



MEMORANDUM

DEVELOPMENT SERVICES DEPARTMENT - PLANNING DIVISION

TO: Chairman and Members, Pima County Planning and Zoning Commission

FROM: Arlan Colton, Executive Secretary

RE: Pima County Planning and Zoning Commission Hearing of **March 27, 2013**

DATE: March 28, 2013

This abstract is subject to editing and amending. Please let us know promptly if you believe there are any omissions or corrections; otherwise, we will proceed on this basis.

Arlan Colton, Executive Secretary

The meeting was called to order at 9:00 a.m. at the Public Works Building, 201 N. Stone Avenue, Basement Level, Conference Room C, Tucson, Arizona.

1) **ROLL CALL:**

PRESENT

ABSENT

William Matter, Chair
Jenny Neeley, Vice-Chair
Bonnie Poulos
Randall R. Holdridge
Howard L. Richey
Armando Membriila
Thomas Spendiarian
Bob Cook *Left at 12:00 p.m.*
Corey Smith *Left at 12:00 p.m.*
Lynne Mangold

TEN MEMBERS PRESENT

ALSO PRESENT

Arlan Colton, Planning Director
Chris Poirier, Assistant Planning Director
Terri Tillman, Senior Planner
Celia Turner, Recording Secretary

Greg Saxe, Environmental Plan. Mgr., RFCD
Maggie Shaw, Sr. Civil Eng. DOT

- 2) **PLEDGE OF ALLEGIANCE**
- 3) **CONSENT AGENDA (UNADVERTISED PUBLIC HEARING)**

A) B-123 APPROVAL OF FEBRUARY 27, 2013

B) B-218 MONTHLY REPORTS TO THE P/Z COMMISSION

Monthly reports from Development Services Department for enterprise fund, total fees collected, services activity report and permits issued and from the planning division for total fees collected and services activity report.

Item B was not presented to the Commission this month.

ON MOTION, it was

Voted: To **APPROVE** item A on the Consent Agenda as presented.

The motion **PASSED** (8 – 0; Commissioners Spendiarian and Cook were absent).

CONDITIONAL USE PERMIT FOR PUBLIC HEARING

- 4) **P21-13-005 – 100 ESTRELLA LLC – NORTH AJO GILA BEND HWY.**

Request of Arizona Natural Remedies Inc.,(applicant) on property located at 742 and 750 N. Ajo Gila Bend Hwy. in Ajo, Arizona, in the **CB-2 (general business) Zone**, for a Medical Marijuana Dispensary, in accordance with Section 18.45.040D of the Pima County Zoning Code as a Type III conditional use permit. (District 3)

ON MOTION, it was

Voted: To **APPROVE** subject to the following Standard and Special Conditions:

Standard Conditions

- 1. Conformance with all performance standards, requirements and stipulations of Section 18.45.040.D of the Pima County Zoning Code (wherein a Medical Marijuana Dispensary is prescribed as a conditional use in the CB-2 zone).

Special Conditions

- 1. The applicant shall, within fourteen (14) days of the Planning & Zoning Commission public hearing on this matter, provide a written certification that addresses each and every item enumerated in Section 18.45.040.D of the Pima County Zoning Code and which describes how each of these various standards and performance requirements are met.
- 2. Prior to issuance of the conditional use permit, the applicant shall submit a final site plan to Pima County, which must be reviewed by the Deputy Chief Zoning Inspector, for adequate compliance with the following:
 - a. The existing asphalt pavement area on the property shall be striped appropriately to provide for the full required number of vehicular spaces as stipulated by the Pima County Zoning Code.

- b. The size/dimensions of all parking spaces and parking area access lanes (PAAL's) shall be in accordance with Pima County standards.
 - c. Disabled parking space(s) and a designated pedestrian route from them to the building entrance shall be provided in accordance with Pima County standards.
 - d. A minimum six-foot (6') tall, continuous screening element shall be installed along the site's entire eastern boundary so as to provide a visual screen of the facility from the adjacent residences directly to the east.
 - e. The existing open vehicular access along the site's State Route 85 and W. 1st Street frontages shall be maintained in its current state so as to allow free and open visibility into the site from these frontages by law enforcement personnel.
 - f. Within the property boundary, provide delineation of the driveway access on 1st. Street with striping, planters or some other acceptable barrier that will define the access to the site and control access along the site's 1st. Street frontage.
 - g. Within the property boundary, provide post and cable or fencing to further delineate the access to the site that controls traffic along the site's 2nd. Ave. (Ajo-Gila bend Highway) frontage.
 - h. Written certification from Arizona Department of Transportation, stating satisfactory compliance with all its requirements shall be submitted to Development Services Department prior to issuance of the certificate of occupancy.
3. The items enumerated in Item #2 above shall be physically installed on the site prior to the facility being officially opened for business.
4. In consideration of Pima County Zoning Code Section 18.45.040.D.6 (Permit Conditions), which prescribes certain options and obligations to the Board of Supervisors in the interest of conserving and promoting the public health, safety, convenience, and general welfare, the enumerated items of sub-section D.6.a through D.6.i are hereby incorporated, as follows, as further special conditions and requirements on this conditional use permit:
- a. This conditional use permit shall expire two (2) years from the date of its issuance; the applicant is required to file a new conditional use permit application and procure approval of same prior to the expiration date in order to preserve uninterrupted operation of the facility.
 - b. The medical marijuana dispensary shall meet all security requirements adopted by the Arizona Department of Health Services.
 - c. The storage facilities for the medical marijuana stored or grown on site shall prevent the emission of dust, fumes, vapors or odors into the environment.
 - d. The owner/operator shall secure a certification from the State Fire Marshall, or from another acceptable entity responsible for fire safety in the area in which the medical marijuana dispensary is to be located, stating that the structure complies with all fire code requirements and must supply that certification to the development services department.
 - e. The medical marijuana dispensary is prohibited from providing or offering any service that furnishes offsite delivery of the medical marijuana.
 - f. The medical marijuana dispensary is prohibited from permitting anyone to consume marijuana on the premises.
 - g. The medical marijuana dispensary building shall be setback a minimum of one hundred twenty-five feet (125') from any adjacent lot or parcel containing an established residential use.
 - h. The medical marijuana dispensary building shall be setback a minimum of one hundred twenty-five feet (125') from any adjacent property with a residential zoning classification.
 - i. The medical marijuana dispensary shall comply with applicable sections of Title 8 of

the Pima County Code.

The motion **PASSED** (10 – 0)

WAIVER OF PLATTING REQUIREMENTS FOR PUBLIC HEARING

5) Co9-13-01 2006 RUPPRECHT FAMILY TRUST – VALLEY VIEW ROAD REZONING (CATALINA FOOTHILLS ZONING PLAN WAIVER OF PLATTING REQUIREMENTS)

Request of Hugh and Melanie Rupprecht for a waiver of the platting requirements of the Catalina Foothills Zoning Plan. The applicant requests the waiver on approximately 3.98 acres from **SR (Suburban Ranch)** to **CR-1 (Single Residence)** on property located approximately one-half (1/2) mile south of Sunrise Drive on the west side of Valley View Road. The proposed waiver substantially conforms to the Catalina Foothills Zoning Plan (Co13-59-04) and The Pima County Comprehensive Plan (Co7-00-20). (District 1)

ON MOTION, it was

Voted: To **APPROVE** subject to the following Standard and Special Conditions:

Completion of the following requirements within **five** years from the date the rezoning request is approved by the Board of Supervisors:

1. Submittal of a development plan if determined necessary by the appropriate County agencies.
2. Recording of a covenant holding Pima County harmless in the event of flooding.
3. Recording of the necessary development related covenants as determined appropriate by the various County agencies.
4. Provision of development related assurances as required by the appropriate agencies.
5. Prior to the preparation of the development related covenants and any required dedication, a title report (current to within 60 days) evidencing ownership of the property shall be submitted to the Development Services Department.
6. There shall be no further lot splitting or subdividing of residential development without the written approval of the Board of Supervisors.
7. Transportation Conditions:
 - A. Any common, private roadway/driveway serving more than one dwelling unit shall be paved (chip sealed) within six (6) months of the issuance of building permits.
 - B. Recording of an access control easement along Valley View Road frontage except for the existing two access easements.
 - C. Access is restricted to the two existing access easements with no new driveway access to Valley View Road.
8. Flood Control conditions:
 - A. Prior to issuance of any building permits for the subject property(s) a hydrology study must be submitted to PCRFCDD for approval that

determines the floodplain limits, building elevations and erosion hazard setback, building pads shall be identified that avoid floodplain and erosion hazard setbacks.

- B. EPA Watersense toilets at 1.28 gpf and low flow faucets shall be required for interior use, and other water savings features, such as side-loading washers, refrigerators with filtered indoor water system, and central-core plumbing shall be used as options for the dwellings.
 - C. Low Impact Development (LID) water harvesting should be incorporated into landscaping, paving and parking areas to irrigate native vegetation planted on the site exterior
9. Environmental Quality conditions:
- A. The property shall be served by public or private sewer.
 - B. Prior to the commencement of construction of any grading, land clearing, or earthmoving of more than one (1) acre, any road construction of more than fifty (50) feet, or any trenching of more than three hundred (300) feet, an Air Quality Activity Permit shall be obtained.
10. Wastewater Management conditions:
- A. The owner/developer shall not construe any action by Pima County as a commitment to provide sewer service to any new development within the rezoning area until Pima County executes an agreement with the owner/developer to that effect.
 - B. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation Department that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the Pima County Regional Wastewater Reclamation Department.
 - C. The owner/developer shall time all new development within the rezoning area to coincide with the availability of treatment and conveyance capacity in the downstream public sewerage system.
 - D. The owner/developer shall connect all development within the rezoning area to Pima County's public sewer system at the location and in the manner specified by the Regional Wastewater Reclamation Department in its capacity response letter and as specified by the Development Services Department at the time of review of the tentative plat, development plan, sewer construction plan, or request for building permit.
 - E. The owner/developer shall fund, design and construct all off-site and on-site sewers necessary to serve the rezoning area, in the manner specified at the time of review of the tentative plat, development plan, sewer construction plan or request for building permit.

- F. The owner/developer shall complete the construction of all necessary public and/or private sewerage facilities as required by all applicable agreements with Pima County, and all applicable regulations, including the Clean Water Act and those promulgated by Arizona Department of Environmental Quality, before treatment and conveyance capacity in the downstream public sewerage system will be permanently committed for any new development within the rezoning area.

11. Cultural Resources condition:

- A. Following rezoning approval, any subsequent development requiring a Type II grading permit shall be reviewed for compliance with Pima County's cultural resources requirements under Chapter 18.81 of the Pima County Zoning Code.
- B. In the event that human remains, including human skeletal remains, cremations, and/or ceremonial objects and funerary objects are found during excavation or construction, ground disturbing activities must cease in the immediate vicinity of the discovery. State Laws ARS 41-865 and/or ARS 41-844 require that the Arizona State Museum be notified of the discovery at (520) 621-4795 so that appropriate arrangements can be made for the repatriation and reburial of the remains by cultural groups who claim cultural or religious affinity to them. The human remains will be removed from the site by a professional archaeologist pending consultation and review by the Arizona State Museum and the concerned cultural groups.

~~12. Natural Resources, Parks and Recreation Department condition:~~

~~An in-lieu as described in Chapter 18.69.090.C.2.c of the Pima County Zoning Code shall be assessed for each of the proposed three new lots before approval of building permits on the individual lots. The in-lieu fee shall be \$1,820 per lot.~~

13. 12. Environmental Planning condition:

Upon the effective date of the rezoning ordinance associated with this rezoning, the owner(s)/developer(s) shall have a continuing responsibility to remove buffelgrass (*Pennisetum ciliare*) from the property. Acceptable methods of removal include chemical treatment, physical removal, or other known effective means of removal. This obligation shall transfers to any future owners of property within the rezoning site and Pima County may enforce this rezoning condition against the current or any future property owner. Prior to issuance of the certificate of compliance, the owner(s)/developer(s) shall record a covenant, to run with the land, memorializing the terms of this condition.

14. 13. The following conditions shall be required in support of County Sustainability Initiatives, Resolution 2007-84:

- A. Employ water harvesting techniques with site design and grading. Direct roof runoff into landscaped areas using swales and micro basins to irrigate vegetation. Alternatively, use the water conservation techniques of the Pima County Green Building Program. The water-harvesting plan shall be

approved by Development Services and shall be approved by the Flood Control District.

- B. Green building concepts for energy and water conservation, minimizing solid waste, recycling building materials, and reducing greenhouse gases shall be used to the maximum extent possible.

~~15.~~ 14. Adherence to the sketch plan as approved at public hearing, with a restriction that only one additional lot can be created instead of the total of four shown on the plan.

~~16.~~ 15. In the event the subject property is annexed, the property owner shall adhere to all applicable rezoning conditions, including, but not limited to, development conditions which require financial contributions to, or construction of infrastructure, including without limitation, transportation, flood control, or sewer facilities.

~~17.~~ 16. The property owner shall execute and record the following disclaimer regarding Proposition 207 rights. "Property Owner acknowledges that neither the rezoning of the Property nor the conditions of rezoning give Property Owner any rights, claims or causes of action under the Private Property Rights Protection Act (Arizona Revised Statutes Title 12, chapter 8, article 2.1). To the extent that the rezoning or conditions of rezoning may be construed to give Property Owner any rights or claims under the Private Property Rights Protection Act, Property Owner hereby waives any and all such rights and/or claims pursuant to A.R.S. § 12-1134(I)."

The motion **PASSED** (8 – 2; Commissioners Membrila and Holdridge voted **NAY**)

**MODIFICATION (SUBSTANTIAL CHANGE) OF REZONING CONDITIONS & PLAT NOTE
WAIVER FOR PUBLIC HEARING**

6) Co9-84-41 INTERNATIONAL WILDLIFE – GATES PASS ROAD REZONING

Timmins Family TR, represented by Loose Brown Attorneys requests the following:

- **A Modification (Substantial Change) of Rezoning Condition #18** that requires an 85 foot setback from the planned right of way adjacent to Gates Pass Road, a major street and scenic route.
- **A Plat Note Waiver** to allow a building within the 85 foot building setback. (To be heard by the Board of Supervisors only)

The applicant requests to reduce the required 85 foot setback from the planned right of way adjacent to Gates Pass Road to 19 feet for an existing guest house. The subject property is zoned CR-1(BZ)(GZ-2) [(Single Residence Zone) (Buffer Overlay Zone) (Gateway Overlay Zone – Public Preserve)] and is located adjacent, and north of Gates Pass Road and adjacent, and northeast of McElroy Drive described as Lot 1 of Paseo Montana Subdivision (Book 38, Page 85). (District 5)

A continuance was requested in writing by the applicant.

A MOTION was made to **DENY** the continuance request.

Voted: To **DENY** the continuance request (9 – 1; Commissioner Membrila voted **NAY**).

A MOTION was made to **DENY** the Modification (Substantial Change) of Rezoning Conditions request.

Voted: To **DENY** the request of Modification (Substantial Change) of Rezoning Conditions (10-0).

**MODIFICATION (SUBSTANTIAL CHANGE) OF REZONING CONDITIONS
FOR PUBLIC HEARING**

7) Co9-09-05 BEAUFORT COMPANY LLC & NNK LLC – CRAYCROFT ROAD REZONING

Request of Beaufort Company LLC and NNK LLC, represented by Freightliner of Arizona, for a **modification (substantial change)** of rezoning conditions 16, 21, and 25 to allow for a Truck Dealership. Condition #16 requires adherence to the preliminary development plan as approved at public hearing. The applicant requests to modify the north and eastern portion of the plan which depicts a motel/restaurant development to allow for a truck dealership. Condition #21 requires a six foot high decorative masonry wall to be placed in the bufferyard along the northern and eastern property lines and condition #25 requires the north and east side wall to be painted with a graffiti resistant painting. The applicant proposes to build a wrought iron fence along the eastern property boundary. The subject property is zoned CB-2 (General Business Zone) and located approximately 275 feet east of Craycroft Road, south of Elvira Road and approximately 340 feet north of Interstate 10. (District 2)

A MOTION was made to **APPROVE** the modification of the rezoning conditions subject to Standard and Special Conditions as recommended by staff.

Voted: To **APPROVE** subject to the modified Standard and Special Conditions as recommended by staff with the modification to condition #21 as presented by the applicant:

7. Transportation conditions:

B. ~~Burcham Street should not connect to Elvira Street and should end in a cul-de-sac, if possible.~~ Complete the construction of Travel Center Way with the initial development of the site.

D. ~~The required~~An updated Traffic Impact Study shall be submitted to both Pima County and Arizona Department of Transportation for their review and approval. Offsite improvements shall be provided by the property owner/developers as determined necessary by the Traffic Impact Study.

8. Flood Control conditions:

G. A drainage report shall be submitted at the time of development which determines the feasibility and identifies responsibilities for of any changes to the approved Development Plan (P1212-036). Any changes including but not limited to the replacement of open channels with underground drains along Elvira Road, shall require the approval of PCRFC and PCDOT.

H. The developer shall submit an In-lieu fee (ILF) mitigation proposal that addresses the entire amount of Pima County Regulated Riparian Habitat disturbance within Rezoning Co9-09-05 Beaufort Company Rezoning and Development Plan P12012-036) with the first submittal of the development plan for the Freightliner Modification site.

16. Adherence to the 2013 revised preliminary development plan, as approved at public hearing.

21. A six-foot high decorative masonry wall shall be placed in the bufferyard along the northern property line and a minimum six foot high wrought iron fence wall shall be placed on the eastern property lines. ~~The wall in the eastern bufferyard shall be topped by a three-foot high wrought iron fence, pointed at the top and curved inward toward the rezoning site.~~

25. The east side ~~wrought iron fence of the bufferyard wall~~ near Corazon del Pueblo and the north side of the bufferyard wall facing Littletown shall be painted with graffiti resistant paint.

26. The bufferyard respective fence and walls along the east and north boundaries shall be constructed concurrently with the construction of the onsite roadway and main drainageway, including and the grading near these fence and walls. A plan for these fence and walls showing the location of all openings and demonstrating how said openings will be secured and explaining how only authorized personnel will have access to said openings will be prepared and presented to the Corazon del Pueblo Homeowners Association prior to the construction of these fence and walls.

The motion **PASSED** (8 – 0; Commissioners Smith and Cook were not present)

PIMA COUNTY HOME OCCUPATION CODE AMENDMENT FOR PUBLIC HEARING

8) Co8-13-01 HOME OCCUPATION CODE AMENDMENT

AN ORDINANCE OF THE PIMA COUNTY BOARD OF SUPERVISORS RELATING TO ZONING (TITLE 18); AMENDING THE PIMA COUNTY CODE BY AMENDING CHAPTER 18.09 (GENERAL RESIDENTIAL AND RURAL PROVISIONS), SECTION 18.09.030 (HOME OCCUPATIONS) TO ALLOW HOME BAKED AND CONFECTIONARY GOODS (ALL DISTRICTS).

ON MOTION, it was

Voted: To **APPROVE** as presented.

The motion **PASSED** (7 – 0; Commissioners Smith, Cook and Spendiarian were not present)

INITIATION OF ZONING CODE TEXT AMENDMENT

- 9) **INITIATION OF ZONING CODE TEXT AMENDMENT- TO ALLOW EXCEPTIONS FOR GREEN BUILDING STRUCTURAL ALTERATIONS FOR NONCONFORMING BUILDINGS AND BUILDINGS HOUSING NONCONFORMING USES; TO ADD DEFINITIONS FOR “CISTERN”, “GREEN BUILDING”, “GREEN ROOF”, AND “RAINWATER HARVESTING SYSTEM” AND TO ADD UNDERGROUND CISTERNS AND CERTAIN CLOTHES LINES TO THE EXCLUSIONS FROM THE DEFINITION OF “STRUCTURE” TO EXCLUDE THEM FROM ZONING REGULATION; TO ADD WATER HARVESTING SYSTEM AS A PERMITTED USE IN ALL ZONES SUBJECT TO REQUIREMENTS AND EXCEPTIONS; TO MODIFY AND ADD TO DEVELOPMENT STANDARDS EXCEPTIONS FOR PROJECTIONS INTO YARDS AND FOR HEIGHT LIMITS; AND TO ADD GREEN ROOFS AS AN AMENITY LANDSCAPE REQUIREMENT OPTION.**

ON MOTION, it was

Voted: To **APPROVE** initiation of the code text amendment:

The motion **PASSED** (8 – 0; Commissioners Smith and Cook were not present)

10) **NEW BUSINESS**

- A) Arlan Colton, Planning Director, did not have any disposition of cases. He commented about the status of the Comprehensive Plan update.

11) **CALL TO THE AUDIENCE**

No one from the audience spoke.

12) **ADJOURNMENT**

Meeting was adjourned at 12:35 p.m. on motion by Commissioner Matter seconded by Commissioner Poulos.