

**MINUTES OF THE REGULAR MEETING**  
**OF THE**  
**PLANNING AND ZONING COMMISSION**

March 28, 2019  
9:30 a.m.

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

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**MEMBERS PRESENT:**

Mr. Jimmy Lindblom, Chairman  
Mr. Nathan Andersen  
Mr. Greg Arnett  
Mr. Bruce Burrows  
Mr. Michael Cowley  
Mr. Broc Hiatt  
Ms. Jennifer Ruby  
Mr. Lucas Schlosser

**MEMBERS ABSENT:**

Ms. Francisca Montoya, Vice Chair  
Mr. Robert Zamora

**STAFF PRESENT:**

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

**COUNTY AGENCIES:**

Mr. Wayne Peck, County Attorney

**CONTINUANCE:**

**MCP2018003**

**CONSENT:**

**Z2018111, S2018036, S2018028**

**REGULAR:**

**Z2018134**

Chairman Lindblom called the meeting to order at 9:35 a.m.

Chairman Lindblom asked if there were any changes or comments to the January 17 minutes, none.

**COMMISSION ACTION: Chairman Lindblom approved the January 17, 2019 minutes as written.**

Chairman Lindblom said agenda item #4 - MCP2018003 is moving to the continuance agenda per the applicant's request.

## CONTINUANCE AGENDA

### Military Compatibility Permit - MCP2018003

**District 4**

Applicant: Francisco Badilla  
Location: Generally located 790' west of the southwest corner of Alsup Ave. and Myrtle Ave. in the Glendale area  
Request: Military Compatibility Permit with precise Plan of Development for RF Pipeline Storage Facility

Ms. Applegate presented MCP2018003 and noted the applicant requested a continuance to May 16 to allow additional time to work on sound mitigation and traffic.

**COMMISSION ACTION: Commissioner Schlosser motioned to continue MCP2018003 to the May 16, 2019 hearing. Commissioner Burrows second. Continued 8-0.**

## CONSENT AGENDA

### Zoning - Z2018111 (Cont. from 3/14/19)

**District 4**

Applicant: Jorge Villasenor, EPS Group Inc.  
Location: Generally located south of Maryland Ave. and ¼ mile west of El Mirage Rd. in the Litchfield Park area  
Request: Zone Change from R1-8 to R1-8 RUPD - Maryland Ridge Estates RUPD

### Preliminary Plat - S2018036 (Cont. from 3/14/19)

**District 4**

Applicant: Jorge Villasenor, EPS Group Inc.  
Location: Generally located south of Maryland Ave. and ¼ mile west of El Mirage Rd. in the Litchfield Park area  
Request: Preliminary Plat for 60 lots and 7 tracts in the R1-8 RUPD zoning district-Maryland Ridge Estates Preliminary Plat

### Preliminary Plat - S2018028

**District 2**

Applicant: Coe and Van Loo, LLC  
Location: Northeast corner of Rio Verde Dr. and Verde River Way East in the Rio Verde area  
Request: Preliminary Plat containing 179 residential lots and 13 tracts in the R1-6 RUPD PAD (Unit 6A) and R-3 RUPD PAD (Unit 6C) zoning districts

Ms. Applegate presented the consent agenda.

**COMMISSION ACTION: Commissioner Burrows motioned to approve Z2018111 with conditions 'a'-'i', S2018036 with conditions 'a'-'q', and S2018028 with conditions 'a'-'o'. Commissioner Ruby second. Approved 8-0.**

### **Z2018111 conditions;**

- a. Development of the site shall be in substantial conformance with the Zoning Exhibit entitled "Existing and Proposed Zoning", consisting of 1 full-size sheet,

dated October 3, 2018, and stamped received October 5, 2018, except as modified by the following conditions.

- b. Development and use of the site shall in substantial conformance with the Narrative Report entitled "Narrative for Maryland Ridge Estates", consisting of 34 pages, dated December 21, 2018, and stamped received December 21, 2018, except as modified by the following conditions.
- c. The applicant/property owner shall submit a 'will serve' letter for fire protection services for the project site. A copy of the 'will serve' letter shall be required as part of the initial construction permit submittal.
- d. All buildings subject to noise attenuation as per ARS § 28-8482(B).
- e. The master developer shall notify future homeowners that they are located within the state-defined "territory in the vicinity of a military airport" with the following language:

"You are buying a home or property in the 'vicinity of a military airport' as described by State of Arizona statute ARS §28-8481. Your house should include sound attenuation measures as directed by State law. You will be subject to direct over flights and noise by Luke Air Force Base jet aircraft in the vicinity.

Luke Air Force Base executes over 200,000 flight operations per year, at an average of approximately 170 overflights per day. Although Luke's primary flight paths are located within 20 miles from the base, jet noise will be apparent throughout the area as aircraft transient to and from the Barry M. Goldwater Gunnery Range and other flight training areas.

Luke Air Force Base may launch and recover aircraft in either direction off its runways oriented to the southwest and northeast. Noise will be more noticeable during overcast sky conditions due to noise reflections off the clouds.

Luke Air Force Base's normal flying hours extend from 7:00 a.m. until approximately midnight, Monday through Friday, but some limited flying will occur outside these hours and during most weekends.

Such notification shall be recorded on all Final Plats, be permanently posted on not less than a 3 foot by 5 foot sign in front of all home sales offices, be permanently posted on the front door of all home sales offices on not less than an 8½ inch by 11 inch sign, and be included in all covenants, conditions, and restrictions (CC&Rs) as well as the Public Report and conveyance documents.

For further information, please check the Luke Air Force Base website or contact the Maricopa County Planning and Development Department.”

- f. Noncompliance with any Maricopa County Regulation shall be grounds for initiating a revocation of this Zone Change as set forth in the Maricopa County Zoning Ordinance.
- g. The following R1-8 RUPD standards shall apply:
  - 1. Front yard: 22' for livable and 14' for side loaded garage
  - 2. Side yard: 5'
  - 3. Rear yard: 15'
  - 4. Lot Width: 70'
  - 5. Lot coverage: 55%
- h. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.
- i. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation of the Zone Change. The Zone Change enhances the value of the property above its value as of the date the Zone Change is granted and reverting to the prior zoning results in the same value of the property as if the Zone Change had never been granted.

**S2018036 conditions;**

- a. The Final Plat shall be in substantial conformance with the Preliminary Plat entitled "Maryland Ridge Estates" consisting of 3 full-size sheets, dated January 24, 2019, and stamped received January 28, 2019, except as modified by the following conditions.
- b. Development and use of the site shall in substantial conformance with the Narrative Report entitled "Narrative for Maryland Ridge Estates", consisting of 34 pages, dated December 21, 2018, and stamped received December 21, 2018, except as modified by the following conditions.
- c. Development of the site shall be generally consistent with the Landscape Plan entitled "Conceptual Landscape Plan", consisting of 1 sheet, dated October 3, 2018, and stamped received October 4, 2018, except as modified by the following conditions.

- d. Prior to Final Plat and Infrastructure Permit submittal, the applicant is required to attend a pre-submittal meeting in order to coordinate the permitting process for improvements, fees, and assurances associated with the subdivision. Intake of the Final Plat and Infrastructure permit shall be by appointment only.
- e. Concurrent with submittal of Final Plat, Improvement Plans shall be submitted to the Planning and Development Department.
- f. The following Planning Engineering comments shall apply to the Final Plat:
  - 1. The half width right-of-way dedication for the following roadways:
 

127 <sup>th</sup> Avenue	40 feet
Maryland Avenue	40 feet
  - 2. Provide the First Flush calculations for the entire subdivision. Identify that Retention Basin B2 has enough volume provided so the overflow does not include the first flush volume.
  - 3. The calculations to show the Retention Basin B3 system will drain between 24 and 36 hours.
  - 4. The street capacity for Citrus Way must include the overflow volume that will travel from Retention Basin B2 to Retention Basin B3 system.
  - 5. Offsite Channel Calculations must be designed per DPSM Standard 6.8.3 and Table 6.12.
  - 6. For the Building Permit Approval, the off-site channel along the south property line will be required to have the proper depth and freeboard along its north side. The south side of the channel must match its existing grade to allow historic off-site flows to enter the channel.
  - 7. Improvements to Maryland Avenue by the Falcon View Subdivision Development shall be shown as existing conditions.
  - 8. Site Access off Maryland Avenue must align with the Falcon View 125<sup>th</sup> Drive alignment. An alternative is to have the centerlines separated 250-ft apart from each other.
- g. After Final Plat recordation and prior to any zoning clearance for building permits, the applicant shall obtain a final Grading and Drainage and Infrastructure permit from Maricopa County.

- h. Prior to Final Plat approval, Water and Wastewater Plans shall be submitted to and approved by the Maricopa County Department of Environmental Services (MCESD) subject to their procedures.
- i. The Final Plat shall include dedication of right-of-way as required by the related request Z2018111 and as deemed necessary by the Maricopa County Department of Transportation (MCDOT) unless the required dedication has been completed by deed of dedication prior to the final plat approval.
- j. Prior to or concurrent with the submittal of a Final Plat for any portion or phase of this development, a traffic impact analysis must be provided as deemed necessary by the Maricopa County Department of Transportation (MCDOT).
- k. Specific roadway cross-sections and pavement sections are not approved as shown on the Preliminary Plat. The number and width of lanes, including turn and auxiliary lanes, as well as pavement thickness, will be approved on construction improvement plans in conjunction with the Final Plat, in compliance with the Traffic Impact Statement (TIS) approved by the Maricopa County Department of Transportation (MCDOT).
- l. Prior to Final Plat approval or issuance of a grading permit, developer(s) and/or builder(s) shall establish emergency fire protection services, covering all real property contained within the project area during course of construction and shall obtain a 'will serve' letter substantiating coverage from Rural Metro. This information shall be included in the narrative report for the Final Plat and the associated public report for the subdivision. The Final Plat shall contain a note referencing the will serve letter.
- m. An archeological survey shall be submitted to and approved by the Arizona State Historic Preservation Office prior to issuance of a grading permit or approval of a Final Plat. The applicant must contact the state office prior to initiating disturbance of the site. The applicant shall provide the Planning and Development Department with written proof of compliance with this condition.
- n. The master developer shall notify future homeowners that they are located within the state-defined "territory in the vicinity of a military airport" with the following language:  
  
"You are buying a home or property in the 'vicinity of a military airport' as described by State of Arizona statute ARS §28-8481. Your house should include sound attenuation measures as directed by State law. You will be subject to direct over flights and noise by Luke Air Force Base jet aircraft in the vicinity.

Luke Air Force Base executes over 200,000 flight operations per year, at an average of approximately 170 overflights per day. Although Luke's primary flight paths are located within 20 miles from the base, jet noise will be apparent throughout the area as aircraft transient to and from the Barry M. Goldwater Gunnery Range and other flight training areas.

Luke Air Force Base may launch and recover aircraft in either direction off its runways oriented to the southwest and northeast. Noise will be more noticeable during overcast sky conditions due to noise reflections off the clouds.

Luke Air Force Base's normal flying hours extend from 7:00 a.m. until approximately midnight, Monday through Friday, but some limited flying will occur outside these hours and during most weekends.

Such notification shall be recorded on all Final Plats, be permanently posted on not less than a 3 foot by 5 foot sign in front of all home sales offices, be permanently posted on the front door of all home sales offices on not less than an 8½ inch by 11 inch sign, and be included in all covenants, conditions, and restrictions (CC&Rs) as well as the Public Report and conveyance documents.

For further information, please check the Luke Air Force Base website at or contact the Maricopa County Planning and Development Department."

- o. The applicant/owner shall comply with the standard assurance provisions as set forth in the Maricopa County Subdivision Regulations.
- p. Preliminary Plat approval shall expire two (2) years from the date of Commission approval. Any request for an extension of time shall be submitted prior to the expiration date and may be administratively approved in accordance with the Maricopa County Subdivision Regulations.
- q. The Final Plat shall include a note that states that there shall be no further division of land or delineation of parcels within the area of this subdivision plat without approval by the Board of Supervisors.

**S2018028 conditions;**

- a. The Final Plat shall be in substantial conformance with the Preliminary Plat entitled "Preliminary Plat for Verde River – Phase 6 Units 6A and 6C" consisting of 9 full-size sheets, dated February 25, 2019, and stamped received February 25, 2019, except as modified by the following conditions.
- b. Development and use of the site shall comply with the Narrative Report entitled "Verde River Phase 6 Units 6A and 6C", consisting of 13 pages, dated February 25, 2019, and stamped received February 25, 2019, except as modified by the following conditions.

- c. Prior to Final Plat and Infrastructure Permit submittal, the applicant is required to attend a pre-submittal meeting in order to coordinate the permitting process for improvements, fees, and assurances associated with the subdivision. Intake of the Final Plat and Infrastructure permit shall be by appointment only.
- d. The following Planning Engineering conditions shall apply:
  - 1. The site contains regulated floodplains (Rio Verde Wash). Disturbance to the floodplain(s) will require a floodplain use permit (issued concurrent with any building permit(s)).
  - 2. The CLOMR needs to be approved by the Flood Control District before any grading permit can be approved by Planning and Development.
  - 3. Site visibility triangles, conforming to MCDOT Roadway Design Manual Section 9.2.1 must be depicted on the grading and drainage plans (at Verde River Way East).
  - 4. One permanent point of access and one emergency point of access shall be provided for each Unit (6A and 6C) independently of each other. Any access road crossing a drainage corridor must be designed with a flow depth not to exceed 8 inches per Table 6.7 of the Drainage Policies and Standards.
  - 5. Private streets must be constructed to MCDOT's (structural) pavement requirements. Private street construction will be inspected by MCDOT.
- e. Concurrent with submittal of Final Plat, Improvement Plans shall be submitted to the Planning and Development Department.
- f. After Final Plat recordation and prior to any zoning clearance for building permits, the applicant shall obtain a final Grading and Drainage and Infrastructure permit from Maricopa County.
- g. Prior to Final Plat approval, Water and Wastewater Plans shall be submitted to and approved by the Maricopa County Department of Environmental Services (MCESD) subject to their procedures.
- h. Specific roadway cross-sections and pavement sections are not approved as shown on the Preliminary Plat. The number and width of lanes, including turn and auxiliary lanes, as well as pavement thickness, will be approved on construction improvement plans in conjunction with the Final Plat, in compliance with the Traffic Impact Statement (TIS) approved by the Maricopa County Department of Transportation (MCDOT).



- i. Prior to Final Plat approval or issuance of a grading permit, developer(s) and/or builder(s) shall establish emergency fire protection services, covering all real property contained within the project area during course of construction and shall obtain a 'will serve' letter substantiating coverage from Rio Verde Fire District. This information shall be included in the narrative report for the Final Plat and the associated public report for the subdivision. The Final Plat shall contain a note referencing the will serve letter.
- j. The applicant/owner shall comply with the standard assurance provisions as set forth in the Maricopa County Subdivision Regulations.
- k. The applicant/property owner shall submit a 'will serve' letter from Rio Verde Utilities for water services for the project site. A copy of the 'will serve' letter shall be required as part of the initial construction permit submittal.
- l. The applicant/property owner shall submit a 'will serve' letter from Rio Verde Utilities for wastewater services for the project site. A copy of the 'will serve' letter shall be required as part of the initial construction permit submittal.
- m. Preliminary Plat approval shall expire two (2) years from the date of Commission approval. Any request for an extension of time shall be submitted prior to the expiration date and may be administratively approved in accordance with the Maricopa County Subdivision Regulations.
- n. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.
- o. The Final Plat shall include a note that states that there shall be no further division of land or delineation of parcels within the area of this subdivision plat without approval by the Board of Supervisors.

### **REGULAR AGENDA**

#### **Zoning - Z2018134**

#### **District 3**

Applicant:	Adam Baugh, Withey Morris PLC
Location:	Generally located approx. 670' northeast of the northwest corner of Cave Creek Rd. and Lone Mountain Rd. in the Phoenix area
Request:	Zone Change with overlay from Rural-43 to C-2 CUPD – Toy Barn North

Mr. Ray Banker presented Z2018134 and noted the applicant is planning to build a self-storage facility on the western parcel like the already approved facility south of the site. The eastern parcel does not have a Plan of Development at this time. Staff has received

eight documents in opposition including the adjacent neighbor to the west and two neighbors north of the site. There is one document in support from an adjacent neighbor north of the site. The opposition has issues with commercial development in a residential rural area, traffic caused by this development, and having too many storage facilities. The applicant is requesting relief from certain standards from setbacks and parking, and to increase the height of the required screen wall from six feet to eight feet. The wall is to be located adjacent to the rural zoned properties to help mitigate impact of the development from these adjacent properties. Access would be directly from Cave Creek Road, and no commercial traffic through the residential neighborhoods. The undeveloped portion of the site would not be adjacent to any existing homes, and the property to the south is already commercial and developed. To the west is the Toy Barn, to the east is Cave Creek Road, and to the north is property owned by the City of Phoenix. Staff is recommending approval as detailed in the staff report.

Mr. Adam Baugh with Withey Morris said this is quite different than a self-storage facility. Toy Barn on Lone Mountain is next to this as Phase 1 and this is Phase 2. Toy Barn gives an opportunity to store recreational vehicles, classic cars, boats, quads and trailers. It's primarily classic car collectors where this gives them a chance to buy a property here to store these things, and they can add in mezzanines or lifts. This is their fourth facility and they have had tremendous success. Surrounding this property to the south is a storage facility, gas station and shopping center, plus Toy Barn 1. On the east side is a day care and commercial shopping center, and to the north is vacant land owned by the City of Phoenix, and Forest Pleasant with two different canine training schools that operate as commercial uses under existing SUP's. Cave Creek Road is your major transportation corridor with a lot of traffic more than any other street in the area. There are some site challenges with an odd shaped parcel. It is zoned rural but it has limitations because of the surrounding circumstances. Two washes cut through the site and the largest challenge is the shape because of its depth and size, and it can't lend itself to a typical residential use. Residential uses requires two points of access, but this has no access to any of the residential neighborhoods to the north and to the west. It lacks the sufficient width to have two points of access on Cave Creek Road. This limits the ability to be anything else. The proposal is for a privately owned condo platted storage unit, with their own air-conditioning, internet, phone, and television. They are individually owned and managed by a commercial property association and there's an owner's clubhouse. This is a very quiet low intensive use. Retirees put their stuff in here and come back once a month or even seasonally. The owner's like the cleanliness aspect, and the CC&R's prohibit it to be used for residential purposes, or operating a business or vehicle maintenance or repairs. It's compatible because its right next to commercial uses and a major arterial street, low trips, low lighting and zero noise make them an optimal neighbor. The property owners that own four parcels directly north of us wrote letters of support. When we originally filed this application we put a sign up on the property and sent letters out that generated a couple of inquiries. They did have a neighborhood meeting at the Toy Barn where people could take a tour of the facility, and had a chance to identify their concerns and address them. Five people attended the first meeting and they also had a second meeting. There's a letter from Mr. John Slate, he owns a property north of us and it backs up to one of these buildings. We agreed to do certain things with lighting, plant salvage and replanting, plus we agreed to raise the walls to eight feet. For a C-2 use there will be very few trips, only nine parking spaces, no

noise, and feels vacant. The height is the same as residential zoning today and there's no pole mounted lighting only building mounted. It's the same type of lighting you have in the rear of your patio home. We'll have a 34 foot and 21 foot side yard setback, and 58 feet for a rear yard setback greater than residential setbacks.

Commissioner Ruby asked you are calling the north and south side the side yards and the rear yard is the west? Mr. Baugh said correct.

Commissioner Ruby said there is a requested deviation on that west side setback from 25 to 10 feet, but you just mentioned 58 feet. Mr. Baugh said our building setback is 58 feet from the west property line, and in this case we didn't submit a precise plan.

Mr. Gerard said it is likely there's to be splits within this zoning district and multiple parcels, so the setbacks that are requested with the CUPD will apply to future parcels as well.

Mr. Baugh said on the western building there's a landscape setback on the western edge at 10 feet and the building from the edge of landscape setback is another 48 feet.

Commissioner Ruby asked is the request for the deviation just in case you're not able to do this, and if you think you have 58 feet she just doesn't understand the deviation request. Mr. Baugh said we needed the deviation because on the south side some of the units but up against the residential to the south, and we don't need a deviation on the west side.

Ms. Kathy Critcher said she lives directly behind where they are planning to put Toy Barn 2, and she moved to the area 15 years ago to get away from the rat race of the city. She raised her children on this property where it was peaceful and they didn't need to look at anything in the distance except for a building that was already there. Then Toy Barn 1 was built and instead of seeing trees and desert and land, she sees a big gray building with LED lights 350 feet away, but she was okay with that. She doesn't mind seeing some buildings in the distance, and most of them were there when she moved there. Rezoning this land to commercial would greatly affect the quality of life for herself and the community, and it will make the dark skies less dark as it already is with Toy Barn 1. The proposed building will be the length of her back yard and 21 feet away. She said picture yourself in your own backyard sitting there with your family or friends to have a barbecue and you look up and 50 feet away is this huge gray building where you used to just look at your trees and your pool. Picture how you would feel, are you happy in your back yard now? Is your home value the same and is your peacefulness the same, no it's not. If you do find it absolutely necessary to rezone this rural land think about having this out by Cave Creek Road where there is a storage center, an auto store and a gas station where we drive them we don't look at them. She doesn't want to look at this in her backyard and you wouldn't either.

Mr. Alan Sudder said his backyard is adjacent to the property and he moved out there eight years ago because he needed peace and quiet. He wanted to stay there and retire, he is a Vietnam veteran with PTSD and he doesn't know what will happen. He might have to move if it gets too busy. He enjoys the views he has with horses on the left and to the right and its nice and peaceful. The lights from the Toy Barn 1 shine right on his

property and he tries to ignore it, but it drives him nuts. He is concerned because he heard Toy Barn 2 will be 20 feet from his property.

Mr. Baugh said when the first commercial shopping center came in it abutted next to rural residential, and as its expanded its abutted next to rural residential. It's part of the nature of growth that's in this area. It's what you would expect to see at a major arterial intersection particularly on Cave Creek Road that has the type of volume of traffic that is similar to what Highway 260 might be. They tried to find something that's appropriate for its context and its scale. It has some rural zoning in the area and it has a lot of commercial use occurring right across the street from Ms. Critcher's house including a canine facility. Even on her property there's a dozen or so different vehicles, storage trailers, haulers and campers that are being stored on that property for commercial purposes but not through the appropriate zoning. This wasn't their first idea, they had a residential plan but it has a single point of access off of Cave Creek Road and there's no secondary access point anywhere to the north, south or west. Unfortunately you need two points of access for residential that you don't necessarily need for commercial. The plan wasn't feasible. You do have to have some density on the project to make it work, and this is better than what the alternative could be. There's very low lighting with no lighting extensions or poles or anything to that effect. What we can do to alleviate some concerns is to propose a stipulation - there shouldn't be building mounted lighting on the perimeter buildings that face the residential homes. This isn't rental storage where you rent a 10'x30' unit and come every weekend to change things out. These are owner occupied and sell at a premium with very low trips. It's the best way to utilize a very odd shaped property that has significant impacts. He doesn't know where he can find a better alternative for this type of property given the impacts in place. It's unlikely to be developed for residential purposes given its constraints, and this proposed zoning is a better transitional use than what can otherwise be on the property.

Ms. Critcher said looking at a 30 foot tall building is not her idea of nature and it's not going to enhance their community. If homes were to be built they would have people, dogs, and children that want to see horses. That's what America's about, not tall gray buildings.

Commissioner Arnett said it's an interesting property and how to buffer between commercial and residential. It is a great use because it tones down what it can be. Today they are talking about the zoning and it could be full C-2 zoning without this use. Mr. Gerard said they have sewer to this site and primarily when they limit uses because of the lack of infrastructure. Staff viewed the original Toy Barn as a buffer between the shopping center and the large lot residential, and C-2 CUPD zoning is varying development standards but it would allow future development and redevelopment with all C-2 entitled uses.

Mr. Baugh said thankfully we have a CUPD vehicle which allows you to modify standards as well as limit certain uses, so what they can do is limit things like residential occupancy, operating a business out of the storage building, and prohibiting any dead vehicle storage. Those type of things they could prescribe in part with the Toy Barn storage. The commercial frontage along Cave Creek Road is only next to the City of Phoenix Water

Department parcel and that would be for future commercial business, and wouldn't restrict it on that part just behind the neighbors' homes.

Commissioner Arnett said to want something that is nice and calm then nobody wants anything there, but you can't do that to a landowner. You can limit the lighting since you don't want it to be an auto shop but that's not what we are deciding today.

Commissioner Andersen asked isn't there already a stipulation that says development of the site needs to be in conformance with the narrative, and wouldn't they have to come back through the public process, and in theory if they didn't build a Toy Barn it could be those more intense uses? Mr. Gerard said a plan of development could be approved administratively, and he believes stipulation 'a' speaks to a plan of development type condition and not necessarily the zoning entitlement.

Chairman Lindblom said that is a good point, what if Toy Barn does not happen and we approve C-2, did we just open the door for something worse. We need to be mindful and how it impacts the neighbors.

Commissioner Ruby asked if the use is not in compliance with that narrative is that a violation of the zoning approval. Mr. Gerard said it is memorialized in the zoning case so we could bring that back. They could do a stipulation modification but the County has always tried to accommodate developers, and consolidate plans of development into zoning cases. This is specifically a plan of development type of stipulation. Ultimately this is a question that would have to be carried to the hearing officer if we were to try and prosecute any type of zoning consistent with the narrative.

Commissioner Hiatt said he thought he heard Mr. Gerard say a change in the plan can be approved administratively instead of through the public process, and asked if he misunderstood. Mr. Gerard said a plan of development is an administrative process and what you're really looking at today is the zoning and the development standards for that zoning.

Commissioner Hiatt asked if the plans for the Toy Barn were scrapped and it was zoned C-2, administratively they could build something else? Mr. Gerard said yes.

Commissioner Hiatt said he agrees with Commissioner Arnett and this is something that we need to address. Commissioner Ruby said she agrees.

Chairman Lindblom asked what our options to address that are. Mr. Gerard said we can do some type of stipulation to limit uses in the western half of this CUPD zoning district.

Mr. Baugh said they have two parcels here and they can add a stipulation that applies to that specific APN on the west side so that way it doesn't limit the commercial frontage from going. He provided some language to staff that would get you in the direction you are looking to go – on the western APN there shall be no residential occupancy, no business enterprise, no vehicle repair and no dead vehicle storage. No business enterprise cuts off any commercial activity that would occur on that western parcel, and

no vehicle repair and no dead vehicle storage, would address the noise tinkering or operating an auto body repair. These things would be precluded by that.

Commissioner Arnett said this is their backyard and it should be quiet and clean and by saying there can be no business activity there satisfies his concerns.

Commissioner Hiatt asked are these setback variances needed for the development as shown on the western parcel. Mr. Baugh said there are two APN's and on the front commercial you have a 25 foot landscape setback, on the back of the commercial it abuts the Toy Barn so we changed it to 10 to only apply to that area.

Commissioner Hiatt asked would it be possible to limit these variances to the eastern parcel only. Mr. Baugh said the western parcel, yes.

Commissioner Hiatt said he is speaking specifically of the setbacks. Mr. Baugh said maybe we add a stipulation that the western setback applies to the eastern parcel.

Mr. Gerard said if we are changing this level of stipulations he'd prefer this case be continued so that we can draft a revised document. It is not familiar enough to say what has varied from the base C-2 here on the western parcel, and we need to retool the proposed new stipulation to indicate the CUPD shall limit use of the APN, and list that parcel number to a self-storage or related facility.

Chairman Lindblom said he has zero reservations of the commercial piece that abuts against the existing city facility, and he asked the applicant if they are okay with a continuance. Mr. Baugh said he wants them to be comfortable, and if it is necessary for them to do and he asked if two weeks would work or does it have to be a full month out.

Mr. Gerard said it sounds like the concern is the setback to the north and he doesn't believe there is opposition to the south or the west. Commissioner Ruby said she disagrees, she is concerned with that western setback because what we are doing in this document is providing a variance. We have seen a site plan that shows 58 feet and that's the way the site is going to layout but we've created a deviation and we have opposition from that particular neighbor.

Mr. Baugh said if it would make it any easier to remove the deviation request for the western side so it doesn't become a concern. Mr. Gerard said for clarification we are talking about 'd.2' minimum rear yard setback 10 feet. Mr. Baugh said yes.

Chairman Lindblom said he doesn't want the applicant to wait longer than necessary and if we can work through it.

Mr. Gerard said what he is hearing is deleting stipulation 'd.2' – minimum rear yard setback 10' and adding 'd.5' – the CUPD shall limit use of APN and list that western parcel number self-storage or similar facility, and a new stipulation 'g' – no building mounted lighting adjacent to residential zoning.

Chairman Lindblom said that sounds correct to him, and asked do we address the two different parcels. Mr. Gerard said yes since we are deleting the rear setback which would be the west, and we're eliminating the use of that western parcel.

Commissioner Arnett said he is in full support of that if the applicant's willingness to do that.

Commissioner Hiatt asked Mr. Gerard to read those three changes again to be clear. Mr. Gerard said his understanding is in paragraph 15, currently stipulations 'a'-'f' and to delete 'd.2' - the minimum rear yard setback, this would comply with the base zoning district standard, add 'd.5' – limit use of the western parcel and list the APN to self-storage or related facility, and new condition 'g' – no building mounted lighting shall be adjacent to the residential zoning.

Commissioner Hiatt asked are those changes acceptable to the applicant. Mr. Baugh said yes. Commissioner Hiatt said he is in support.

Mr. Gerard said he is comfortable moving forward.

Chairman Lindblom said it is great we take the time to pause to review these changes. He is comfortable with the use, the buffer, and the changes we made.

**COMMISSION ACTION: Commissioner Ruby motioned to approve Z2018134 with conditions 'a'-'g' with recommended modifications to condition 'd' to eliminate 'd.2' with relabeling and inclusion of conditions 'd.4' and 'g' as follows. Commissioner Arnett second. Approved 8-0.**

- a. Development of the site shall be in general conformance with the narrative report entitled "Toy Barn North", consisting of 15 pages including the zoning exhibit, stamped received on February 12, 2019.
- b. The following Maricopa County Engineering conditions shall apply:
  1. Without the submittal of a precise plan of development, no development approval is inferred by this review, including, but not limited to drainage design, access and roadway alignments. These items will be addressed as development plans progress and are submitted to the County for further review and/or entitlement.
  2. The historic flows entering and exiting the property must be maintained.
  3. The applicant must coordinate with the City of Phoenix to properly access the site and for dedication of appropriate right-of-way.
- c. The following Maricopa County Environmental Services (MCESD) conditions shall apply:

1. Development and engineering design shall be in conformance with the Maricopa County Stormwater Quality Management and Discharge Control Regulation. The owner/developer shall prepare a Stormwater Site Plan and obtain approval by MCESD prior to construction (a separate submittal to MCESD is required).
  2. Upon completion of construction, the owner shall fulfill MCESD post-construction requirements. This will include appropriate operation and maintenance requirements.
- d. The following C-2 CUPD standards shall apply:
1. Minimum side yard setback: 10' north/0' to the south
  2. ~~Minimum rear yard setback: 10'~~
  2. Parking: 9 spaces (7 standard, 2 ADA) for condo storage development
  3. Screening: 8' (h) solid wall along side and rear property lines abutting rural and residential zoning districts
  4. **The CUPD shall limit the use of the western parcel (APN 211-35-007B) to self-storage or similar facility.**
- e. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.
- f. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation of the Zone Change. The Zone Change enhances the value of the property above its value as of the date the Zone Change is granted and reverting to the prior zoning results in the same value of the property as if the Zone Change had never been granted.
- g. **There shall be no building mounted lighting on the external side of any perimeter buildings adjacent to residential zoning.**

Chairman Lindblom adjourned the meeting at 10:26 a.m.

Prepared by Rosalie Pinney  
Recording Secretary  
March 28, 2019