

MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK

**FORMAL SESSION
August 18, 2004**

(These minutes are a part of the 8/18/04 meeting, but minutes are in two documents see 081804fb.)

Supervisor Stapley responded that the lack of communication has been from Mr. Dean. "He has not listened. He has refused to do a thing for a long period of time and he had received a file full of notifications. There is no excuse for this to have happened," he concluded.

In response to a question from the Chairman, Ms. Rich replied that the permit from the Flood Control District is only a small part of the case. She said that the District has now received application for a drainage clearance and that the District is represented at this meeting and could be asked about the difficulties they have had in working with the applicant towards that approval. She indicated that the Planning Department could continue to work with the applicant but they have had very little success to date in getting any results towards compliance. She informed the Chairman that the Board had other options than affirming or overturning the decision and that it could be continued or remanded back to the Hearing Officer.

Supervisor Stapley said that to his knowledge Mr. Dean had never once contacted him or his office, "But I have heard from all of their neighbors, and I'd like to move forward with this case."

Motion was made by Supervisor Stapley and seconded by Supervisor Wilson to affirm that the Hearing Officer did have sufficient evidence on which to base his decision.

Mr. Wilson said that the County inspectors who go out in the field in response to complaints were simply doing their job and he didn't believe it should come to a question of whether or not they had the "authority" or the "right" to cite non-compliance cases. He said he would support those actions and decisions and would confirm the Hearing Officer's decision.

Supervisor Stapley's motion to uphold the Hearing Officer's decision carried unanimously (5-0).

CONSENT AGENDA DETAIL:

1. **Z2003111 District 4**
 Applicant: Danielle Waechter for Nextel Communications
 Location: East side of the El Mirage Rd. alignment and north of the Hatfield Rd. alignment (in the north Peoria/Sun City West area)
 Request: Special Use Permit (SUP) for a wireless communications facility in the Rural-43 zoning district, Cellular Use District 1 - Nextel Bunker Peak Cell Site (5,000 sq.-ft. S.U.P. area, part of a 10 ac. parent parcel)

COMMISSION ACTION: Commissioner Jones moved to recommend approval of Z2003111, subject to the following stipulations "a" through "m". Commissioner Barney seconded the motion, which passed with a unanimous vote of 6-0.

- a. Development and use of the site shall comply with the site plan entitled "Nextel Communication AZ-428.A – Bunker Peak" consisting of five (5) full-size sheets, dated revised January 16, 2004 and stamped received June 7, 2004, except as modified by the following stipulations.
- b. Development and use of the site shall be in substantial conformance with the narrative report entitled "Project Narrative" consisting of five (5) pages, dated May 3, 2004, and stamped received June 7, 2004 except as modified by the following stipulations.

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- c. Major changes to this Special Use Permit (site plan and narrative report) or the conditions of approval shall be processed as a revised application in the same manner as the original application, with final determination made by the Board of Supervisors following recommendation by staff and the Planning and Zoning Commission. Minor changes may be administratively approved by staff of the Planning and Development Department.
- d. Non-compliance with the Special Use Permit (the site plan and narrative report) or the conditions of approval will be treated as a violation in accordance with provisions of the Maricopa County Zoning Ordinance. Further, noncompliance of the conditions of approval may be grounds for the Commission to take action in accordance with the Maricopa County Zoning Ordinance.
- e. A status report including photographs of the tower and facility shall be submitted within two (2) years of approval by the Board of Supervisors, or when fully equipped and finished by Nextel, whichever occurs first. The status report shall be reviewed by staff to determine whether the Special Use Permit remains in compliance with the approved stipulations.
- f. Driveway and parking area must meet EPA requirements for dust control.
- g. The monopole together with all antennas and attachments will not exceed 80 feet in height as measured from base ground level.
- h. No antenna arrays will have a catwalk type of array. All antenna arrays will be minimal in nature, with a maximum width of 12' and have a neutral color to blend with surrounding area.
- i. All future cabling between equipment on the ground and antennas on the tower be internal and not be allowed to run external to the tower, unless covered and be the same color as the tower.
- j. An administrative amendment shall be required to co-locate future carriers on the monopole.
- k. Non-compliance with the regulations administered by the Maricopa County Environmental Services Department, Maricopa County Department of Transportation or the Maricopa County Flood Control District may be grounds for initiating a revocation of this Special Use Permit as set forth in the Maricopa County Zoning Ordinance.
- l. This Special Use Permit shall expire 20 years from the date of approval by the Board of Supervisors, upon expiration of the lease to the applicant(s), or upon termination of the use, whichever occurs first. All of the wireless equipment including the monopole shall be removed within 60 days of such termination or expiration. Any request for an extension shall be made at least six months prior to the expiration date.
- m. Prior to zoning clearance, 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.

Joy Rich reported on background for this item and said she was not aware of any opposition

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Motion was made by Supervisor Wilson, seconded by Supervisor Stapley, and unanimously carried (5-0) to concur with the Planning Commission's recommendation for approval of this Special Use Permit with stipulations "a" through "m."

2. **Z2004001** **District 3**
 Applicant: Kevin Hill
 Location: Approximately ½ mile north of the Pinnacle Peak Rd. alignment and west of Central Ave. (in the north Phoenix area)
 Request: Plan of Development for gear pump manufacturing in the IND-2 zoning district – Bearcat Pumps (1.0 ac.)

COMMISSION ACTION: Commissioner Aster moved to recommend approval of consent agenda item Z2004001, subject to the following staff stipulations "a" through "j". Commissioner Jones seconded the motion, which passed with a unanimous vote of 7-0.

- a. Development of the site shall be in substantial compliance with the site plan entitled "Site Plan for Bearcat Pumps", consisting of one (1) full-size sheet, dated revised February 3, 2004 and stamped received June 23, 2004 except as modified by the following stipulations.
- b. Development of the site shall be in substantial compliance with the narrative entitled "Bearcat Pumps Narrative Report", consisting of 2 pages, stamped received January 9, 2004.
- c. The site, as well as access to the site, shall meet all applicable Federal, State, and County requirements for dust control.
- d. Prior to zoning clearance, 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.
- e. All transformers, back-flow prevention devices, utility boxes and all other utility related ground mounted equipment shall be painted to complement the development and shall be screened with landscape material where possible.
- f. A continuous parapet shall screen all roof-mounted equipment.
- g. Fence climbing vines, set apart 6' on-center, shall be placed along all portions of the property adjacent to the property line with have chain link fencing. In the event such vines do not render the fencing view obscuring. slatting will be placed in the fence.
- h. In the event that the property owner to the north does not install a concrete masonry wall abutting the property in question, view-obscuring fencing shall be installed in its place.
- i. Major changes to this Plan of Development (the site plan and narrative report) shall be processed as a revised application in the same manner as the original application. With final determination made by the Board of Supervisors following recommendation by staff

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and the Planning and Zoning Commission. Minor changes may be administratively approved by staff of the Planning and Development Department.

- j. Noncompliance with the Plan of Development (the site plan and narrative report) or the conditions of approval will be treated as a violation in accordance with provisions of the Maricopa County Zoning Ordinance.

Motion was made by Supervisor Wilcox, seconded by Supervisor Brock, and unanimously carried (5-0) to concur with the Planning Commission's recommendation for approval of this Plan of Development with stipulations "a" through "j."

- 3. **Z2004018 District 5**
Applicant: George Ann Olson for Broadway & 35th L.L.C.
Location: 4907 S. 35th Ave., approx. ¼ mile south of Broadway Rd. & 35th Ave. (in the south Phoenix area)
Request: Plan of Development in the IND-2 zoning district – M.A.C. Construction (9.85 ac.)

COMMISSION ACTION: Commissioner Smith moved to recommend approval of consent agenda item Z2004018 subject to the following staff stipulations "a" through "s". Commissioner Porter seconded the motion, which passed with a unanimous vote of 6-0.

- a. Development of the site shall be in substantial compliance with the site plan entitled "Site Plan – Plan of Development Z 2004018", consisting of five (5) full-size sheets, dated revised June 17, 2004 and stamped received May 14, 2004, except as modified by the following stipulations.
- b. Development of the site shall be in substantial compliance with the narrative entitled "MAC Construction Equipment LLC", consisting of four (4) pages, stamped received March 5, 2004, except as modified by the following stipulations.
- c. The office and service building shall be constructed primarily of masonry, with the exception of the narrow horizontal band above the bay doors and the east elevation.
- d. Prior to issuance of zoning clearance, the applicant shall seek review and comment from the applicable fire protection agency, and shall provide written confirmation that the site will be developed in accordance with their requirements. Prior to zoning clearance, 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.
- e. All mechanical equipment shall be ground mounted.
- f. All transformers, back-flow prevention devices, utility boxes and all other utility related ground mounted equipment shall be painted to complement the development and shall be screened with landscape material where possible.
- g. Proposed future development located towards the rear (east) of the property and described as "Future Truck & Quip. Parking" on the site plan as referenced in stipulation 'a' above, shall require either Administrative or Major Amendment(s) (individually or collectively) to the

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- Plan Development prior to construction, consistent with the Maricopa County Zoning Ordinance.
- h. Site visibility triangles conforming to the County standards shall be required and maintained for all access points utilized by this property to access 35th Ave.
 - i. At zoning clearance, vehicular parking spaces shall be re-delineated so that they are a minimum 18' in length.
 - j. The perimeter fencing along 35th Ave. shall be ornamental iron, 8' high, with masonry piers and having a combination of 3' high berms and 3' high masonry wall in front and behind the iron fence.
 - k. All landscaping shall be native or low water use plantings, maintained, and replaced as necessary. All trees shall be double staked when installed.
 - l. A staggered row of 15'gallon trees shall be provided at 25' on center along the street frontage. 50% of trees shall be of 24" box size.
 - m. A landscaped buffer, minimum 15' wide by 150' long, shall be installed along a portion of the north property line, with a staggered row of 15-gallon trees at 25' on center.
 - n. All wall-mounted and free-standing light fixtures shall be full cut-off type with flush bottom lens.
 - o. Sidewalk widths and location shall coordinate with proposed developments to the south.
 - p. All parking and drive areas shall be paved.
 - q. Security alarms shall be silent type.
 - r. Major changes to this Plan of Development (the site plan and narrative report) shall be processed as a revised application in the same manner as the original application, with final determination made by the Board of Supervisors following recommendation by staff and the Planning and Zoning Commission. Minor changes may be administratively approved by staff of the Planning and Development Department.
 - s. Noncompliance with the Plan of Development (the site plan and narrative report) or the conditions of approval will be treated as a violation in accordance with provisions of the Maricopa County Zoning Ordinance.

Motion was made by Supervisor Wilcox, seconded by Supervisor Brock, and unanimously carried (5-0) to concur with the Planning Commission's recommendation for approval of this Plan of Development with stipulations "a" through "s."

4. **S2004035** **District 1**
 Applicant: B&R Engineering on behalf of Old Republic Title Insurance
 Location: Southeast Lakeway Circle, north of the northeast corner of Riggs Rd. & Sun Lakes Blvd. (in Sun Lakes)

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Request: Replat in the R1-6 R.U.P.D. zoning district for Lot 29 of Sun Lakes Unit 39 (approximately 0.37 acres)

Motion was made by Supervisor Wilcox, seconded by Supervisor Brock, and unanimously carried (5-0) to approve this replat.

REGULAR AGENDA DETAIL:

5. **DMP2002005 District 4**
Applicant: CMX, LLC
Location: A 9-mile long strip of land along Perryville Rd., usually varying in width from ¼-mile to 1-mile, from Bell Rd. on the north (in the Surprise area) stretching to Camelback Rd. on the south (in the west Glendale area)
Request: Development Master Plan (DMP) – Zanjero Trails (2,665.5 ac.)

COMMISSION ACTION: Commissioner Jones moved to recommend denial of DMP2002005. Commissioner Smith seconded the motion, which passed with a majority vote of 5-1, with Commissioner Pugmire dissenting.

Ms. Rich said she understood this item would be continued and asked if the Board wanted a presentation. Supervisor Wilson said he would like to hear input from those who have come to the meeting before making a motion.

~ Supervisor Brock left the meeting ~

Bob Carlisle, citizen, said he was speaking in opposition to this matter for the third time, and his concerns included signage, a landfill, water issues and wildlife issues. He expressed his disappointment that development has followed them to an area they moved to for the peace and quiet. He said, "I do not see the water source at all," and the lack of water is a concern to him. He asked the Board to deny this matter.

~ Supervisor Brock returned to the meeting ~

Nicoya Ritter, Wadell Hacienda representative, spoke in opposition. She said she felt that Sierra Montana is still in non-compliance with some things they originally agreed to and she fears this will also happen with Zanjero Trails. She also mention endangered wildlife such as Bald Eagles, Gila Monsters, deer, coyotes, Javelinas and mountain lions – a wilderness ambiance that the residents love and wish to have continued. She indicated that residents are now on irrigated property and there is a strong concern on the impact a new community would have on the canal and the water table when the land is covered with more concrete. She said some residents are already starting to see sand come through their tap water. She also mentioned concerns with the increased traffic to the neighborhood. She said they realize that development is coming but they hope the developers will work with them and listen to their concerns.

Denise Wilkenson and Stix Mancini, spoke for groups of residents at Clearwater Farms, and read statements signed by members of the Board in support of the project as an asset to the area.

Supervisor Wilson thanked the speakers for making the effort to come to the meeting. Since he felt there were still things to learn and consider, he moved to continue this matter to the September 22nd meeting. Motion was seconded by Supervisor Stapley and carried unanimously (5-0).

6. **DMP2003006 District 2**

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Applicant: Rio Verde Services for First American Title Insurance
Location: North of Rio Verde Drive, south of the Dixileta Road alignment, between 172nd Street and 184th Street (in the Rio Verde area)
Request: Major amendment to a previously approved Development Master Plan (DMP 200003) - Vista Verde (856 ac.)

COMMISSION ACTION: Commissioner Pugmire moved to recommend approval of DMP2003006, subject to the following stipulations "a" through "c". Commissioner Smith seconded the motion, which passed with a unanimous vote of 7-0.

- a. Development and use of the site shall comply with the Development Master Plan entitled "Development Master Plan Vista Verde", consisting of 23 pages, 10 exhibits and one large scale (24" x 36") plan, dated (revised) February 2001, and stamped received February 26, 2001, except as modified by the narrative report titled "Development Master Plan Vista Verde, consisting of 30 pages, 12 exhibits and one large scale (24" x 36") plan, dated June 25, 2003, and stamped received July 19, 2003.
- b. All long dead end cul-de-sacs shall have a secondary (emergency access) or two accesses.
- c. All other stipulations approved by the Board of Supervisors for the Vista Verde Development Master Plan per case DMP 2003 shall remain in effect.

Ms. Rich reported that this is a major amendment to a Master Plan originally approved by the Board in 2000, and it will increase open space and accommodate some increased drainage areas that are now required because of flood plain delineations in the area. There is no known opposition. The recommendation is for approval.

David S. Ritchie, Rio Verde Services, was present to support the application and to answer questions, but there were none.

Motion was made by Supervisor Stapley, seconded by Supervisor Wilcox, and unanimously carried (5-0) to concur with the recommendation for approval of this amendment with stipulations "a" through "c."

7. Z 99-62 District 1
Applicant: ~~Coen Engineering~~ Martinez & Curtis
Location: ~~North of the northeast corner of Appleby Rd. and 156th St., or 20803 S. 156th St. (in the Gilbert area)~~ 20303 N. 156th St. - south of the southwest corner of Queen Creek Rd. & Greenfield Rd., and north of the northeast corner of 156th St. & Appelby Rd. in the Chandler/Gilbert area
Request: Special Use Permit (SUP) for a horse riding and boarding stable in the Rural-43 zoning district – Fox Mask Farms (~~2.7~~ 5.1ac.)

COMMISSION ACTION: Commissioner Pugmire moved to recommend approval of Z 99-62, subject to the following stipulations "a" through "r". Commissioner Jones seconded the motion, which passed with a unanimous vote of 7-0.

- a. Development and use of the site shall be in substantial conformance with the untitled site plan consisting of one (1) full size sheet, undated but stamped received January 9, 2004, except as modified by the following stipulations. Within 30 days of approval by the Board of

Supervisors and prior to zoning clearance, the applicant shall provide a revised site plan indicating parking space dimensions, lot dimensions and all other building dimensions, building separation distances and setback distances.

- b. Development and use of the site shall comply with the narrative report entitled "Special Use Permit Application for Riding and Boarding Stable" consisting of three (3) pages undated but stamped received January 9, 2004, except as modified by the following stipulations.
- c. All landscaping with the County right-of-way shall be in compliance with Maricopa County Department of Transportation regulations.
- d. All refuse and animal wastes shall be stored within an enclosed building or within odor-proof closed containers. Prior to the issuance of building permits the applicant shall submit evidence that containers have been provided for adequate storage of one week's accumulation of manure. All manure shall be removed from the site at least once per week and disposed of in a proper manner acceptable to the Maricopa County Environmental Services Department.
- e. The number of horses and livestock on site shall be limited to 60 at any time.
- f. If additional paving or other impervious surfaces are required on the subject site, the applicant shall submit a grading and drainage plan to the Flood Control District for review and approval.
- g. All outdoor lighting shall conform to Section 1112 of the Maricopa County Zoning Ordinance.
- h. When possible, all transformers, back-flow prevention devices, utility boxes and all other utility-related, ground-mounted equipment shall be painted to complement the development and shall be screened with landscape material where possible. All H.V.A.C. units shall be ground-mounted.
- i. Development of the site shall include dedication of right-of-way along 156th Street to bring the half-width right-of-way to 40 feet.
- j. There shall be no additional housing on the subject site. No travel trailers shall be utilized for students or staff.
- k. No loud speakers shall be permitted with this facility.
- l. A review to monitor intensity of use for dust control on access road and interior circulation areas shall occur two years after approval of this request by the Board of Supervisors.
- m. The driveway and parking spaces shall meet EPA requirements for dust control.
- n. Applicant shall agree to future participation in paving 156th Street when traffic warrants (exceeds 150 vehicle trips per day).
- o. This Special Use Permit shall expire in ten (10) years.

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- p. The applicant shall obtain "as-built" permits for all un-permitted structures and buildings on the subject site within 180 days of Board approval.
- q. Major changes to this Special Use Permit (the site plan and narrative report) or the conditions of approval shall be processed as a revised application in the same manner as the original application, with final determination made by the Board of Supervisors following recommendation by staff and the Planning and Zoning Commission. Minor changes may be administratively approved by staff of the Planning and Development Department.
- r. Non-compliance with the Special Use Permit (the site plan and narrative report) or the conditions of approval will be treated as a violation in accordance with provisions of the Maricopa County Zoning Ordinance.

Joy Rich reported on previous action in this case, saying that today's action would remedy a long-standing zoning violation case. The Town of Gilbert has not commented on this request. There is no known opposition to this request and the recommendation is for approval.

Pam Stedman was present to answer questions, but there were none.

Motion was made by Supervisor Brock, seconded by Supervisor Wilcox, and unanimously carried (5-0) to concur with the recommendation of the Planning Commission for approval with stipulations "a" through "r."

- 8. **Z2002135** **District 1** (Continued from July 7, 2004) (This case requires a ¾ majority vote of the board to approve, due to opposition from adjacent property owners).
Applicant: Joanne & Kelly Jarman, et. al.
Location: East side of McQueen Rd. approx. ½ mile north of Queen Creek Rd. (in the Chandler area)
Request: Special Use Permit (SUP) for a wedding chapel/reception center in the Rural-43 zoning district – Rosewood Manor (4.8 ac.)

COMMISSION ACTION: Commissioner Pugmire moved to recommend approval of Z2002135, subject to the following stipulations "a" through "x". Commissioner Aster seconded the motion, which passed with a majority vote of 4-3.

Commissioner Aster	-	yes	Commissioner Porter	-	no
Commissioner Jones	-	yes	Commissioner Munoz	-	no
Commissioner Smith	-	yes	Commissioner Barney	-	no
Commissioner Pugmire	-	yes			

- a. Development shall be in general conformance with the site plan entitled, "Rosewood Manor" consisting of two (2) full-size sheets, prepared by HEC Engineering LLC, dated revised December 10, 2003 and stamped by the Engineer January 30, 2004, and stamped received February 3, 2004, except as modified by the following stipulations.
- b. Development of the site shall be in general conformance with the narrative report entitled, "Revised Narrative Report – Rosewood Manor", consisting of seven (7) pages, dated December 30, 2003, and stamped received December 30, 2003, except as modified by the following stipulations.

- c. Striping for the handicap accessible parking area shall conform to the current ADA requirements.
- d. Within 30 days of Board of Supervisors' approval of this Special Use Permit, the applicant shall obtain a pool barrier permit and shall request an inspection of said barrier immediately upon issuance of said permit. Any deficiencies in the pool barrier shall be immediately corrected.
- e. Within 60 days of Board of Supervisors approval of this Special Use Permit, the applicant shall apply for a building permit for the existing membrane structure (tent). Said submittal shall include details for any and all existing and/or proposed sound attenuation measures associated with this tent. The applicant shall bring into compliance with the commercial building code any deficiencies and shall make satisfactory progress towards the completion of any retrofit needed to bring said structure up to code such that a Certificate of Occupancy for the retrofitted structure is received no later than 180 days from the date of approval of the Special Use Permit by the Board of Supervisors.
- f. Within 60 days of Board of Supervisors approval of this Special Use Permit, the applicant shall apply for a building permit to retrofit the existing single-family residence to meet current commercial building code requirements as applicable. The applicant shall make satisfactory progress towards the completion of the retrofit and shall obtain a Certificate of Occupancy for the retrofitted building no later than one year from the date of approval of this Special Use Permit by the Board of Supervisors.
- g. Within 60 days of Board of Supervisors' approval of this Special Use Permit, the applicant shall apply for all applicable building permits for any remaining un-permitted structures located on site that were not included in the permitting activity as discussed in stipulations "e" and "f" above. Record permits shall be obtained for any such structures erected on site prior to the applicant having taken possession of the subject property. As-Built permits shall be obtained for any such structures erected on site after the applicant having taken possession of the subject property.
- h. Prior to zoning clearance for any permit on the subject property, the property owners shall provide evidence of legal and physical secondary access to the site. Said secondary access shall occur either adjacent to the north or south property lines. Should such secondary access be unattainable, the applicant shall submit an application for an amendment to the Special Use Permit to allow the evaluation of an alternative location for said secondary access. Said amendment will be evaluated at that time to determine whether the proposed changes should be processed administratively or through a Major Amendment.
- i. Prior to zoning clearance, the applicant shall provide satisfactory evidence that Rural/Metro Fire Department has been properly apprised of the development on the subject property and that an offer to extend fire protection services has been made with regard to the subject property and the proposed use as a reception center.
- j. After zoning approval but prior to any construction, a drainage clearance in conjunction with a building permit must be obtained from the Flood Control District's Permitting Office.

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- k. Prior to issuance of any permits for development of the site, the applicant/property owner shall obtain the necessary encroachment permits from the Maricopa County Department of Transportation for landscaping or other improvements in the right-of-way.
- l. In conjunction with the right-of-way improvements, the property owners shall provide a sidewalk along McQueen Road adjacent to the site. Said sidewalk shall be constructed to minimum County standards.
- m. Review and approval of plans for this public establishment may be required by MCESD for food preparation. If persons are employed for food preparation then review and approval by MCESD is required. The applicant shall submit information to MCESD sufficient in detail to determine if the review and approval requirement applies prior to any on-site food preparation.
- n. This Special Use Permit (SUP) shall expire upon the fifth anniversary of the original approval of the SUP by the Board of Supervisors. Any time extensions shall be treated a Major Amendment.
- o. The applicant shall submit a written Status Report to the Planning and Development within 30 days of the first anniversary of the approval of this Special Use Permit by the Board of Supervisors. This Status Report shall be reviewed by staff to determine whether the property is in compliance with the stipulations of approval and to ensure compatibility with the neighborhood. The Status Report may be approved by staff or, if in the opinion of staff the stipulations have not been met or the facility is not compatible with the neighborhood, the Status Report may be forwarded to the Planning and Zoning Commission for further action, including initiating action for a possible revocation of the Special Use Permit.
- p. All outdoor lighting shall conform to the Maricopa County Zoning Ordinance.
- q. Major changes to this Plan of Development (the site plan and narrative report) shall be processed as a revised application in the same manner as the original application, with final determination made by the Board of Supervisors following recommendation by staff and the Planning and Zoning Commission. Minor changes may be administratively approved by staff of the Planning and Development Department.
- r. Noncompliance with the Plan of Development (the site plan and narrative report) and conditions of approval will be treated as a violation in accordance with provisions of the Maricopa County Zoning Ordinance.
- s. Events shall be limited to 8:00 a.m. – 8:00 p.m. Monday through Thursday and 8:00 a.m. – 9:30 p.m. Friday and Saturday. No events will occur on Sundays. Only one event will be held at a time.
- t. Events will be limited to 250 guests plus associated vendors and staff.
- u. All musical acts not associated with the actual wedding ceremony shall be performed from within the tent shown on the site plan. An insulated, soundproof roof shall be constructed on the tent. Said roof shall meet all applicable building code requirements.

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- v. All freestanding light fixtures shall be shielded to reduce glare on adjacent properties.
- w. A row of low water use trees, such as Mondel pines or willow acacia, set 20' on-center shall be planted along the north side of the block wall located along the southern property line.
- x. The applicant shall effect the repairs necessary to the water feature located adjacent to the south wall such to eliminate the water leak.

Ms. Rich gave a background report on this matter and said there is long-standing neighborhood opposition to this request for a Special Use Permit for a wedding chapel/reception center in a Rural-43 zoning district. No response has been received to a request for input from Chandler. She said that the Planning Department held a pre-application meeting with the applicants on December 31, 2001, prior to their purchasing the property, to let them know that a Special Use Permit (SUP) would be required to operate this facility. The Jarmans took possession of the property four days later and began to operate the center in April 2002 without having applied for the SUP. By April 9 a variety of zoning violation complaints had been received from neighboring property owners. The applicant did file a SUP application on October 11, 2002, which has encountered several different problems and continuances that delayed issuance of the SUP. On March 4, 2004, the first Planning Commission hearing on the matter was held at which a number of speakers were in opposition. The Commission continued the case to June 3rd to allow negotiations between owners and neighbors. At the June 3rd hearing a number of people were present in opposition and none were present to support this project. Issues raised highlighted noise, traffic, yard lights and neighborhood safety issues related to alcohol consumption at the events. Ms. Rich continued by reporting that at some point neighborhood property owners secured an injunction against harassment to force the applicant to cease holding events. Several meetings between neighbors, applicant and the County have been held during the past eight weeks with a variety of issues discussed. The Planning Commission voted 4-3 for approval of this request.

Wendy Riddell, representing the applicant, said this wedding chapel provides a needed and desirable service for this rapidly urbanizing area. She reported that Chandler's General Plan recognizes these changes and specifically states that employment and business uses are appropriate for the area. She addressed the issues raised by neighbors since the facility opened and which the applicant is working to resolve. These include dust, lighting, traffic and noise. She feels noise is the single largest issue that has concerned neighbors and that has not yet been resolved. She said they are willing to stipulate to specific limitations on the level of noise permitted during an event. These limitations could include a governor or decibel meter on the speaker system to assure noise measurements are readily available and easily monitored. She said that the big question seems to be "what is reasonable" and they have conducted studies on typical ambient evening noise measurements in the area that were determined to be in the 50-55 decibel range, and they believe it is reasonable to use this same measure for noise levels at the wedding chapel. As to hours of operation, she said that the type and purpose of this facility determines that it operate during evening hours and that those set by the Planning Commission are too limiting. She suggested that if the noise is adequately addressed then the hours of operation should not be an issue. Since they are willing to stipulate on a noise level of 50 decibels they are asking for leniency on the hours of operation. The hours of operation they request are 8:00 a.m. to 10:00 p.m. Monday through Thursday and 8:00 a.m. to 11:00 p.m. on Friday and Saturday. Ms. Riddell said that most issues would be solved once a permanent building could be constructed but with a SUP of only five-years duration it is difficult to secure financing. She asked for a 10-year SUP time limit so financing for a permanent structure could be pursued. In response to a question from Supervisor Brock, she said that the injunction had been removed following a hearing.

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Ed Turner, citizen, lives south of and adjacent to the subject property and said he spoke for those living on the south side of the property. He said, "People seem to have trouble understanding why we're so upset about this. The fact is that we've been dealing with this for 2½ years. I realize this is new to the Board but we've been going through meeting after meeting and hearings for that long." He felt that the problems stemmed from the fact that "the Jarmans chose to totally circumvent the SUP process before they opened their business." He said the neighbors should have had a chance to know beforehand what the business was about and to make comments or protests. "They started construction, they put up a wall, they poured concrete . . . there were no signs up saying what the business was going to be, they didn't contact any of the neighbors . . . the first indication we had was the first event they held in March 2002." He said the neighbors have never received a good answer on why the Jarmans were allowed to continue to hold 'parties' for six months in the face of the zoning violation (April-October). He said that after the first year notification had been sent and a meeting scheduled, conducted by the Jarmans attorneys, at which neighbors were essentially told what was going to happen. He added, "The most frustrating thing for all of us is the fact that they just sidestepped nearly every regulation that there is and it seems to be glossed over at every meeting we've had." He said that the neighbors feel the owners should be required to build a permanent building within a set time limit. He felt a permanent structure was very important since the chapel is situated in the middle of a residential neighborhood. Also impacting the area is the time-of-day event limits set by the Planning Commission, which, in contrast to the request from Ms. Riddell, he felt should be shortened and end earlier. Mr. Turner agreed that the biggest disturbance was the noise from music and attendees. He said, "When I'm lying in bed at 10:00 p.m. and the music is so loud that I can tell what song is being played, that's too loud, whatever the decibel level is." He added that comparing the noise level from an airplane or truck is not the same as that same decibel level of music constantly playing for four-hours straight. He recommended 40 decibels if any was set. He said that a Certificate of Occupancy is required for any business location before any furniture is even moved in and this is required so anything that could be of danger to occupants is found and fixed before occupancy is allowed. This was not done by the Jarman's.

Jeff Deaver, citizen, also spoke in opposition. New concerns he added were to the ambiance sought by those buying property there so they could have room to house their horses in a peaceful and quite location. He felt allowing this kind of business in the middle of a rural, mostly residential, neighborhood reduced the value of their individual properties. He said that he felt it should be known that one individual property owner to the west of the facility has personal interests in an approval of the request since the driveway and secondary exit properties would fall on their land. He noted that there is a house on the property that the Jarmans do not use as living quarters. He asked for strict guidelines on the number of guests and hours.

Joy Rich said that the stipulations allow 250 guests plus associated vendors and staff on site for any given event. Supervisor Wilson questioned this number and how it would be monitored.

Randy Ransom, citizen, said he had no complaints on the facility, acknowledging that he lives some distance away and their noise doesn't bother him as much as the noise from the helicopters flying from the nearby helipad.

Dwayne Sherwood, citizen, said he is the owner of the property to the north of the chapel, not west as Mr. Deaver stated. He gave some history of the area saying he had lived in that area for 30 years and that, as people moved in, around 75% of them ran a business of some kind out of their home, and he included himself. "For the last 25-30 years there's been a whole bunch of us in violation running businesses out of that little county island. To my knowledge the only ones trying to make it 'legit' is the Jarmans." He believes that Chandler wants the area to become a mix of business/residential and that it could work if strict noise conditions are enforced. He felt that if the noise is addressed the wedding chapel should be

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open until 11:00 p.m. on the weekend. "I think it would be unfair to approve them and then set them up to fail after all the money they've spent."

Joanne Jarman, applicant, said she is concerned that they had not done things correctly at the beginning and explained that some of her assumptions about running a new business had been wrong. She expressed the desire to make the correct decisions in going forward. She said they had originally planned to open their business in October 2002, although they did have two weddings before that date. She explained that they plan to move to the property and they do have concerns about the neighbors and the neighborhood and are very willing to work with them. Kelly Jarman was also present in favor of the request and did not speak.

Supervisor Brock said they have heard much controversy and discussion for many months with respect to problems and some recommendations for this business. He explained that Mr. Sherwood sold the property to the applicants and he had held daytime rodeos on the property when he owned it. He referenced changes that Chandler is involved in to urbanize the area – expansion of the airport, installing a helipad, and the expansion of the major thoroughfare from two-lanes to six lanes, as well as the location of the nearby freeway. Therefore, he felt the area was unfortunately destined to become more urban and less rural and he could understand the concerns voiced by residents. He said that a number of stipulations have been approved but after researching wedding chapel competitors in the area he would like to amend four of them and add one new stipulation. He asked the Board to approve the application with the amended and new stipulations.

Ms. Riddell asked for clarification on a five vs. ten-year SUP with regards to building a permanent structure. Supervisor Brock said that he cannot understand why the existing structure on the property has not been converted for use instead of holding the weddings in a tent that is adjacent to the former residence. He said that their competitors have established their wedding chapels in a structure and this eliminates the noise issue that has made this application such a huge problem. He added, "We're bending over backwards to help the applicant and it's really the applicant's responsibility to curb that noise. No one can do anything about the aircraft noise but we can insist that the applicant keep their (business) noise down." He said he believed that residents have been very patient in their discomfort and that the County has been very patient regarding the applicant's transgressions. He also felt that negotiations between the applicant and neighbors would be much smoother if the applicant could collapse the tent and move the ceremonies inside the already existing structure.

Discussion ensued on the length of the SUP and the best wording to use to accomplish the construction of a structure to house the ceremonies within a specified time limit. Supervisor Stapley said he had grave concerns about continuing with and approving the use of a tent of this size even for several years. "It seems highly unusual. We've never done anything like this before, to my knowledge."

Supervisor Brock said, "We'd like to see them, after the fifth year, have financing in place and have a permanent structure underway, if they don't decide to move from their big tent into the available residence first. If not (constructed) then staff would reassess allowing them to move forward. They would also weigh the noise complaints, and all other complaints, which would become a file to be reviewed at the end of the 60th month." He indicated that not everyone would be happy with the stipulations and his suggested amendments, but an honest effort had been made to solve the problems. At this point Supervisor Brock offered amendments to stipulations "n", "o", "s" and "t", given below and a new stipulation "y" as follows:

- y. There shall be a maximum noise level from events of 40 decibels (or not to exceed the ambient noise level) at any given time as measured from any property line.

(Discussion altered stipulation "n" several times. It is given in its final form below.)

Motion was made by Supervisor Brock and seconded by Supervisor Wilson to approve this SUP with stipulations "a" through "x" as amended, and to include new stipulation "y", given above.

Chairman Kunasek asked, "If the usual background noise in the area was measured at 50-55 decibels how this wedding chapel could ever be in compliance if their decibel level was set at 40?" Supervisor Brock said that he lives very close to the subject area and it is normally subjected to sudden "jacks" in the noise level from trucks, planes and helicopters. He stressed that there is a big difference between those intermittent noise peaks and a continuous music and party noise, at the same level, for long periods of time during evening and nighttime hours.

Supervisor Wilcox said she has had much experience with noise decibels in her district and she is concerned that setting the decibel level at 40 will doom this business to failure. Setting it so low will generate many complaints, and they will be justified because of the low setting. If 55 is the norm now, "it will be very hard for them to lower it without a permanent building. If you go much lower than 55 you really can't have music." Discussion ensued on fairness issues regarding noise.

Joy Rich addressed Mr. Ed Turner's allegation on operation of the facility prior to issuance of proper permits and a certificate of occupancy. She said, "I hope it's clear to the applicant that they shouldn't be occupying or using any of these structures prior to getting proper building permits for everything on the site. So, we shouldn't see events there until those permits are issued." Ms. Riddell said, "We understand."

Further discussion and attempts at substitute motions finally resulted in a substitute motion by Supervisor Brock which was seconded by Supervisor Wilson to approve this SUP with amended stipulations "n", "o", "s" and "t" and new stipulation "y." Motion carried unanimously (5-0) on a roll call vote with Supervisors Brock, Stapley, Kunasek, Wilson and Wilcox voting "aye" to concur with the recommendation of the Planning Commission for approval with stipulations "a" through "x" amended by the revised language suggested by Supervisor Brock to stipulations "n", "o", "s" and "t", as well as with the addition of his new stipulation "y." Final stipulations are given below. Note: Applicant went on record indicating they understood and agreed not to hold any future events until they obtained Certificates of Occupancy for all structures that host events.

Final Approved Stipulations

- n. This special use permit shall expire on the ~~fifth~~ tenth anniversary of the original approval of the SUP by the BOS should the applicant process and receive approval of a revised site plan that incorporates a permanent, legally permitted building for receptions to replace the tent. In the absence of construction of a permanent building the SUP shall expire upon the fifth anniversary of the original approval of the SUP by the BOS.
- o. The applicant shall submit a written Status Report to the Planning and Development within 30 days of the first anniversary of the approval of this Special Use Permit by the Board of Supervisors. This Status Report shall be reviewed by staff to determine whether the property is in compliance with the stipulations of approval and to ensure compatibility with the neighborhood, including the adequacy of noise mitigation. The Status Report may be approved by staff or, if in the opinion of staff the stipulations have not been met or the facility is not compatible with the neighborhood, the Status Report may be forwarded to the Planning and Zoning Commission for further action, including initiating action for a possible revocation of the Special Use Permit.

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- s. As long as a tent is utilized on site, music and use of amplified sound or any noise at eEvents shall be limited to the hours of 8:00 a.m. - ~~8:00-9:00~~ p.m. Monday through Thursday and 8:00 a.m. - ~~9:30-10:00~~ p.m. Friday and Saturday. No events will occur on Sundays. Only one event will be held at a time.
- t. Events will be limited to ~~250 guests plus associated vendors and staff~~ a total attendance of 275 including guests, vendors and staff.
- y. There shall be a maximum noise level from events of 40 decibels (or not to exceed the ambient noise level) at any given time as measured from any property line.

9. **Z2002139 District 4**
Applicant: Ed Reichenberg for Dr. Parmesh & Ladonna Khamre
Location: East of the Trilby Wash Outfall Channel at the Southwest corner of 123rd Ave. & Pinnacle Peak Rd. alignments (in the Peoria/Surprise area)
Request: Rezone from Rural-43 to R1-6 R.U.P.D. – Sundero Residences (19.82 ac.)

COMMISSION ACTION: Commissioner Jones moved to recommend approval of Z2002139, subject to the following stipulations “a” through “t”. Commissioner Porter seconded the motion, which passed with a unanimous vote of 6-0.

- a. Development and use of the site shall comply with the site plan/zoning exhibit entitled “Preliminary Plat for Sundero Subdivision” consisting of one full-size sheet dated June 24, 2004 and stamped received June 24, 2004 except as modified by the following stipulations.
- b. Development and use of the site shall comply with the narrative report entitled “Sundero Residences” consisting of eleven (11) pages dated revised April 14, 2004 and stamped received June 24, 2004 except as modified by the following stipulations.
- c. The zoning for Sundero Residences shall expire in five (5) years from the date of approval by the Board of Supervisors if a final subdivision plat has not been approved. A request for extension must be received at least six months prior to the expiration date.
- d. The applicant shall provide a minimum of 4.3 acres of useable open space. The open space shall include recreational amenities acceptable to the Planning and Development Department staff, such as trails, tot-lots, exercise stations, and picnic ramadas with barbeque grills.
- e. Sundero Residences shall be limited to a maximum of 68 dwelling units.
- f. Prior to approval of final plat, the applicant shall survey the subject property for cultural resources and submit the survey to the State Historic Preservation Office for review and comment.
- g. Prior to approval of final plat, the developer will provide “will serve” letters from Arizona American Water Company for potable water and sewer service. The developer may submit a “will serve” letter from a different qualified public or private utility in place of Arizona American Water Company upon approval by the Environmental Services

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Department. A Certificate of Convenience and Necessity (CC&N) for the provider must accompany the "will serve" letter.

- h. Prior to or concurrent with the submittal of a final plat for any portion or phase of this development, a final landscape and plan (including narrative description) is to be submitted. Landscaping in common areas shall largely limit turfed areas to active recreational areas. Passive recreational areas shall largely use plants listed on the Phoenix Active Management Area Low Water Use Plant List.
- i. All irrigation of common areas shall be in compliance with Arizona Department of Water Resources regulations. When sufficiently available, all irrigation of common areas shall be done entirely with treated effluent.
- j. The Sundero Residences Homeowner's Association shall be responsible for the maintenance and upkeep of all public open spaces and facilities, parks, roadway landscaping, landscaping within the public right-of-way adjacent to all public and private roadways, and of pedestrian and bicycle paths.
- k. Prior to final plat approval, documentation for legal access to the site shall be provided.
- l. Dedication of additional rights-of-way to bring the ultimate half-width dedication to 40' for 123rd Avenue shall occur prior to zoning clearance as deemed necessary by the Maricopa County Department of Transportation.
- m. The applicant shall meet the following Maricopa County Department of Transportation (MCDOT) requirement:
 - Developer contribution for proportionate share of offsite regional roadway improvements is based upon 68 total residential units at \$4600 per unit. The amount in this paragraph is based on contributions made in fiscal year 2002-2003. Contributions made each fiscal year thereafter shall be adjusted by the annual percentage change in GDPD Price Deflator as defined in Section 41-563, Subsection E of the Arizona Revised Statutes. Roadways shall meet county standards in effect at the time they improved.
- n. Written notification shall be provided to all future homeowners that they are located within the State-Defined Territory In The Vicinity Of A Military Airport and may be subject to loud noise and overflights from military aircraft. Such notification shall be consistent with ARS § 28-8484(A).

The master developer shall notify future homeowners that they are located within close proximity of a 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

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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.

- o. All habitable buildings constructed within this subdivision shall be constructed to attain a noise reduction level as per ARS § 28-8482(B).
- p. All outdoor lighting shall conform with the Maricopa County Zoning Ordinance.
- q. Per Maricopa County Flood Control District the following items shall be addressed:
 - The applicant shall agree to depict the delineated McMicken Outfall Channel's floodplain and floodway prior to Board of Supervisor's approval.
 - The applicant shall agree to calculate the contributing off-site flow and show how this flow will be collected and routed though the proposed site without co-mingling with the on-site flow.
- r. When possible, all transformers, back-flow prevention devices, utility boxes and all other utility-related, ground-mounted equipment shall be painted to complement the development and shall be screened with landscape material where possible. All H.V.A.C. units shall be ground-mounted.
- s. Major changes to the R.U.P.D. plan (site plan and narrative report) shall be processed as a revised application, with approval by the Board of Supervisors upon recommendation of the Planning and Zoning Commission. Minor changes may be administratively approved by the Planning and Development Department.
- t. Noncompliance with the R.U.P.D. plan (site plan and narrative report) or the conditions of approval will be treated as a violation in accordance with the Maricopa County Zoning Ordinance. Further, noncompliance of the conditions of approval may be grounds for the Planning and Zoning Commission to take action for revocation of zoning approval in accordance with The Maricopa County Zoning Ordinance.

Joy Rich said that this request complies with the County's Area Plan. Neither Peoria nor Surprise sent any comments on the application. She added that this would have been on the Consent Agenda except the Planning Commission made one modification to a right-of-way stipulation. The recommendation is for approval.

Motion was made by Supervisor Wilson, seconded by Supervisor Stapley, and unanimously carried (5-0) to concur with the recommendation of the Planning Commission for approval of this rezoning request with stipulations “a” through “t.”

10. **Z2002153** **District 3 - CONTINUED**
 Applicant: Hal Borhauer

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Location: Northwest corner of 7th Ave. & Alameda Rd., approx. 1,977' south of Happy Valley Rd. (in the Phoenix area)
Request: Special Use Permit (SUP) for commercial storage of vehicles in the Rural-43 zoning district – 24250 N. 7th Ave. (5.3 ac.)

COMMISSION ACTION: Commissioner Smith moved to recommend approval of Z2002153, subject to the following stipulations "a" through "x". Commissioner Pugmire seconded the motion, which passed with a majority vote of 5-1, with Commissioner Munoz dissenting.

- a. Development and use of the site shall comply with the site plan entitled "Proposed Land Use Plan for 24250 North 7th Avenue" consisting of one full-size sheet, dated June 18, 2004 and stamped received June 18, 2004 except as modified by the following stipulations.
- b. Development and use of the site shall comply with the landscape plan entitled "7th Avenue Storage Center Conceptual Landscape Plan" consisting of one full-size sheet, dated April, 9 2003 and stamped received June 14, 2004 except as modified by the following stipulations.
- c. Development and use of the site shall comply with the narrative report entitled "24250 North 7th Avenue" consisting of six pages plus exhibits, dated revised December 30, 2003 and stamped received June 2, 2004 except as modified by the following stipulations.
- d. The Special Use Permit approval for storage of commercial vehicles shall be deemed valid for government contract only. The facility shall not be open to the general public for storage contracts.
- e. The hours and days of operation shall be limited to Monday through Friday, 8:00 a.m. to 5:00 p.m. Minimal after hours deliveries of vehicles shall be acceptable.
- f. A 6' high block wall is required for the perimeter of the site. Concertina (razor) wire is prohibited.
- g. The front parking area shall be landscaped and adequately screened from 7th Avenue.
- h. The site shall have minimum landscape width of 10' along the Alameda Road and 7th Avenue frontages. The location of the proposed perimeter walls shall be adjusted accordingly and if necessary.
- i. All landscaping shall be maintained in good health and replaced as necessary for the life of the Special Use Permit (S.U.P.) approval.
- j. All landscaping within the County right-of-way shall be in compliance with Maricopa County Department of Transportation regulations.
- k. Dedication of additional rights-of-way to bring the total half-width dedication to 55' for 7th Avenue and 40' for Alameda Road shall occur immediately after approval of this request by the Board of supervisors, and prior to zoning clearance. Contact Maricopa County Road Dedication/Acquisition Division at 602-506-1421.

- l. The applicant shall bond for half-street improvements to ultimate width for 7th Avenue and Alameda Road along the perimeter of the site at the discretion of the Maricopa County Department of Transportation. The bond shall be available to assure that dust and/or road maintenance is addressed.
- m. The applicant shall ensure that a 25' access easement is in place along the north boundary of the site.
- n. A two-year review will be required per MCDOT to ensure that 7th Avenue is monitored for adequate access (traffic, dust, maintenance, etc.).
- o. All signs shall be in compliance with IND-1 regulations.
- p. Prior to development, a drainage clearance to include submittal of a final drainage report must be approved by the Maricopa County Flood Control District.
- q. All outdoor lighting shall conform to the Maricopa County Zoning Ordinance.
- r. When possible, all transformers, back-flow prevention devices, utility boxes and all other utility-related, ground-mounted equipment shall be painted to complement the development and shall be screened with landscape material where possible. All H.V.A.C. units shall be ground-mounted.
- s. Prior to zoning clearance, 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.
- t. The applicant shall submit a written report outlining the status of the development at the end of two (2) 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 stipulations.
- u. This Special Use Permit shall expire five (5) years from the date of approval by the Board of Supervisors, or upon expiration of the lease to the applicant, 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.
- v. Major changes to this Special Use Permit shall be processed as a revised application in the same manner as the original application, with final determination made by the Board of Supervisors following recommendation by staff and the Planning and Zoning Commission. Minor changes may be administratively approved by staff of the Planning and Development Department.
- w. Non-compliance with the regulations administered by the Maricopa County Environmental Services Department, Maricopa County Department of Transportation or the Maricopa County Flood Control District may be grounds for initiating a revocation of this Special Use Permit as set forth in the Maricopa County Zoning Ordinance.

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- x. Noncompliance with the conditions of approval will be treated as a violation in accordance with the Maricopa County Zoning Ordinance. Further, noncompliance of the conditions of approval may be grounds for the Commission to take action in accordance with the Maricopa County Zoning Ordinance.

Motion was made by Supervisor Stapley, seconded by Supervisor Wilcox, and unanimously carried (5-0) to continue this item to the December 1st meeting date.

11. **Z2003086** **District 5**
 Applicant: Frank Ross
 Location: West side of 43rd Ave., north of Southern Ave. (in the Laveen area).
 Request: Rezone from Rural-43 to IND-1 P.D. – Steven’s Plumbing (3.0 ac.)

COMMISSION ACTION: Commissioner Munoz moved to recommend approval of Z2003086, subject to the following stipulations “a” through “k”. Commissioner Barney seconded the motion, which passed with a unanimous vote of 8-0.

- a. Development and use of the site shall be in general conformance with the site plan entitled, “Site Plan Steven’s Plumbing”, consisting of one full size sheet stamped received July 22, 2004, except as modified by the following stipulations.
- b. Development and use of the site shall comply with the narrative report entitled “Narrative Report Third Submittal Steven’s Plumbing”, consisting of four (4) pages stamped received April 21, 2004, except as modified by the following stipulations.
- c. The subject property shall have an I.U.P.D. zoning overlay. The I.U.P.D. overlay will allow the applicant to setback a 6’ solid masonry wall up to 60’ from the property adjacent to rural or residential zoning.
- d. Prior to occupancy, the applicant shall apply for a building permit to retrofit the existing single-family residences to meet current commercial building code requirements as applicable.
- e. Concurrent with the submittal for the retrofit permit as outlined in stipulation “d” above, the applicant shall apply for all applicable building permits for any remaining un-permitted structures located on site. Record permits shall be obtained for any such structures erected on site prior to the applicant having taken possession of the subject property. As-Built permits shall be obtained for any such structures erected on site after the applicant having taken possession of the subject property.
- f. Outdoor storage may only be allowed within the Plan of Development area unless a Major Amendment to the Plan of Development is first approved. All outdoor storage areas shall be fully screened from view and shall not extend above the fence line. No development shall occur outside of the Plan of Development area without an approved Major Amendment.
- g. Prior to the issuance of any permits for the site, the following Flood Control stipulations shall be met:
 - i. A grading and drainage plan must be submitted to our office for review and approval.

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- ii. The grading and drainage plan must include contours or spot elevations showing location of retention basins and drainage arrows indicating flows to the appropriate drainage facilities.
- iii. All existing and proposed structures must be called out and shown on the plan.
- iv. Perpendicular cross sections through the site indicating property lines, retention basins, berms, parking lots, driveways, and finished floors must be incorporated into the grading and drainage plan.
- v. The grading and drainage plan must be signed and stamped by an Arizona Registered Professional Civil Engineer.
- vi. The finished floor of the buildings and a statement certifying that all finished floors are free from inundation during a 100-year peak runoff event must be shown on the plan.
- h. Prior to zoning clearance, the applicant shall dedicate sufficient right-of-way to bring the total half-width of 43rd Avenue to 55' and shall bond for future improvements along 43rd Avenue to include paving, curb, gutter and sidewalk.
- i. All outdoor lighting shall conform to Article 1112 of the Maricopa County Zoning Ordinance.
- j. Major changes to this Plan of Development (the site plan and narrative report) shall be processed as a revised application in the same manner as the original application, with final determination made by the Board of Supervisors following recommendation by staff and the Planning and Zoning Commission. Minor changes may be administratively approved by staff of the Planning and Development Department.
- k. Noncompliance with the Plan of Development (the site plan and narrative report) and conditions of approval will be treated as a violation in accordance with provisions of the Maricopa County Zoning Ordinance.

Joy Rich said that this request is not within the General Plan specifications of the City of Phoenix, however Phoenix is not opposed to this use with "design considerations." There is no known opposition to this request.

Supervisor Wilcox asked about timing on this and Ms. Rich said that the applicant can't get any permits until zoning clearance is achieved and this property should not be occupied or used until they have met all of the stipulations.

Frank Ross was present to answer questions, but there were none.

Motion was made by Supervisor Wilcox, seconded by Supervisor Stapley, and unanimously carried (5-0) to concur with the recommendation of the Planning Commission for approval with stipulations "a" through "k."

- 12. Z2003104 District 1**
Applicant: EPS Group, Inc.
Location: West of the northwest corner of Signal Butte Rd. & Cloud Rd. (in the Queen Creek area)
Request: Rezone from Rural-43 to R1-35 – Cloud Creek Ranch II (29.7 ac.)

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COMMISSION ACTION: Commissioner Pugmire moved to recommend approval of Z2003104, subject to the following stipulations "a" through "i". Commissioner Smith seconded the motion, which passed with a unanimous vote of 7-0.

- a. Development of the site shall be consistent with the zoning exhibit entitled "Cloud Creek Ranch II", prepared by EPS Group, Inc., consisting of two (2) full-size sheets, dated March 18, 2004 and stamped received April 22, 2004, except as modified by the following stipulations.
- b. Development and use of the site shall comply with the narrative report entitled "Rezoning Request for Cloud Creek Ranch II" consisting of twenty-three (23) pages, dated March 22, 2004 and stamped received April 22, 2004 except as modified by the following stipulations.
- c. Dedication of additional right-of-way to bring the total half-width dedication to 40 feet for Cloud Rd. shall occur within six months of approval of this request by the Board of Supervisors, and prior to zoning clearance.
- d. 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. A note shall be added to the final landscaping plans indicating that all landscaping and structures contained within the site triangle shall not exceed 2' in height.
- e. Prior to issuance of any permits for development of the site, the applicant/property owner shall obtain the necessary encroachment permits from the Maricopa County Department of Transportation for landscaping or other improvements within the public right-of-way.
- f. All interior streets within the proposed development are to be constructed to minimum County standards.
- g. Development and use of the site shall comply with requirements for fire hydrant placement and other fire protection measures as deemed necessary by the applicable fire department.
- h. All outdoor lighting shall conform with the Maricopa County Zoning Ordinance.
- i. Non-compliance with the zoning exhibit and narrative report, or the conditions of approval will be treated as a violation in accordance with provisions of the Maricopa County Zoning Ordinance.

Supervisor Stapley recused himself from this case because of a possible conflict of interest, and left the dais. Joy Rich reported on the background of this case. Queen Creek has indicated concerns on a number of architectural and design issues related to this request that they would like addressed, and the town also asked that the property be required to annex into Queen Creek. Ms. Rich said, "Under the County's statutory authority these folks could have gone forward without a subdivision and simply lot-split" the area. She said that from staff's perspective this is a very good application.

Motion was made by Supervisor Brock, seconded by Supervisor Wilcox, and unanimously carried (4-0-0-1) to concur with the recommendation from the Planning Commission for approval with stipulations "a" through "i."

~ Supervisor Stapley returned to the dais ~

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13. **Z2004050** **District 1**
Applicant: Mary Ann Parry of Greenfield Land Development for John & Lisa Burns and Dane & Rebecca Parker
Location: Northwest corner of Riggs Rd. & 164th St. (in the Gilbert area)
Request: Rezone from Rural-43 to R1-35 for a single-family residential parcel - Greenfield Acres III Exception Parcel (1.27 ac.)

COMMISSION ACTION: Commissioner Masel moved to recommend approval of Z2004050, subject to the following stipulations "a" through "d". Commissioner Pugmire seconded the motion, which passed with a unanimous vote of 8-0.

- a. Development of the site shall comply with the zoning exhibit entitled "Greenfield Acres III Re-zoning Exception" consisting of 1 sheet, dated May 24, 2004 and stamped received May 25, 2004, except as modified by the following stipulations.
- b. Development shall be in conformance with the narrative report entitled "Narrative Report for Z2004050 – Greenfield Acres III", consisting of 2 pages, stamped received June 8, 2004, except as modified by the following stipulations.
- c. Dedication of additional rights-of-way to bring the total half-width dedication to 70' for Riggs Rd. and 25' for 164th St. shall occur within 6 months of approval of this request by the Board of Supervisors and prior to zoning clearance.
- d. Noncompliance with the conditions of approval will be treated as a violation in accordance with the Maricopa County Zoning Ordinance. Further, noncompliance of the conditions of approval may be grounds for the Commission to take action in accordance with the Maricopa County Zoning Ordinance.

Joy Rich said this complies with the County Area Plan and the Gilbert Area Plan. No opposition has been received from Gilbert or Chandler. She said this is "a remnant piece that was omitted from the rezoning in a previous case" and this brings that zoning into compliance with what was approved for the rest of the property. The recommendation is for approval.

Motion was made by Supervisor Brock, seconded by Supervisor Stapley, and unanimously carried (5-0) to concur with the recommendation from the Planning Commission for approval with stipulations "a" through "d."

MEETING ADJOURNED

There being no further business to come before the Board, the meeting was adjourned.

Andrew Kunasek, Chairman of the Board

ATTEST:

Fran McCarroll, Clerk of the Board