD

Mr. Scheerer presented Z2017104 and noted this application is to remove the site from the regulations from the AD-2 military ordinance, and move it into the zoning ordinance with the equivalent zoning IND-2. The IUPD is in place to limit uses in the site to those that can be handled by the proposed septic system, there is no sewer available. The applicant is requesting some changes to the IND-2 zoning district, waivers of the side yard setback for the eastside property line where a storage container is located. A waiver of this street side setback on the west side property where the building will be located adjacent to the 182nd Place road right-of-way. There is also a waiver for a 6 foot wall waiver screening for the north and east property line. A waiver for the sight visibility triangle instead of having no obstruction greater than two feet in the sight visibility triangle. They are proposing a two foot high masonry block wall, topped with a four foot wrought iron fence to provide security for the site. Staff is amenable to all of their requests and staff is recommending approval subject to the conditions.

COMMISSION ACTION: **Commissioner Lindblom motioned to approve Z2017104 with conditions 'a' – 'f'. Commissioner Hiatt second. Approved 7-0.**

a. Development of the site shall comply with the Zoning Exhibit entitled "D & R Construction Office" consisting of full-size sheets, dated March 2, 2018 and stamped received March 2, 2018 except as modified by the following conditions.

b. Development of the site shall be in conformance with the Narrative Report entitled "H & H Properties, LLC – D & R Construction Office", consisting of 4 pages, dated March 2, 2018, and stamped received March 2, 2018 except as modified by the following conditions.

c. The following IND-2 RUPD standards shall apply:

1. Height: 40'
2. Front Yard: 10'
3. Side Yard: 1'5"
4. Street-side Yard: 1'5"

5. Rear Yard: 3'
6. Lot Area: 6,000 sq. ft. minimum
7. Lot Width: 60' minimum
8. Lot Coverage: 60% maximum
9. Screening: 6' wall (waiver of view obstructing for north and east side fencing)
10. Sight Visibility Triangle: 2' (h) mason block with 4' (h) wrought iron fence on top
11. Uses shall be limited to those acceptable to the Maricopa County Environmental Services Department for wastewater service via on-site septic system until such time as the site is effectively annexed or served by sewer.

d. The following Planning and Engineering Comments shall apply:

1. Roadway reviews of planning and/or zoning cases are 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 current County Design Standard.

2. Prior to approval of the Building Permits, the applicant must provide verification from the Town of Gilbert as to the requirements for any offsite improvements (half street construction) and/or permit requirements for access to Nunnelley Road.

3. Drainage review of planning and/or zoning cases is for conceptual design only and does not represent final design approval nor shall it entitle applicants to future designs that are not in conformance with Section 1205 of the Maricopa County Zoning Ordinance and the Maricopa County Drainage Policies and Standards.

4. 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.

e. 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.

f. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowners. The granting of this approval allows the property owners 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, a hearing shall be scheduled with the Board of Supervisors for consideration to 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.

S2018008 – Preliminary Plat **District 4**

Applicant:	Rod Jarvis, Earl, Curley & Lagarde
Location:	Southwest corner of Citrus Rd. & Olive Ave. in the west Glendale/Surprise area
Request:	Preliminary plat extension of S2003050 consisting of 1,286 lots, 180 tracts, and 21 parcels in the Rural-43, R1-18 RUPD, R1-8 RUPD, R1-7 RUPD, R1-6 RUPD, C-2 and C-1 zoning districts with a PAD overlay

Mr. Tavassoli presented S2018008 and noted The White Tank Foothills Development Master Plan was approved by the Board of Supervisors on August 22, 2001, with a subsequent amendment by the Board on July 2, 2003. The rezoning was approved in December 2000. The original preliminary plat approval for the subject site included 1,286 residential lots, 21 parcels, and 180 tracts. The entire project area is 640.2 acres with three proposed phases of development. On December 15, 2018, the applicant received administrative approval for a three month preliminary plat extension for White Tank Foothills per case number Z2017033. The extension took effect on December 31, 2017 and will expire on April 2, 2018. The applicant was given the option to request an additional extension through the Planning and Zoning Commission if the final plat could not be acted upon by the Board of Supervisors prior to expiration, which is the reason for this extension request. Several portions of Phase 1 of White Tank Foothills have been subdivided and developed. There are currently no final plat approvals for the other two phases. The applicant requests an additional extension to the preliminary plat with a new expiration date of December 31, 2018. The applicant will continue to move forward with the next phase with a final plat submission to the approved preliminary plat. The applicant has cited the slow recovery of the housing market as the primary reason why no final plats have been approved for Phases 2 and 3. Staff recommends approval of the preliminary plat extension subject to the conditions.

Chairperson Ruby asked if the subdivision regulations allow for this extension through December 31, 2018, and they are not asking for anything that deviates from what's allowed. Mr. Gerard said that is correct, for several years the Board adopted a resolution to have a blanket extension for all preliminary plats that were valid as of October 10, 2010 were extended to a certain deadline. The subdivision regulations allow for a validity period of two years for an approved preliminary plat, within that two years the developer needs to get a final plat approval from the Board. For every final plat approved, the preliminary plat which often has multiple units is automatically extended for a two year period. Each subsequent final plat approval extends the validity period of the approved preliminary plat for two years with the potential of staff to administratively extend it for an additional 12 months. That's what happened here, that blanket resolution extension of all the approved

preliminary plats by the Board went from October 10, 2010, and it terminated as of December 31, 2017. Those people that were actively pursuing development came in and requested preliminary plat extensions. They received a preliminary plat extension with the condition if they need additional time up until December 31, 2018 they come before the Commission. The ordinance will not allow it to be extended beyond December 31, 2018, that is the ultimate amount of extension. They are actively pursuing at least two final plats at this time, if they obtain a final plat approval before December 31, 2018 this preliminary plat that covers the entire master plan community, it's extended for an additional two years from that approval date.

Mr. Stephen Earl, with Earl, Curley & Lagarde, P.C. said he is representing the property owners who have owned this property since 2004. This is not vacant ground, this is a square mile of a master plan development. Phase 1 was completed at a cost of thirty-five million dollars of infrastructure. They had to build a lift station that not only serviced this property but it assisted the whole region. Then they had a well dug and a water system installed that not only benefits Phases 2 and 3 but the area. They put in all the roads systems and a public park, and what's left to do is a school site which is in Phase 2. We were almost done with Phase 2 plat having complied with all updated requirements from the County. We still had to do all the construction plans in accordance with the current codes and that was all done and cost a million dollars, but they didn't quite make it, we needed a little more time. Meritage Homes is here today and they're going to be purchasing Phase 2 for construction, and Pulte Homes purchased Phase 1 after the owners put in this infrastructure. They are also moving on to Phase 3 which is under active consideration, even though it's taken quite a while given the recession we all endured.

COMMISSION ACTION: **Commissioner Burrows motioned to approve S2018008 with conditions 'a' – 'p'. Commissioner Hiatt second. Approved 7-0.**

a. The validity period of the Preliminary Plat (Case No. 2003050; approved on August 4, 2004) is extended for nine (9) months from April 2, 2018 to December 31, 2018. The Preliminary Plat approval shall expire on said date unless a final plat with residential lotting has been approved by the Board of Supervisors. If a final plat cannot be acted upon by the BOS prior to expiration, staff shall close the preliminary plat case.

b. Development and use of the site shall comply with the Preliminary Plat narrative report entitled "White Tank Foothills – Preliminary Plat Narrative", a bound document with 24 pages including exhibits, dated revised December 19, 2003, and stamped received December 30, 2003 and the Narrative Report Addendum No. 1 consisting of four (4) pages dated July 18, 2004 and dated received July 20, 2004, except as modified by the following stipulations.

c. Development and use of the site shall comply with the supplemental narrative report entitled "Preliminary Plat for White Tank Foothills Extension Request", consisting of 3 pages, dated February 27, 2018 and stamped received March 1, 2018.

d. Prior to final plat approval, Improvement, Grading and Drainage Plans shall be submitted to and approved by the Maricopa County Flood Control District.

e. Prior to final plat approval, a revised final drainage report and plan shall be submitted and approved by Maricopa County Flood Control District.

f. Prior to final plat approval, Water and Sewer Plans shall be submitted to and approved by the Maricopa County Department of Environmental Services.

g. Prior to final plat approval, a licensed engineering investigation of the site shall be conducted and submitted identifying any fissures, which affect the site, and that the report shall include suggested mitigation of those fissures. A note stating that earth fissures may be present on the site shall be included on the final plat.

h. The final plat shall include dedication of right-of-way as required by the related zone change request (Z2000136) and as deemed necessary by the Maricopa County Department of Transportation unless the required dedication has been completed by deed of dedication prior to the final plat approval.

i. The master developer shall notify future homeowners that they are located within close proximity of Luke Air Force Base Auxiliary Field 1 using the following language:

"You are buying a home or property that is located in close proximity to the Luke Air Force Base Auxiliary Field 1, which is the site of intense instrument procedure landing approaches, with approximately 12,000 flight operations per year. Aircraft will descend down to 200 feet above the ground over the Auxiliary Field and will create severe noise in the surrounding area. Your house should include "sound attenuation" measures as directed by State law. For further information, please check the Luke Air Force Base website at www.luke.af.mil/urbandevelopment or contact the Maricopa County Planning and Development Department."

Such notification shall be PERMANENTLY posted in front of all home sale offices on not less than a three (3) foot by five (5) foot sign, be permanently posted on the front door of all home sales offices on not less than an 8½ inch by 11 inch sign, be recorded on all final plats, AND be included in all home owner association Covenants, Conditions, and Restrictions (CC&Rs) as well as the Public Report, conveyance documents.

j. All habitable buildings constructed within this subdivision shall be constructed to attain a noise reduction level as per ARS § 28-8482(B).

k. Prior to or concurrent with the submittal of a final plat for any portion or phase of this development, a final landscape plan is to be submitted which is generally consistent with the preliminary landscape plan.

l. The applicant shall comply with the standard assurance provisions as set forth in the Maricopa County Subdivision Regulations.

m. 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 appropriate Fire Department servicing the site. 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.

n. If street lighting is proposed then a Street Lights Improvement District must be formed. The applicant must contact the Superintendent of Streets Office in order to initiate formation of a Street Lights Improvement District.

o. The applicant agrees and understands that they shall not assert vested rights under this approval.

p. The preliminary plat shall expire on December 31, 2018. It shall not be further extended except by approval of a final plat for residential lotting during this validly period. Each subsequent final plat with residential lotting shall extend the preliminary plat's validity period for an additional two years from date of said final plat approval. After any subsequent final plat approval, staff may extend the preliminary plat for up to an additional 12 months beyond the two-year validity period if substantial progress has been made toward the next final plat for residential lotting.

Chairperson Ruby adjourned the meeting at 10:16 a.m.

Prepared by Rosalie Pinney
Recording Secretary / Administrative Assistant
March 22, 2018