



MARICOPA COUNTY, ARIZONA

Board of Adjustment

Minutes

August 15, 2019

CALL TO ORDER: Chairman Morris called meeting to order at 10:05 a.m.

**ROLL CALL/
MEMBERS PRESENT:** Mr. Jason Morris
Mr. Greg Loper
Ms. Fern Ward
Mr. Craig Cardon

MEMBERS ABSENT: Mr. Jeff Schwartz

STAFF PRESENT: Mr. Darren Gerard, Planning Services Manager
Ms. Rachel Applegate, Senior Planner
Mr. Glenn Bak, Planner
Mr. Ray Banker, Planner
Mr. Martin Martell, Planner
Mr. Farhad Tavassoli, Planner
Ms. Rosalie Pinney, Recording Secretary

COUNTY AGENCIES: Mr. Wayne Peck, County Attorney

ANNOUNCEMENTS: Chairman Morris made all standard announcements.

AGENDA ITEMS: BA2019025, BA2019028, BA2019029, BA2019001, BA2019026,
BA2019031, BA2019032, TU2019018

WITHDRAWN

BA2019025 **Orangewood Plaza (Cont. from 7/18/19)** **District 2**
Applicant: Jeff Rogers, Custom Homes
Location: 207 S. 98th Way – 98th Way & Balsam Ave. in the East Mesa area
Zoning: R-5
Request: Variance to permit:
1) Proposed side setback of 7.74' (north property line) where 10' is the minimum permitted

No action required by the Board.

CONSENT AGENDA

BA2019028 **Green Property** **District 2**
Applicant: Claire Cook
Location: Northeast corner of Elmwood St. and 96th St. in the Mesa area

Zoning: Rural-43
Requests: Variance to permit:
 1) A lot area of 38,131 sq. ft. where 43,560 sq. ft. is the minimum permitted and;
 2) A lot width of 125' where 145' is the minimum permitted

BA2019029 **Cook Property** **District 3**
Applicants: David & Claudia Cook
Location: 3221 W. Long Rifle Rd. in the New River area
Zoning: Rural-43
Request: Variance to permit:
 1) Proposed east side setback of 13' where 30' is the minimum permitted

Mr. Gerard presented the consent agenda.

BOARD ACTION: Member Loper motioned to approve the consent agenda. BA2019028 with conditions 'a'-'c', and BA2019029 with conditions 'a'-'c'. Member Cardon second. Approved 4-0.

BA2019028 conditions;

- a) General compliance with the site plan stamped received July 2, 2019.
- b) All required building permit for proposed development shall be applied for within 120 days of the hearing date unless otherwise directed by the Board. Failure to apply for any required building permit within the specified time, or to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2019029 conditions;

- a) General compliance with the site plan stamped received July 23, 2019.
- b) Failure to complete necessary construction within one year from the date of approval, shall negate the Board's approval.
- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

REGULAR AGENDA

BA2019001 **Contreras Property** **District 5**
Applicant: Keogh Engineering, Inc.
Location: 8109 S. 140th Ln. – 140th Ave. & Beverly Rd. in the Goodyear area
Zoning: Rural-43
Request: Variance to permit:

- 1) Existing hillside disturbance of 14,932 sq. ft. outside the lot's principle building envelope where hillside disturbance is prohibited outside the lot's buildable area

Mr. Bak presented BA2019001 and noted there's no violations on the property and no known opposition.

Mr. Dennis Keogh said he is the engineer representing the property owner and he is the second engineer to work on this project. He was in charge of the grading and drainage plan and he designed a plan for current hillside. Some grading occurred in the past, but he was not aware of it. He believes the vegetation will naturally re-vegetate.

BOARD ACTION: Member Ward motioned to approve BA2019001 with conditions 'a'-'c'. Member Cardon second. Approved 4-0.

- a) General compliance with the site plan stamped received July 17, 2018.
- b) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.
- c) All disturbance (other than driveway/roadway) outside the proposed building envelope shall be revegetated with indigenous ground cover to stabilize finished slope contours.

BA2019026

Applicants:

Location:

Zoning:

Requests:

Smith Property

Judson Smith & Karla Flores

17802 E. San Tan Blvd., in the Queen Creek area

Rural-43 RUPD

Variance to permit:

- 1) Proposed lot width of 105' where 120' is the minimum permitted per the Chandler Heights Citrus Track Unit 3626 RUPD and;
- 2) Proposed lot area of 22,076 sq. ft. where 35,000 sq. ft. is the minimum permitted per the Chandler Heights Citrus Track Unit 3626 and;
- 3) Proposed rear setbacks of 20' where 25' is the minimum permitted per the Chandler Heights Citrus Track Unit 3626

District 1

Mr. Martell presented BA2019026 and noted the existing home on the property was constructed in 1963. The variance request is a result of a lot split which occurred right before the current property owners purchased the subject property. The Chandler Heights voluntary rezoning to Rural-43 RUPD addressed many parcels in this area with non-conforming development standards. The rezoning case remedied the unique scenario of the Chandler Heights area by allowing lot sizes and widths which are similar to R1-35 zoning, and similar setbacks to the R-4 zoning district, and the use regulations similar to Rural-43. The subject lot was created by a lot split in violation of the RU-43 zoning district with a substandard lot area and width which is a self-created hardship. The applicant proposes to repair and renovate a dilapidated residence on the newly created lot. They are requesting a variance to allow a total lot size of 22,070 square feet where 35,000 is the standard in Rural-43 RUPD. They are also requesting another variance to permit a lot width of 105 feet where 120 feet is the minimum lot width. Plus a third variance to

reduce the rear yard setback to 20 feet where 25 feet is the minimum permitted. The applicant has failed to demonstrate that there is a peculiar condition facing the property because the rectangular lot was split from the parent parcel from the previous property owner and then purchased by the current land owner without conducting a due diligent investigation of the development standards. They failed to demonstrate any undue physical hardship that prevents the development of the property, and failed to demonstrate the peculiar condition / physical hardship is not self-created in the line of title. The lot to the west can be combined to the subject parcel rendering a variance unnecessary, and the land division occurred after the area was rezoned.

Mr. Thomas Baldrick, the property owner said it is listed that Judd and Karla Smith are owners of the property, but they offered him 50 percent stake which he accepted in early April. His name was then added to the revised quit claim deed submitted to the County. When he bought the property it was supposed to be a much needed step up, not a painful fall back. The property is in bad condition and it's considered an abandoned house and not livable. They did rid the place of many high weeds and improved safety concerns including beehives and rodents. Judd and Karla Smith trusted the seller and their realtor, who happens to be the seller's son. His mistake was he trusted his friends and did not challenge through proper due diligence. Judd reached out to a man with construction and real estate expertise in the Chandler Heights Citrus Tract area, and he told us about the legal problems of an undersized lot. We researched nearby properties and some suggested we bypass the County as others have done. We didn't want to do that as we honor the rules. We owned our mistake and learned from it the right way. On August 7, a strong monsoon stormed through the property and the next morning the signs posted by the County were blown away. We called the County not knowing the impact this would have on us and Mr. Martell seemed to appreciate the honest effort. We did a community outreach and sent letters with no known opposition. The woman who sold the property to us still owns three to four acres to the north and have their entire acreage for sale. Judd contacted her son the realtor about acquiring more land, but he never got back to us. We do not have the interest or anywhere near the funds to buy that entire property, and this is no way a solution to our problem. Within one mile of us are 14 half-acre or less properties sold this year with a house just like the one we are asking permission to have. There are more properties like ours in this area with old rundown homes. This variance request would not hurt surrounding property values and would not hurt anyone. A newly renovated home on our property would only enhance the neighborhood by replacing this vacant eyesore on a heavy traffic road. As part of his research and learning he attended the July hearing to observe and how the Board handled themselves as County officials and human beings gave him hope. He is asking the members of the Board to please approve the variance request, and please don't punish him for an honest mistake.

Chairman Morris said he appreciates his presentation and his efforts to outreach the neighbors.

BOARD ACTION: Member Cardon motioned to approve BA2019026 with conditions 'a'-'c'. Vice Chairman Loper second. Approved 4-0.

- a) General compliance with the site plan stamped received July 5, 2019.
- b) Failure to complete necessary construction within one (1) year from the date of approval, shall negate the Board's approval.

- c) Satisfaction of all applicable Maricopa County Zoning Ordinance requirements, Drainage Regulations, and Building Safety codes.

BA2019031

France Property

District 4

Applicant:

Warren France

Location:

1824 W. Galvin St. – 83rd Ave. & Pinnacle Peak Rd. in the Peoria area

Zoning:

Rural-43

Request:

Variance to permit:

- 1) Existing hillside disturbance of 3,008 sq. ft. outside the lot's principal buildable envelope where hillside disturbance is prohibited

Mr. Tavassoli presented BA2019031 and noted the subject parcel is predominantly hillside with most parcels in the area developed with single-family homes, with exception to those adjacent to the Phoenix Mountain Preserve to the south and the east. The parcel covers 10.3 acres and there's considerable acreage to develop without need for a variance. There is a mid-section alignment traversing north/south through the center of the parcel, and per ordinance an 80' future right-of-way reservation plus a 20' street side setback on either side of the mid-section line. To the north is a 120' swath of unbuildable land that pushes development to the east and west. The applicant is considering splitting the parcel into four 2-1/2 acre parcels. Its staff's opinion that the existing conditions of the site do not present any physical hardship, and that the location of the proposed residence and disturbance area is only the applicant's preference. The applicant has failed to demonstrate that there is a peculiar condition facing the property because there are no topographical conditions on the property that necessitate grading/disturbance outside the principal building envelope. There are viable alternatives available to the property, such as moving the residence further east of the west property line. This variance is not warranted.

Mr. Warren France, the property owner said he is here with Mr. James Martin the civil engineer who has helped design the original grading plan. The Phoenix Mountain Preserve is to the south and west of the property, and MCDOT has a right-of-way that they abandoned at their request along the west property line. They donated some of the native plants for the City of Phoenix to take and replant in the preserve. There's over a hundred mature saguaro cactus on the property, and with that location of the property they wanted to avoid disturbing or removing any of those saguaro cactus. There's a wash that runs through the southern portion of the property and relocation of the house from its current planned location would move the grading on the south and west side of the property. It would move it into this wash that shouldn't be disturbed for natural drainage. It is their intent to maintain the beauty of this area, and one of the suggestions by staff was a retaining wall 15 feet high and 100 feet long if they're not able to disturb the grading in the setback area. You can see this area for miles and that wall would be a bit contrary to the aesthetics of the overall area.

Mr. Martin said this is a unique area since they are abutting the preserve and there's not much development in the area. Grading in that setback really isn't impacting any kind of future development.

Vice Chairman Loper said he understands why you can't go south and east and asked why you can't go north and east. Mr. France said they contemplated the division of this property into four 2-1/2 acre parcels and they are committed to that. They haven't done it yet since they are currently working with APS for access to power for each of the four lots, and the design is not complete. When they subdivide they will create utility easements that will allow for power and

water to all of the lots. He doesn't know if moving it to the north and east with that ultimate subdivision will allow the grading to not interfere with the other lots.

Vice Chairman Loper said with four lots or less they don't go through a County platting process and it's just a minor land division. If this was already split that's a different consideration than going against a regulation so that you can split for future plans for an economic return.

Chairman Morris asked if they have a plan to plat the property or just doing a minor land division through the County. Mr. France said he believes a minor land division.

Chairman Morris asked is this your residence or a spec home you are building. Mr. France said a spec home. He and his son have a small enterprise building spec homes and they build one a year. They are both employed fulltime by other companies and do this as a hobby. He is close to retirement and they started building homes so he'll have something to do during retirement.

Chairman Morris said you are moving forward with a speculative home on one lot with the idea subsequent to that, you're going to do a minor land division and convey the other lots with homes. Mr. France said yes that is the intent. They have built four homes previously in a one-mile radius of this area, and he has lived in this area for 40 years. They are committed to the beauty and aesthetics of the area and the culture of the neighborhood.

Chairman Morris said it is such a large piece of land and the entire application is over one percent of additional disturbance. You have a lot of room to play with to get out of that one percent, so it is a struggle for us. We like to work with property owners wherever we can but we also try and stay within the bounds when absolutely necessary.

Chairman Morris asked with the abandonment on the west are they including that access way and get all or half of that back when it was abandoned. Mr. France said it would have taken a further movement of the development to the east with a right-of-way reduction waiver.

Mr. France said the zoning was approved back in November of 2018 and the septic location was not acceptable to Maricopa County Environmental, so we had to move the septic tank. That was the only change that was made and the house location and grading remained the same. The resubmittal of the new location for the septic system prompted a complete re-review of the zoning portion.

Mr. Peck said he doesn't believe there was a MCDOT abandonment. When MCDOT has alignments very often they will reserve the areas on either side of those alignments for the development of potential future right-of-way. MCDOT doesn't own it, but they try to keep people from building in there. If we ever have to condemn it we don't have to deal with buildings or any kind of structures. The widening to the limits of what we're reserving for the future is so far down the road and waived in that area, so they released the property which was really his property.

Mr. Peck said he would like to address the question asked twice in two different cases with the timing of the lot split as it relates to the sell or purchase of that split lot. The lot always has to be split first, because you can't sell a lot until you've split it. Although it appears to be simultaneously, the order of recording of the documents is very important. In this case to convey anything he would have to complete the lot split then convey it. In order for it to be a legal lot split it would

have to have some kind of access and the square footage would have to meet the underlining zoning requirement, otherwise it's an illegal lot split. Mr. France said he doesn't think anything they intend to do is contrary to what you're describing.

Mr. Peck said the staff report indicates if you divide it up you'd have 2-1/2 acre lots and that's fine because it exceeds the underlining zoning requirement.

Member Ward asked if the zoning is denied and you move it to the northeast with the 2-1/2 acres you'd still have adequate land to subdivide four ways. Mr. France said to move it would then create a need for grading on the southeast lot that has not been split yet, and it would change the whole geometry of the property.

Member Ward said you would have enough land to accommodate four splits as you originally determined to do.

Mr. Gerard said the only variance they are talking about is disturbance within the rear west setback and for the applicant to proceed with permits is to have a design that doesn't have the grading disturbance in that 30 foot area. There's plenty of room to work even if you're just looking at the two to three acres in that southwest quadrant. Any previous approval appears to have been done erroneously. There's not a lot split before us.

Chairman Morris asked how large the proposed residence is. Mr. France said it's 5,000 square feet with garage and patios.

Chairman Morris said your comment about the retaining wall would be the alternative to grading in that area. Mr. France said yes.

Chairman Morris said he represents this district and he is very familiar with the area, and it looks like a beautiful plan. He is going to suggest a continuance for 30 days to look at the civil site to limit the disturbance you're showing or eliminating the disturbance, and coming back with an explanation as to why it can't be eliminated. If this were a single 2-1/2 acre lot we would have better understanding of why there aren't alternatives, and with this large piece of land we're focused on an area where there's numerous alternatives.

Vice Chairman Loper said he understands and appreciates the ultimate goal, but it's difficult for him to support a variance based on this large acreage to accommodate your future plans. When you come back make sure you are showing where your septic field is going to be, your alternative, and your back up area. These things might impact it but to think of some different options, and it would be great if you could make it work with your plans and not have to do a variance.

BOARD ACTION: Chairman Morris motioned to continue BA2019031 to the September 19, 2019 hearing. Vice Chairman Loper second. Continued 4-0.

BA2019032
Applicant:
Location:
Zoning:
Request:

Rivera Property
Manuel A. Inurriaga, M & M Civil Engineering
10423 S. 40th Dr. in the Laveen area
Rural-43
Variance to permit:

District 5

1) Proposed hillside disturbance (grading) outside the lot's principal buildable envelope

Mr. Banker presented BA2019032 and noted the one acre site is currently vacant and has a pending permit to construct a two-story single-family residence with accessory structures all within the building envelope. Approximately 9,400 square feet or 20 percent of the property would be outside of the lot's principal building envelope within the hillside areas mostly on the south and east sides of the property, but also portions of the north side of the parcel. The applicant provides their justification that there's a wash on the west side of the property which limits their ability to construct in this area, and there would be issues with meeting the 30 foot height requirement if built elsewhere. There is also a 20 foot wide ingress/egress easement for 40th Drive that includes a portion of the west side of the subject lot. Staff doesn't believe there's a peculiar condition facing the property, although the site meets the minimum one acre requirement for zoning and the lot is approximately 40 percent hillside. Staff does not believe there's a physical hardship preventing development on the property. There are alternatives available such as reducing the footprint of the proposed residence and accessory structures, redesigning the layout and elevations as well as adding retaining walls. They could also relocate the proposed development more west and still outside the wash. There's no known opposition to this request, and believes there's a member of the public to speak on this matter.

Mr. Manuel Inurriaga said he is the engineer for the Rivera project and there's some concerns with the property. On the west side is the wash but we also have to add a 20 foot erosion setback that we need to stay out of, and between the hillside area and the erosion setback there's only 8,164 square feet within the building envelope. The area that is considered non-hillside still has a twelve percent slope. The southeast corner of the property and the southeast corner of the house has a fall of ten feet, and in between the southeast corner of the proposed house and the northwest corner of the casita we still have 15 feet of fall. Even if we use retaining walls it would be tough to stay within 30 feet of maximum height from the house in retrospect to the natural ground, and it's the only elevation that will work in that lot. Even though County staff has some considerations there are some technical considerations that we have to look at. If we lower the finished floor then we cannot achieve the distance that we need from the southeast corner to get to the southeast corner of the house. If we raise the finished floor then we would be over 30 feet high from the top of the house to the existing ground. That's why we are obligated to encroach beyond the building setbacks.

Vice Chairman Loper asked does the bold line that runs along a portion of the southern boundary and angles up indicate a retaining wall that would have to be in place even with the variance. Mr. Inurriaga said no that is a vertical curve to prevent water from hitting directly into the house, it's a half foot of additional protection. If we needed to build a retaining wall there it would be only five or six feet from the house which would eliminate the view to the east side and part of the northeast.

Chairman Morris asked how big the proposed house is. Mr. Inurriaga said 5,200 square feet, and it's only 12 percent of the lot area when 25 percent of the lot is allowed to be built, so we are way within the buildable area.

Member Cardon asked is there a way to configure the home with the size that you want to fit within that twelve percent slope area. Mr. Inurriaga said twelve percent is very steep even if it was a smaller house maybe half of that size. It's going to make it impossible to keep the elevation

and still be 30 feet from the existing ground to the top of the house to the maximum height, and the house is only one-story.

Mr. Gerard said other than the wash bed the site is pretty steep so the portions that are hillside technically are 15 percent or greater but you probably could not eyeball the difference between 12 to 13 percent slope.

Mr. Jerry Kizziar a neighbor in opposition said he is speaking on behalf of several members in the community that were not able to attend today. We all live in the immediate surrounding area. He requests a denial because there is a lot of concerns and one concern is the water, and he didn't see a water plan. Currently the wells in that area are over 600 feet deep and they are dry. You dig into a foot of ground and you are hitting solid granite, and any disturbance to that area would need to be blasted which would be months of construction. This is something they don't want to experience. What they are seeing here today is somebody trying to fit a size 13 foot into a size 10 shoe when it comes to the housing envelope.

Vice Chairman Loper asked your three reasons are water, the ground condition and the building envelope. Mr. Kizziar said the area that is buildable with a 5,000 square foot house and the amount of hillside that's going to be disturbed destroying the natural beauty of the land is a concern. He doesn't see anything on the plans with septic and this will expand outside the footprint, and changes as the build goes on.

Member Ward asked how was your street affected by the floods about two years ago from the storm with the water coming above you. Mr. Kizziar said he had water running into the front entry way of his house in 2014, this is where the wash is incredibly active. He maintains the roads in the area and he is consistently having to backfill the wash where the water is very heavy in that area during strong storms. Elliott Road located directly north of us is typically hit worse, where it's under two to three feet of water.

Member Ward said she has a concern with anything on that hill because the homes above that flood the homes below every time.

Mr. Kizziar said he would like to see nice homes come into the area. The land shouldn't have been subdivided with the types of houses you see in this area. The lot size should be twice the size and that creates a buildable footprint for a house. Most of the people buying land is seeing how cheap the land is, but they can't do anything with it. You can't get water and utilities and it is impossible to build on with the granite.

Chairman Morris asked did you get a chance to speak with the applicant or the property owner. Mr. Kizziar said no. He didn't hear about the variance hearing until yesterday and the sign was down when it was previously posted. His wife noticed it when he was flying back from Dallas yesterday. He rallied the neighbors to find out what was going on and talked to Mr. Banker this morning, so he came down for the support of the neighborhood.

Chairman Morris said the concerns you brought to our attention are outside of our purview. We do not control where wells are drilled and what occurs with the ground water or services to this property. We won't have a direct impact where the sewer will be located but it's always good for us to know those things. In terms of the construction standards and what may occur, we are a Board of Adjustment that looks at the land and the property conditions to see what could

occur. This is an acre lot in an area that's appropriately zoned. The property owner has the opportunity to come before us to request a variance with a property condition in this instance like a wash that limits the developable area. He likes to have the applicant, the property owner and the neighbors have an opportunity to get together especially when there are concerns. Often times a property owner doesn't know there's concerns if they are not contacted, and this is the first opportunity for you to meet.

Member Cardon said he echoes the comments for an opportunity for the land owner and neighbors to talk to discuss this case.

Vice Chairman Loper said he agrees and they may still disagree after they meet, but at least they would get the opportunity discuss this and maybe the applicant could take a look at drainage. He supports a continuance.

Chairman Morris asked if Flood Control has had any comments as far as the grading and drainage plan. Mr. Banker said they typically don't comment on these because it's not against one of their regulations and there's no objections from drainage review.

Mr. Inurriaga said there is no issue with hydrology and on the grading plan he shows both the septic system and the proposed well. The owner has been talking to the hydrologist and they are aware the land is dry and it's going to be an expensive hard dig to that area. Chairman Morris said if there are residents nearby it's always good to reach out to those neighbors and try to get their support early. This is something this Board likes to see even if you can't come to a resolution, just having that contact means a lot.

Member Cardon said the purpose for the continuance is to allow time for them to speak with the neighbors.

BOARD ACTION: Member Ward motioned to continue BA2019032 to the September 19, 2019 hearing. Vice Chairman Loper second. Continued 4-0.

TU2019018	Scarizona Halloween Event	District 1
Applicant:	Allen Thompson	
Location:	1901 N. Alma School Road in the Mesa area	
Zoning:	Rural-43 (Mining Exemption)	
Request:	Temporary Use Permit (TUP) for Halloween themed event with amusements and outdoor music	

Mr. Martell presented TU2019018 and noted there's no known violations or opposition on the property. The existing property was developed as an industrial mining operation for excavation of sand and gravel to manufacture concrete in the early 1960's. The operation has not been used for several years and the land use has been abandoned. The total area of the subject parcel is 36.4 acres. The applicant proposes to temporarily use the subject property for a Halloween event and Fall music festival between September 28 and through November 2, 2019. The Halloween event will start at 7:00 p.m. and last until 12:00 a.m. and the music festival will start at 11:00 a.m. and last until 10:00 p.m. Operations for the Halloween event will occur Thursday through Sunday and the music festival will be held on Saturday and Sundays. An updated narrative received today revised the hours of operation for the music festival which will be listed in the stipulation if this gets approved. The Halloween event will consist of two 5,000 square foot temporary structures adjacent to an

existing structure which have no building permits on record and constructed in the early 1970's. The Halloween event will also offer an interactive zombie paintball shooting gallery held around the breezeway of the existing buildings and temporary structures. Vendors will handle food, lighting, portable water and restroom facilities, and security will be done by off-duty Maricopa County Sheriff Officers. The applicant has applied for a Temporary Use Permit on five separate occasions starting in 2015. Each year these events have gradually been more intense with more traffic and a lot more visitors. On three different TUP application approval letters, they have been informed the temporary events would require a Special Use Permit, and staff recommends denial for this Temporary Use Permit. The applicant submitted a proposal to change the zoning on the property from Rural-43 to C-3 general commercial with a CUPD overlay.

Mr. Gerard said for clarification for a few years there's been a series of Temporary Use Permits for special events and staff has begun taking opposition to those because this is an ongoing event venue and there's a permanent solution to access, paving, dust control, retention and restroom facilities. We do have a request in for permanent zoning entitlement which if done appropriately will address those issues.

Chairman Morris asked if it's successfully rezoned to C-3 would this become a use by right. Mr. Gerard said that is correct.

Vice Chairman Loper said the basis for denial is because you'd like the hard zoning for it. Mr. Martell said that is correct.

Mr. Bill Lally with Tiffany and Bosco said he is representing the applicant, Mr. Thompson. They started off having events at a site to the north off of Pima Road and operated there for many years. They moved to this larger site with better access off of Alma School Road, and each year it's gotten bigger and bigger and it's only held for a 30 day Halloween season. The applicant can rezone 40 acres to commercial, industrial or a Special Use Permit for 30 days of the year and spend a couple hundred thousand dollars or just ask for another TUP next year, but his plan now is to have year round events starting off in the fall with more concerts. It makes sense now to go through the rezoning process. It is an industrial site and we have a hard commercial zoning application pending. Hopefully in a few months we'll have that permanent zoning in place and not be back in front of the Board.

Chairman Morris asked if they need to go through Arizona Department of Transportation (ADOT) to get any other approvals for any traffic modification or traffic direction. Mr. Lally said they are not accessing the freeway directly and we're a few hundred feet to the north. As we go through the zoning application it will be routed to ADOT and they will review their access plan.

Chairman Morris asked when running these events is it going to be third party administered or vendors that are directly responsible to the property owner. Mr. Allen Thompson said he is the representative for Scarizona and the plan going forward would be to host outside events like many other municipality venues so we could do food truck shows, concerts, and art shows on the eight acres of grass. We would be the overall operators, but we would also have third parties working with us to help put these events on.

Chairman Morris said this property is ideally situated for the type of use we are discussing and it makes sense to have a commercial designation on this. He understands staff's position where procedurally it has outgrown a temporary use, and there's nothing temporary about it. The fact

the applicant has filed for rezoning gives him a lot more comfort with the temporary use. If they don't continue to pursue this application he doesn't think the Board would be favorable to any additional temporary uses, but he doesn't see that happening and this is a good faith effort to change the underlying zoning.

Member Cardon said he agrees the rezoning is certainly a good faith effort to address the County's concerns and timing is certainly an issue for this event.

Mr. Gerard said he suggests the maker of the motion and the second consider revising conditions 'b' and 'c'. Condition 'b' to reference today's date for the narrative report and condition 'c' to change the time to 11 a.m. to midnight.

Chairman Morris said the motion maker and the second are amenable to that amendment.

Mr. Peck asked does the motion include all of the conditions and changes by Mr. Gerard. Member Cardon said yes.

BOARD ACTION: Member Cardon motioned to approve TU2019018 with conditions 'a'-'k' and modifications to conditions 'b' and 'c'. Member Ward second. Approved 4-0.

- a. Development of the site shall comply with the entitled site plan, "Scarizona Temporary Event 2019", stamped received July 15, 2019, consisting of one (1) sheet, except as modified by any condition identified herein.
- b. Use of the site shall be in conformance with the Narrative Report, entitled "October Halloween/Fall Festival Special Event", stamped received ~~July 15~~ **August 15**, 2019, consisting of one (1) sheet, except as modified by any condition identified herein.
- c. This Temporary Use Permit is authorized for events on the following dates: September 28, 2019 through November 2, 2019, with start time of ~~12 p.m.~~ **11 a.m.** and end time of ~~11 p.m.~~ **12 a.m.** Changes in proposed dates shall be provided to staff at least two (2) weeks in advance of the change in event dates. This Temporary Use Permit shall expire on **November 2, 2019**. The Temporary Use Permit letter must be visibly displayed at the front of the property at all times. Failure to meet this display requirement shall result in revocation of the Temporary Use Permit if a Zoning Citation is issued.
- d. Structures erected pursuant to an approved Temporary Use Permit shall not require a building permit if standing for a period not to exceed 96 contiguous hours. The responsible party shall provide the Affidavit of Structures for Temporary Events documentation, as specified in the Temporary Use Permit that said structures were erected and maintained subject to all applicable building safety codes and manufacturer's specifications. The documentation shall be provided to the Department within two working days following end of the special event to be filed with the Temporary Use Permit. Failure to provide the required documents will render the Temporary Use Permit null and void and constitute a zoning violation in accordance with Chapter 15 of the Maricopa County Zoning Ordinance.

- e. The Temporary Use must be removed at the end of the approved time period. All temporary structures must be removed, and the site returned to its original condition or better upon completion of each event. No structures shall be erected more than **72 hours** before the start of the event from which this permit is issued. All structures shall be removed within **72 hours** following the end of the event for which this permit is issued.
- f. Prior to any event, food concessions shall be permitted by Maricopa County Environmental Services Department (MCESD).
- g. Alcohol is not permitted on site unless a Liquor License is obtained through the Clerk of the Board.
- h. The applicant or property owner/s will be responsible for contacting their applicable emergency and fire protection agency for medical/emergency services and fire protection.
- i. A Temporary Access-Track Out permit for the driveway must be obtained prior to any use on the site with Maricopa County Department of Transportation.
- j. Upon expiration or termination of the Temporary Use Permit, the temporary use shall cease. Any temporary or mobile structures shall be removed **within ten (10) days** of said expiration or termination. Any alterations to the principal or accessory buildings or structures should be issued permits within **ten (10) days** and shall be completed and finalized within 30 days of expiration.
- k. The Temporary Event or Special Event shall adhere to the Board of Supervisors Resolution, December 1980 as applicable which establishes guidelines and conditions for temporary uses. The following conditions shall apply:

Security

- 1. At least one patrol officer or security guard for every 500 persons in attendance.

Access to Event

- 2. The applicant shall provide adequate ingress and egress to the premises and parking areas. Traffic guards shall be employed to insure orderly traffic movement and relieve traffic congestion onto public rights-of-way.

Water and Wastewater

- 3. The applicant shall provide an ample supply of water for drinking and sanitation purposes. The quality and quantity of water and location of facilities shall be approved by the Maricopa County Environmental Services Department.
- 4. Supplemental toilet facilities must be provided for every special event. At least one closed toilet facility marked MEN and at least one closed toilet marked WOMEN shall be provided. A toilet for each 40 males and for each 40 females expected to

attend the event may be required; the number and location of toilets shall be approved by the Maricopa County Environmental Services Department.

Concessions

5. Concessionaries must be licensed. The quality and quantity of food and location of concessions shall be approved by the Maricopa County Environmental Services Department.

Refuse

6. At least one trash can with 32 gallons capacity for every 25 persons expected to be in attendance shall be provided. Trash and refuse disposal shall be pursuant to procedures established by the Maricopa County Environmental Services Department.

Outdoor Lighting

7. Temporary uses conducted after dark shall provide lighting to insure public areas are adequately illuminated. All outdoor lighting shall be shielded so that it is directed downward below the horizontal plane of the fixture and does not trespass onto adjacent properties.

Camping

8. No overnight camping is allowed with this Temporary Use Permit.

Adjournment:

Chairman Morris adjourned the meeting of August 15, 2019 at 11:40 a.m.

Prepared by Rosalie Pinney
Recording Secretary
August 15, 2019