

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

July 7, 2022  
9:30 a.m.

205 W. Jefferson Street, Phoenix, Arizona  
and by GoToWebinar

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**MEMBERS PRESENT:**

**In-person**

Mr. Lucas Schlosser, Vice Chairman  
Mr. Greg Arnett  
Ms. Kate McGee

**GoToWebinar**

Mr. Jimmy Lindblom, Chairman  
Mr. Spike Lawrence  
Mr. Jay Swart

**MEMBERS ABSENT:**

Mr. Kevin Danzeisen  
Mr. Erik Hernandez  
Ms. Francisca Montoya

**STAFF PRESENT:**

Mr. Tom Ellsworth, Planning and Development Director  
Mr. Darren Gérard, Planning Services Manager  
Mr. Matt Holm, Planning Supervisor  
Ms. Rachel Applegate, Senior Planner  
Mr. Daniel Johnson, Planner  
Mr. Martin Martell, Planner  
Mr. Joseph Mueller, Planner  
Mr. Nicholas Schlimm, Planner  
Ms. Rosalie Pinney, Recording Secretary

**COUNTY AGENCIES:**

Mr. Wayne Peck, County Attorney  
Mr. David Anderson, Business Engagement Manager, OET  
Mr. Martin Camacho, Technical Team

**CONTINUANCE:**

**Z2021133**

**CONSENT:**

**Z2021160**

**REGULAR:**

**Z2022051, Z2022054**

Vice Chair Schlosser made the standard announcements and asked if there were any changes or comments to the June 16 minutes. None.

**COMMISSION ACTION: Vice Chair Schlosser approved the minutes from June 16, 2022 minutes as written.**

## CONTINUANCE AGENDA

### Zoning - Z2021133 (Cont. from 6/16/22)

District 1

Project name: **Val Vista 1**  
Applicant: Jessica Sarkissian, Upfront Planning & Entitlements, LLC  
Request: Zone Change with Overlay from Rural-43 to C-2 CUPD  
Location: Generally located 1,500' south of the SEC of Warner Rd. and Val Vista Dr. in the Gilbert area  
Request: Applicant has requested a continuance to the August 4, 2022 Commission hearing.

Mr. Gérard said the applicant has requested a continuance to the July 21, 2022 hearing date.

No action required by the Commission.

## CONSENT AGENDA

### Z2021160 – Zoning

Districts 4 & 5

Project name: **Agave Solar**  
Applicant: Snell & Wilmer, LLP  
Request: Zone Change, with Plan of Development, from Rural-190 to IND-2 IUPD  
Location: Generally located 1/2 mile south of Elliot Road along 363rd Avenue alignment and then north and south of the Southern Pacific railway

Mr. Gérard presented the consent agenda.

Vice Chair Schlosser asked if anyone from the public wished to speak on the consent agenda. None.

**COMMISSION ACTION: Commissioner Lawrence motioned to approve the consent agenda – Z2021160 with conditions 'a'-'j', Commissioner Swart second. Approved 6-0. Ayes: Lawrence, McGee, Swart, Arnett, Schlosser, Lindblom.**

- a. Development of the site shall be in substantial conformance with the Site Plan entitled "Site Plan for Agave Solar", consisting of 30 full-size sheets, dated June 2, 2022, and received June 17, 2022, except as modified by the following conditions.
- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "Arizona Public Service Company Rezoning Application Narrative Report", consisting of 10 pages, dated June 17, 2022, except as modified by the following conditions.
- c. Removal of Special Use Permit (Z99-111) for portions within the subject Z2021160 boundaries.

- d. The following Planning Engineering conditions shall apply:
1. Work with the floodplains will require a floodplain use permit issued concurrent with the building permits. If the project is determined to be building permit exempt, Floodplain Use permitting shall be processed by the Flood Control District of Maricopa County.
  2. Prior to the start of work, the owner/applicant must obtain written permission from the owner of adjoining parcel(s) on which work is proposed, including, but not limited to, construction of bypass swale 2; and basin bleed-offs and spillways to and within the AVSE channel south of the site for Basins 6.1, 9.1, 10.1, 11.1, 14.1-14.3 and 16.1.
  3. Retention basins must drain within 36 hours. Owner shall be responsible for maintaining basins, drywells and basin storm water quality devices in good working order.
  4. Utilities for solar facilities that will occupy County R/W (i.e. gen-ties or other offsite electric utility extensions) require a license in addition to any construction related permits. The first step in the licensing process is to complete the MCDOT Solar License Application Form and email it to: [MCDOTsolarlicense@maricopa.gov](mailto:MCDOTsolarlicense@maricopa.gov).
  5. Engineering review of planning and/or zoning cases is for conceptual design only. All development and engineering design shall be in conformance with Section 1205 of the Maricopa County Zoning Ordinance; Drainage Policies and Standards; Floodplain Regulations for Maricopa County; MCDOT Roadway Design Manual; and current engineering policies, standards and best practices at the time of application for construction.
  6. Based on the conceptual design nature of the information submitted, changes to the site layout may be necessitated by the final engineering design of the site's drainage infrastructure.
- e. Prior to initial building permit issuance the applicant/owner shall submit an FAA Obstruction Evaluation/Airport Airspace Analysis (FAA Form 7460-1) and a request for analysis to the DoD Siting Clearinghouse for Energy, Installations, and Environment.
- f. The IND-2 IUPD shall limit the use of the site exclusively to solar electric generating including ancillary facilities, appurtenances, and uses. All other site uses shall require a Zone Change Major Amendment.
- g. The following IND-2 IUPD Zoning District standards shall apply:
1. Min. Front Yard – 0'
  2. Min. Side Yard – 0'

3. Min. Rear Yard – 0'
  4. Max. Lot Coverage – 60%
  5. Parking Spaces Required – 6 standard parking spots, 1 ADA parking spot
  6. Loading and Unloading Spaces Required – None required
  7. Landscaping – No landscaping areas required
  8. Sight Visibility Triangles – 25' x 25'
  9. Article 902.91 – All utility uses shall be permitted to be conducted outdoors
  10. Site Enclosure and Screening – 8' tall chain link fencing with 1' of barbed wire topping. Gates to be allowed at perimeter of project. This will include parallel fencing at eastern boundary of the site
- h. 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.
- i. 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.
- j. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, and at the time of expiration of the Zone Change, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, or the expiration of the Zone Change, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation or expiration of the 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.

### **REGULAR AGENDA**

#### **Z2022051 – Special Use Permit**

**District 1**

Project name: **705 N. Mary St. Digital Billboard**  
 Applicant: Jacob Zonn, Becker Boards Small, LLC  
 Request: Special Use Permit (SUP) to allow the conversion of a legal non-conforming static illuminated billboard to digital in the IND-2 zoning district

Location: Generally located 730' east of the northeast corner of Red Mountain Frwy. and Scottsdale Rd. in the Tempe area

Mr. Martell presented Z2022051 and noted this case is for a Special Use Permit request to allow a legally non-conforming illuminated static billboard oriented toward a local street to be converted to a digital billboard oriented toward the freeway in the IND-2 zoning district. The site is located on the northeast corner of Mary Street and Gilbert Drive about 750 feet east of the Red Mountain/Loop 202 Freeway and Scottsdale/Rural Road interchange. Currently the illuminated billboard is 30 feet tall with a sign area of 300 sq. feet per sign face, which meets the development standards for non-freeway-oriented billboards. It was approved as a billboard oriented to the adjacent local streets and not the freeway. The proposal is to increase the height of the off-site sign to 62 feet with a sign area of 672 sq. feet for each sign face. The billboard is considered legal non-conforming since it was permitted on the site prior to the county's 2021 text amendment regarding billboard regulations. There are two other freeway billboards less than 1,000 sq. feet away. The current billboard was approved based on a 2013 zoning Interpretation that a billboard can be placed less than the required 1,000 sq. feet from another billboard if the two billboards are oriented toward different streets. The existing billboard would never have been originally permitted, but for the fact that it was not oriented toward the freeway. The proposed SUP will increase the height and sign area of this billboard for the sole purpose of orienting it toward the freeway and not toward Mary St. or Gilbert Dr. as it was permitted. Staff had concerns that the Special Use Permit may result in three digital billboards within a 1,000' in length of the Red Mountain Freeway. The existing billboard is illuminated. The digital face will result in less luminescence into the nighttime sky and less potential light to trespass onto adjacent neighborhoods than a conventional sign illumination and is more aesthetic than a conventionally illuminated billboard. During the applicant's citizen participation process, staff nor the applicant received any opposition from neighbors, area interested parties, or the City of Tempe. The billboard modifications will increase the height from 30 feet to 62 feet and increase the face area from 300 sq. feet to 672 sq. feet, as well as modifying the illumination from top-mounted downward lighting to a digital face. There has been no comment from the City of Tempe and no known public opposition. It is staff's opinion that redevelopment within the north Tempe county island works to mitigate the potential for neighborhood blight. The digital face is generally more aesthetic than traditional illumination and the current illuminated billboard is a legal non-conforming use that is permanently entitled. Staff's original recommendation in the staff report was based on concern that legal non-conforming uses should amortize over time. The only means to improve the existing billboard aesthetics is by a Special Use Permit as proposed. Staff recommends approval of Special Use Permit Z2022051 subject to conditions 'a' – 'h' with deletion of condition 'c' (which if included in the motion would place a five-year limit on the SUP).

Commissioner Arnett asked what the concerns with the timing are. Mr. Martell said originally staff recommended denial, and staff was in the opinion to limit the time to five years to see if they would receive any opposition in that five years. Under further review, the digital billboard would have less light pollution and be more dark sky compliant than an illuminated billboard. Staff is recommending removal of the time limit.

Commissioner McGee asked staff is recommending approval including removing the five-year time limit. Mr. Martell said that is correct, staff is recommending approval with no time limit on the SUP. Commissioner McGee asked in perpetuity. Mr. Martell said yes.

Chairman Lindblom said he was pleased to see staff's changes in their recommendation.

Mr. Garry Hayes, the applicant said when going through these billboard cases and the ordinance change last year, one of the things we decided to do is to hold neighborhood meetings even if we are not required to do so. We did hold a neighborhood meeting and the only person that showed up was one who owned a billboard. We are going above and beyond to make sure we engage the neighborhood, and nobody has any concerns. Staff asked for more information about the louver technology, and we were delayed due to the company's holiday schedule.

Commissioner McGee asked about the perception of the timing and staff changing from denial to approval. Some people were out of town for the holiday weekend and would this be an unneeded burden of additional negative perception. Mr. Hayes said no, long before the recommendation for denial or approval we communicated with the neighborhood and held a neighborhood meeting with no concerns.

Commissioner McGee asked you will be increasing the height and turning the billboard away from the residential streets. Mr. Hayes said they are shifting the angle and this is better than what is there today.

Mr. Gérard said the current orientation is towards Gilbert Drive, they are going to raise the height 30 feet and it will be oriented toward the freeway.

Chairman Lindblom asked when you say it is better is that aesthetics or the lighting. Mr. Hayes said yes, it is the aesthetics and it will have significantly less light pollution.

Chairman Lindblom said he is in support of this proposal.

Vice Chair Schlosser asked if anyone from the public wished to speak on this case. None.

**COMMISSION ACTION: Commissioner Lawrence motioned to approve Z2022051 with conditions 'a'-'h' with deletion of condition 'c'. Chairman Lindblom second. Approved 6-0. Ayes: Lawrence, McGee, Swart, Arnett, Schlosser, Lindblom.**

- a. Development of the site shall be in substantial conformance with the Site Plan entitled "Gilbert Dr & Mary St. Digital Billboard", consisting of two full-size sheets, dated April 13, 2022, and stamped received May 6, 2022 , except as modified by the following conditions.
- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "Mary St. Digital Billboard", consisting of four pages, dated May 5, 2022, and stamped received May 6, 2022, except as modified by the following conditions.

- ~~e. This Special Use Permit is valid for a period of five years and shall expire on August 17, 2029, at which time it must be removed at the owner's expense unless the Special Use Permit is renewed for another five-year period.~~
- d. The following Planning Engineering condition shall apply:
1. Engineering review of zone change/Special Use Permits are conceptual in nature. All development and engineering design shall be in conformance with Section 1205 of the Maricopa County Zoning Ordinance; Drainage Policies and Standards; Floodplain Regulations for Maricopa County; MCDOT Roadway Design Manual; and current engineering policies, standards and best practices at the time of application for construction.
- e. The digital billboard shall be in conformance with Article 1403.3.1.J. of the Maricopa County Zoning Ordinance.
- f. All outdoor lighting shall comply with Section 1112 of the Maricopa County Zoning Ordinance.
- g. Noncompliance with any Maricopa County Regulation shall be grounds for initiating a revocation of this Special Use Permit as set forth in the Maricopa County Zoning Ordinance.
- h. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, and at the time of expiration of the Special Use Permit, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, or the expiration of the Special Use Permit, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation or expiration of the Special Use Permit. The Special Use Permit enhances the value of the property above its value as of the date the Special Use Permit is granted and reverting to the prior zoning results in the same value of the property as if the Special Use Permit had never been granted.

**Z2022054 – Special Use Permit**

**District 1**

Project name: **Creamline West – Digital Billboard**  
 Applicant: Jacob Zonn, Becker Boards Small, LLC  
 Request: Special Use Permit for Digital Conversion of a Legal Non-Conforming Static Billboard

Location: Generally located Approx. 2,700' east of the SEC of Willis Rd. and Arizona Ave. in the Chandler area

Mr. Mueller presented Z2022054 and noted the site is approximately 20.49 acres, and the request is for a Special Use Permit for digital conversion of a legal non-conforming static billboard. The applicant is seeking to convert an existing illuminated billboard to digital. A Special Use Permit is required per the MCZO, due to the fact there is another billboard 492 feet to the east. The billboard to the east was recently granted Board of Supervisor approval for a similar request. There are no violations on the property and staff has received no support nor opposition for the proposal or from the City of Chandler. The subject billboard was originally entitled as a static billboard oriented towards Willis Road rather than the freeway. This was because at the time there was a 1000-foot linear separation requirement and there was already a freeway-oriented billboard to the east. This was largely the basis of staff's original recommendation of denial. It should be noted, the existing billboard meets all other requirements for digital conversion, and the proposed height increase to 63 feet is compliant with the requirement that freeway billboards may be up to 48 feet above adjacent freeway grade. Illumination via a digital face may also be an improvement from the current bottom up illumination. This was solidified by some photometric diagrams submitted by the applicant after publication of the staff report. Staff has not received comment from the public nor the City of Chandler. Staff has reconsidered to a recommendation of approval subject to conditions 'a' - 'h' with the deletion of condition 'c' (which if included in the motion would place a five-year limit on the SUP).

Mr. Garry Hayes, the applicant with Becker Boards Small said we held a neighborhood meeting, and nobody attended. This billboard lights are going up towards the sky causing more light pollution. This proposal will make it better from a light pollution standpoint and aesthetics. This is significantly better for the community.

Chairman Lindblom said this is similar to the last case. This billboard is already there, and it is a much better product. Mr. Hayes said this is a legal non-conforming use and it is not going anywhere, so by allowing this SUP to move forward the community gets a better product. Because it is legal non-conforming it can exist in perpetuity the way it is.

Chairman Lindblom said he likes this change.

Vice Chair Schlosser asked if anyone from the public wished to speak on this case. None.

**COMMISSION ACTION: Commissioner Lawrence motioned to approve Z2022054 with conditions 'a'-'h' with deletion of condition 'c'. Commissioner Arnett second. Approved 6-0. Ayes: Lawrence, McGee, Swart, Arnett, Schlosser, Lindblom.**

- a. Development of the site shall be in substantial conformance with the Site Plan entitled "For Willis Road Digital Billboard", consisting of two full-size sheets, dated June 6, 2022, and stamped received June 6, 2022, except as modified by the following conditions.



- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "Narrative Report / Special Use Permit for Digital Billboard", consisting of four pages, dated May 5, 2022, and stamped received June 6, 2022, except as modified by the following conditions.
- ~~c. This Special Use Permit is valid for a period of ten years and shall expire on August 17, 2034, at which time it must be removed at the owner's expense unless the Special Use Permit is extended by the Board of Supervisors.~~
- d. The following Planning Engineering condition shall apply:
  - 1. Applicant shall be responsible for coordinating any requirements that may be imposed by ADOT ([redletter@azdot.gov](mailto:redletter@azdot.gov))
  - 2. Engineering review of zone change/Special Use Permits are conceptual in nature. All development and engineering design shall be in conformance with Section 1205 of the Maricopa County Zoning Ordinance; Drainage Policies and Standards; Floodplain Regulations for Maricopa County; MCDOT Roadway Design Manual; and current engineering policies, standards and best practices at the time of application for construction.
- e. The digital billboard shall be in conformance with Article 1403.3.1.J. of the Maricopa County Zoning Ordinance.
- f. All outdoor lighting shall comply with Section 1112 of the Maricopa County Zoning Ordinance.
- g. Noncompliance with any Maricopa County Regulation shall be grounds for initiating a revocation of this Special Use Permit as set forth in the Maricopa County Zoning Ordinance.
- h. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, and at the time of expiration of the Special Use Permit, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, or the expiration of the Special Use Permit, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation or expiration of the Special Use Permit. The Special Use Permit enhances the value of the property above its value as of the date the Special Use Permit is granted and reverting to the prior zoning results in the

same value of the property as if the Special Use Permit had never been granted.

Vice Chair Schlosser adjourned the meeting of July 7, 2022 at 10:02 a.m.

Prepared by Rosalie Pinney  
Recording Secretary

July 7, 2022