



# BOARD OF ADJUSTMENT MARICOPA COUNTY, ARIZONA

205 W. Jefferson Street, Phoenix, Arizona  
and by GoToWebinar  
**September 15, 2022**  
**Minutes**

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**CALL TO ORDER:**

Chairman Loper called the meeting to order at 10:00 a.m.

**MEMBERS PRESENT:**

**In-person**

Mr. Greg Loper, Chairman  
Ms. Heather Personne, Vice Chair  
Mr. Jeff Schwartz

**GoToWebinar**

Mr. Craig Cardon  
Ms. Fern Ward

**STAFF PRESENT:**

Mr. Tom Ellsworth, Planning & Development Director  
Mr. Darren Gérard, Planning Services Manager  
Mr. Matt Holm, Planning Supervisor  
Ms. Rachel Applegate, Senior Planner  
Mr. Daniel Johnson, Planner  
Mr. Joel Landis, Planner  
Mr. Joseph Mueller, Planner  
Mr. Nick Schlimm, Planner  
Ms. Rosalie Pinney, Recording Secretary

**COUNTY AGENCIES:**

Mr. Wayne Peck, County Attorney  
Mr. David Anderson, Business Engagement Manager, OET  
Ms. Alisha Bach, Technical Team  
Ms. Pearl Duran, Technical Team  
Mr. Martin Camacho, Technical Team

**ANNOUNCEMENTS:**

Chairman Loper made all standard announcements.

**AGENDA ITEMS:**

BA2022036, BA2022002, BA2022021, BA2022029, BA2022033,  
BA2022038, BA2022039, TU2022010, TU2022035

**APPROVAL OF MINUTES:**

August 11, 2022

Chairman Loper asked if there were any changes or comments to the minutes for August 11, none.

**BOARD ACTION: Chairman Loper approved the August 11, 2022 minutes as written.**

Chairman Loper said items #3 – BA2022021 and #5 – BA2022033 will be moved to the end of the regular agenda since he has a conflict with these two cases and will be recused.



**Request:**

Variance to permit:

- 1) Digital Billboard separation distance of 328 feet from the main travel lanes of a freeway where 300 feet is the maximum permitted per MCZO Article 1403.3.1.J.1.ii

Mr. Johnson presented BA2022029 and noted the request would allow a digital billboard separation distance of 328 feet from the main travel lanes of a freeway where 300 feet is the maximum permitted per the zoning ordinance. Staff received an opposition comment letter regarding the current variance from Kyle Mieras, Town of Gilbert Development Services Director, dated July 19, 2022. The letter disputes there are any peculiar hardships associated with the subject property or proposed billboard that would appear to justify the requested variances and the Town's Land Development Code does not allow billboards within the Town of Gilbert. Staff noted this is a county jurisdiction parcel, and the Town of Gilbert does not have jurisdiction with this parcel. The applicant has demonstrated there is a peculiar condition facing the property in that the existing billboard was specifically permitted as a freeway-oriented sign and for that reason was previously granted variances for the billboard to be taller and larger for view from the freeway. There is no practical orientation for the sign to be viewed from any other roadway. The applicant has demonstrated that the strict application of the zoning ordinance to the applicant's property has caused undue physical hardship that prevents reasonable development of the property because the existing billboard permitted as a freeway-oriented sign at a distance of 328-feet from the freeway and subsequently the ordinance was amended to establish a 300-foot maximum separation distance from the freeway's main travel lanes. The applicant has demonstrated the peculiar condition / physical hardship is not self-created in the line of title and has demonstrated that the general intent and purpose of the zoning ordinance will be preserved with the variance.

Member Schwartz said this was already approved in 2021 and asked why it is in front of the Board again. Mr. Johnson said the new request is for a digital conversion and the existing billboard was approved with two variances as a freeway-oriented with increasing size and height. If it doesn't meet the current standards, we would consider it legal non-conforming with a pathway to digital conversion with a SUP or the variance. Mr. Gérard said when this billboard was originally permitted, there wasn't a requirement to be in a certain proximity to a freeway, but today there is. Any change requires them to be in-conformance or obtain a Special Use Permit, so they are coming in for the variance.

Mr. Garry Hays, the applicant said because there is a change in the ordinance, we are coming in to be in-compliance with that ordinance.

Ms. Veronica Gonzalez said she is with Town of Gilbert speaking in opposition to this variance for a digital billboard. The billboard already received approval of two variances and approval of a third variance would allow the expansion of a sign that would not comply with basic minimum code requirements in the Town of Gilbert, and the site is not conducive to a digital billboard if multiple variances are needed to make it happen. We have a responsibility to protect the surrounding property owners and the purpose and intent of the zoning ordinance. The Town of Gilbert asks the Board to deny the request.

Member Cardon said when this variance case came up in 2021, the Town of Gilbert did not oppose the request. Ms. Gonzalez said they are opposed to billboards within the Town of Gilbert.

Vice Chair Personne asked is the applicant wanting to covert the billboard to digital or are they adding another one. Mr. Hays said it is just a digital conversion; the Town of Gilbert decided since the billboard text amendment to oppose every billboard, and they didn't oppose it in 2021. The property is close to the 202 and is owned by the same people that own San Tan Ford and part of the Auto Mall. If you go 300 feet to the east, there is a very large sign for the Auto Mall, and a mile to the west there is an even larger sign for Chandler's Auto Mall which is nothing in comparison to the sign they are discussing. A digital billboard is better for the surrounding community because you can limit the lights instead of just having an up-lite or down-lite board you have lights with louvers. The Board of Supervisors put in place louver technology that will limit the light that comes from these boards.

Chairman Loper asked if anyone from the public wished to speak on this case. None.

**BOARD ACTION: Member Cardon motioned to approve BA2022029 with condition 'a'. Vice Chair Personne second. Approved 5-0. Ayes: Cardon, Schwartz, Ward, Personne, Loper.**

- a) Variance approval establishes a 328-foot maximum distance from the edge of the freeway's main travel lanes to the closest edge of a billboard or its support structure for APN 304-54-005Z.

<b>BA2022038</b>	<b>Polukhtin Property</b>	<b>District 2</b>
<b>Applicant:</b>	Andrei Polukhtin, Morning Vista Homes	
<b>Location:</b>	APN 219-37-099C @ 28517 N. 157 <sup>th</sup> Pl. – 160 <sup>th</sup> St. & Rio Verde Dr., in the Rio Verde area	
<b>Request:</b>	Variance to permit: <ul style="list-style-type: none"><li>1) Proposed side (south) setback of 20' where 30' is the minimum permitted per MCZO Article 503.4.2</li></ul>	

Mr. Schlimm presented BA2022038 and noted the subject site is zoned Rural-43 and located in the Rio Verde Planning area, about 1/3 mile north of Rio Verde Drive and 1/4 mile west of 160th Street. It is approximately 1-acre and is currently vacant with desert terrain and vegetation, with a floodway running through the north half of the parcel. The adjacent parcels to the east and west each have a single-family residence, and the adjacent parcels to the north and south are vacant, zoned Rural-43. The grading plan shows the proposed dwelling with the original 30-foot setback to the south and shows the dwelling separated by the floodway retaining wall by as little as 4 feet. The applicant's engineer wrote a memorandum advising the house would impose additional forces on the wall that would not be there if the house were a further distance from the wall; if the wall were to fail, it would cause catastrophic damage to the house. The engineer recommended the distance between the wall and the house be increased. The engineer's recommendation would have the effect of reducing the setback between the house and the southern property line to 20 feet. Staff notes one letter in opposition received citing concerns with the impact of the home with the flow of water onto the surrounding properties. Staff finds the request meets the statutory test for variance approval. The applicant has demonstrated there is a peculiar condition facing the property with the location of a wash running through the northern half of the property establishes a unique topographical challenge to the construction of a single-family dwelling, pushing the building envelope southward. The applicant has demonstrated that applying the requirements of the zoning ordinance to this property where a peculiar condition creates an undue physical hardship prevents the development of the property. If the proposed dwelling were to observe the minimum setback requirement, and be

further north, it would be located too close to the wash, the retaining wall could fail, and house be destroyed in the event the wash floods. The applicant has demonstrated the peculiar condition / physical hardship is not self-created in the line of title. The applicant has demonstrated the general intent and purpose of the zoning ordinance will be preserved despite the variance because the variance would allow for the sustainable development of a residential use on a Rural-43 property.

Mr. Andrei Polukhtin the applicant said there is two major issues, safety and sustainability. The property is in a nice area but challenging to develop. There is a wash on the northern portion of the lot and another wash in the middle and it can become a river. The retaining wall will be close to the house and in some areas 10 feet high. If they push the wall north, it will start changing the flow. The major concern is safety and retaining wall could fail. The house is imposing additional forces on the wall system. If the wall were to fail due to unforeseen geotechnical and/or hydraulic conditions, it would be catastrophic due to relatively short distances between the wall and the house. The natural water channels might change the exit points. The 10-foot variance will provide a buffer zone between the wall and the house and reduce the risk to the house in the unlike event of failure of the retaining wall and will allow preserving natural flow channels. The zoning ordinance clearly encourages sustainable development of residential property. A variance of 10 feet in a side yard setback is not in conflict with the purpose of the code, and without the variance a safe and sustainable residential use cannot be achieved.

Member Schwartz asked has the design been approved from staff subject to the variance request. Mr. Gérard said there is a pending construction permit waiting on the variance and it's under technical review.

Chairman Loper asked if anyone from the public wished to speak on this case. None.

Member Schwartz asked was the material on site natural or brought in. Mr. Schlimm said there is currently an open violation case for stockpiling of dirt on property. Mr. Gérard said if they get this permit issued and complete that will remedy the violation because the permit for the residence will include all the work on site.

Member Cardon said he did read the letter in opposition, but nobody came to speak on this.

**BOARD ACTION: Member Schwartz motioned to approve BA2022038 with condition 'a'. Member Ward second. Approved 5-0. Ayes: Cardon, Schwartz, Ward, Personne, Loper.**

- a) Variance approval establishes a 20' (south) setback line for APN 219-37-099C.

<b>BA2022039</b>	<b>Tomich Property</b>	<b>District 3</b>
<b>Applicant:</b>	Richard Tomich	
<b>Location:</b>	APN 211-73-020L @ 39611 N. 2nd St., in the Anthem area	
<b>Request:</b>	Variance to permit: <ul style="list-style-type: none"><li>1) Proposed front setback of 23'-10" where 40' is the minimum permitted per MCZO Article 503.4.1.1</li></ul>	

Mr. Landis presented BA2022039 and noted the applicant is requesting this variance to allow for the permitting of an as-built garage addition. The varying of the front setback would also affect an existing 10x16 shed to the east of the garage addition which does not meet the required front

setback standard. The lot was created as part of a parcel split in 2002 and is a corner lot with standard size and configuration to adjacent parcels. As the shortest of the two sides with access, E. Saguaro Road to the south is the front of the parcel with a required 40' setback. Despite Saguaro Road being the "front" of the parcel, the driveways from both the house and garage go to 2<sup>nd</sup> Street rather than to Saguaro Rd., and that the front at Saguaro Rd. is fenced off with no means of access to the parcel. The home was built in 2002 with the detached garage having been permitted and built in 2008, the same year in which the current owner took possession of the parcel. The as-built garage addition was subsequently built in 2012 without the benefit of a permit. The 10x16 shed is under 200 sq. ft. and would be allowed without a permit but it would still be subject to zoning ordinance requirements, including required setbacks for detached accessory structures. The applicant applied for a permit in 2021 to legalize the as-built garage addition which ultimately led to their applying for a variance. Staff notes this project does not meet the statutory requirement for a variance as there is no peculiar condition or unnecessary hardship that would not allow for construction on the lot to comply with the ordinance. The buildable area created by the existing lot setbacks does not appear to be encumbered by hillside or flooding issues. It would be possible to expand the garage to the east and move the 10x16 shed to be in compliant with the ordinance. Staff received four letters of support with seven signatures from neighbors indicating overall support of the project. Neither engineering nor environmental had any comments of the variance request.

Chairman Loper asked if the front were on 2<sup>nd</sup> Street would they need these variances. Mr. Landis said we did explore the option of having non-vehicular access easement along south of the parcel. The front of the house on the west would be less than the 40-foot requirement.

Mr. Richard Tomich the applicant said he has lived at this property since 2004. They use 2<sup>nd</sup> Street as the front of the property not the southside. The shed encroaches in the setback area by 2 feet, and he wasn't aware of the setbacks when he built the addition and the shed. He had no intention to violate any ordinances nor try to cover up any violations. Originally this open area was storage for car parts to restore old cars. To be a good neighbor he built a fence to hide from view. This proved to be inadequate because of the dust and rain and the parts were getting destroyed. He then added a roof under the false assumption an open carport did not need a permit. He found out later that he should have gotten a permit. He then initiated the as-built permit process in good faith and to make it right. He has been working on this for 1-1/2 years where it's been frustrating and expensive. He is retired and lives on social security and military retirement. He will have a financial loss if this is not approved of \$8,859 for permits, variance fees, architect and engineering costs, and the as-built construction cost. He would like to reduce the south setback from 40' to 23'-10". The south easement is not used for entry or egress from the property and could not be used due to natural drainage. The west entry is used for ingress/egress to the property. A reduction in easement will allow reclaiming lost space due to the setback on the west. The reduction in setback does not create safety access or neighborhood appearance issues. No other location options are available, and there is a precedence. The neighbors have no objections to the variance, and it will be a personal financial loss if not approved. The south easement Saguaro Road is not used for ingress/egress and when it rains, they get a foot of water across the road. He has natural drainage that drains his backyard by the backside of the garage, and it comes down to the collection pond and it could fill up to the top of the rocks. The setback reduction does not obstruct Saguaro Road in anyway. He has flooding issues with several natural drainages on the property that required enhancement to prevent flooding. The main residence foundation is over 2-3 feet above ground level on the south end to prevent flooding. The garage is surrounded by two drainages that have no alternative course. The garage is surrounded by

natural drainages. The east side is not an option due to flooding. The garage is where it is because the builder moved it as far away as he could from the east drainage. The north side of the parcel is not an option due to the septic field. The west side is not an option due to ingress/egress from 2<sup>nd</sup> Street, and the back yard is not an option, during storms the natural drainage fills to overflowing at times. The garage and addition access to the west of the parcel is there for a reason and 2<sup>nd</sup> Street is access for the entire cul-de-sac. The applicant concedes the garage addition was built without a permit due to ignorance of the codes. The property across the street is a mirror image of his property and the addition allowed was only 27 feet from the south structure and the road. He is asking for the same consideration. He did get signatures from every neighbor in his cul-de-sac except for two who travel a lot and were not home at the time. He is acting in good faith, and he just wants to make it right.

Member Schwartz asked if there is drainage on the north side of the house. Mr. Tomich said no, it is the high point with a slight hill and two neighboring property's drain towards his house. Member Schwartz asked the house couldn't be set back any further because of the drainage. Mr. Tomich said correct.

Member Schwartz asked when the structure was permitted to the house across the street did they receive a variance. Mr. Landis said the garage was built with a permit in 2004 and he didn't see a variance.

Chairman Loper asked if anyone from the public wished to speak on this case. None.

Vice Chair Personne asked why the building couldn't be considered an accessory use. Mr. Landis said it would need to be detached from the primary structure.

Member Cardon said he is willing to approve this because of the drainage and flood issues on the property.

Vice Chair Personne said there is a peculiar condition with the front street assignment and drainage.

**BOARD ACTION: Vice Chair Personne motioned to approve BA2022039 with condition 'a'. Member Schwartz second. Approved 5-0. Ayes: Cardon, Schwartz, Ward, Personne, Loper.**

- a) Variance approval establishes a 23'-10" (south) setback line for APN 211-73-020L.

<b>TU2022010</b>	<b>Neighborhood Market</b>	<b>District 4</b>
<b>Applicant:</b>	Korilyn Burt	
<b>Location:</b>	APN 502-27-050C @ 6816 N. 171 <sup>st</sup> Dr. in the Waddell area	
<b>Request:</b>	Temporary Use Permit to allow for a neighborhood market	
	1) Temporary neighborhood market to exchange crafts, arts, books and homemade food (MCZO, Article 1302.2.2) for three scheduled half day events on October 15, 2022, November 19, 2022 and March 11, 2023.	

Ms. Applegate presented TU2022010 and noted the site consists of 1.22 acres located in Waddell. The owner is requesting 3 event dates to allow neighbors to bring their own pop-up tents to participate by selling, exchange arts, crafts, books, and homemade food. The events will include approximately 50 – 75 people as single day events from 9 a.m. – 1 p.m. on October 15<sup>th</sup>, November

19<sup>th</sup> and March 11, 2023. The events would be held on-site within the front, rear and side yards. A limited number of parking spaces would be located in the front yard to accommodate 8 spaces, all other parking would be off-site. There is an existing code violation from 2021 due to events being held without obtaining a Temporary Use Permit or Special Use Permit. Access to the site would be from Glendale Avenue and 171<sup>st</sup> Drive which is a private ingress/egress easement utilized by the 6 rural/residential lots and the general store directly north of the site. The owner has verbally stated that no parking would be allowed within the ingress/egress and a sign would be placed in the easement to eliminate vehicles from traveling further south beyond the event parcel. The events would include 2 parking attendants to monitor and direct vehicles to not go beyond the event location. Off-site parking would be located at the general store and the leased space for the Burrito Barn of Glendale Ave. & 171<sup>st</sup> Dr. The owner has coordinated with the owners of the adjacent commercial sites and obtained authorization for off-site parking. The general store only has direct access via the private ingress/egress easement off 171<sup>st</sup> Dr. due to a canal located along the Glendale Ave. right-of-way. The general store has split zoning of C-3 and Rural-43 which shows access to property from 171<sup>st</sup> Dr. and unmarked parking stalls. The site would need a rezone to C-3 with possibly a commercial unit plan of development to amend zoning district standards with a plan of development. The secondary off-site parking location is at the Burrito Barn at the southeast corner and this parcel does not have driveway access from 171<sup>st</sup> easement. Parking would require access directly from Glendale Avenue to access the site. Code compliance inspected an event in 2021 and photographed food trucks on-site and increased number of visitors to the property. Another inspection was made in March 2022 with notation of 30 - 40 vendors for each event. The violation case was scheduled for hearing on May 31<sup>st</sup> and the owner was found to be responsible and advised to obtain a Temporary Use Permit. Staff is concerned with social media posts made by the owner that previous events included up to 700 people and 55 vendors. Staff included a condition to limit the event to 75 people – which includes vendors and visitors. There is opposition from neighbors that resided along 171<sup>st</sup> Dr. The opposition has stated this would be the fourth event to be held with increasing number of vendors and attendees growing as these occur. Issues raised include the location, size of the parcel, intensity of the use which is not appropriate for a farmers' market. Social media posts and photographs were provided by the opposition that indicate over 700 attendees and 55 vendors along with images showing the intensity of the use with traffic on 171<sup>st</sup> Dr. The location is on a narrow dirt road which results in increased dust, traffic, noise, and concern if there is an emergency in getting services for the rural/residential neighborhood. The neighborhood market started in 2021, the use of a farmers' market for large assemblage of people requires a Special Use Permit to accommodate the use on-site and to have parking contained within the parcel. The current configuration of using off-site parcels for parking and driveway access has resulted in a direct impact to the existing rural neighborhood. The intensity of the use, number of vendors and attendees, roadway access, parking, dust and noise that directly impacts the existing rural/residential area. Staff is willing to support two additional limited-scale events but are concerned that the number of people/vendors were not clearly identified with the application. Staff believes this use exceeds the intensity of a small-scale neighborhood market. The applicant has been advised going forward this type of use requires a Special Use Permit, and to accommodate all parking on-site. The owner has indicated verbally that she is not interested in filing for a Special Use Permit. The owner was advised that staff would not support the March 11<sup>th</sup> event and that an SUP would need to be filed to host these events. Staff believes this type of use would be better accommodated at a site that can handle traffic, noise, and parking. These types of events are usually held at a community park or large commercial retail shopping centers. If the Board decides to include the March 11, 2023 event, staff notes condition 'c' would need to be amended to include that event date. Staff recommends approval of the two upcoming event dates in October and November to limit the maximum number to 75 people. The violation case has



been open and active since 2021 and the owner could have filed for a Special Use Permit. Staff recommends approval of conditions 'a'-'q'.

Vice Chair Personne asked is staff recommending approval of the two upcoming events and nothing beyond that, and if the applicant wants to do other events, they will need to apply for a Special Use Permit. Ms. Applegate said that is correct.

Member Cardon asked has the applicant agreed to these conditions which are limited to what has happened in the past. Ms. Applegate said she believes the applicant wanted to change the dates and do an event every quarter. She was told this is not possible with this application since it was specified 3 dates. For long term use she was told to get a Special Use Permit going forward.

Member Ward asked with all the issues with this event how is it justified for the two remaining events. Ms. Applegate said to accommodate the owner to host some events we decided to limit it to a maximum of 75 in condition 'c'. We are concerned about the number of people based on the social media posts where these events are much larger in scale. The other concern is all the traffic that comes to the event and park at the general store using the easement. Glendale Ave. has an existing canal along the southern portion of the right-of-way, so all traffic must be filtered through this easement which is a direct impact to the neighborhood and six residential lots along this ingress/egress.

Member Schwartz asked how we monitor them complying with these recommendations. Mr. Gérard said that would require code enforcement to count while the event is occurring. We know the upcoming dates and can a code officer out. Member Schwartz asked could we add a stipulation to hire off-duty police to limit the attendees. Mr. Gérard said the police would be acting as security for the site and not as police. If code enforcement documents a violation, they will attempt to notify the operator at that time, but it would be an after the fact enforcement. They would document with photographs and have another violation hearing and face a financial penalty not to continue with zoning violations. Code enforcement will not halt an event, they have no authority to do so.

Member Ward asked is there are already violations exceeding quotas for this market and the applicant wasn't interested in pursuing an SUP. Ms. Applegate said they never received an entitlement for the events, and it was word of mouth and social media notification. There hasn't been a specific number that's been tied to these events, since they never received the proper entitlement. Mr. Gérard said having the event is a zoning violation until they obtain some type of Temporary Use Permit.

Member Schwartz said you are giving them an offering so they can be in compliance and move the business forward. Mr. Gérard said they have a zoning violation, and they were given this limited time to continue this activity, but it is not the solution for long term.

Ms. Kori Burt the applicant said she has 1-1/4 acres of pasture and there is no HOA, and it is county land and most of the people around here raise livestock. During COVID so many people wanted to get together and see what they could do and be outside and safe. Many of the vendors have good causes or sale food & drinks, and crafts; they love having a market at our house. During COVID there was nobody to talk about getting the permits and she wanted to comply. They live next to the general store and there is parking their all day long and she received permission to

do so. The neighbors that are opposing this just don't like it. We live in the country and live on a dirt road. She doesn't do this to make money and she only charges the vendors \$50 to pay for the restrooms and parking attendants. This is done for good will and to build community. She'll follow any instruction given. If she needs to do a Special Use Permit, she will do it. She is just trying to be a good neighbor.

Chairman Loper asked if she read the stipulations from staff and does she agree with them. Ms. Burt said she doesn't know how to do it. With the ingress/egress, nobody takes a vehicle down that road. We are the first house on our street and there are five other homes past ours. People park at the store all the time and there is 9 acres that people can park there as well. It is owned by the same gentleman. A lot of people just walk in, and they aren't driving vehicles in here. They park away and walk over. Limiting the number of people that come to my own back yard is like just having a big party where people do that all the time.

Chairman Loper asked if this were approved staff could walk her through the stipulations. Mr. Gérard said yes, but it sounds the conditions do not work for the property owner. This is an inappropriate site for large-scale public assembly of people, it is on a dead-end dirt road. The places they are parking is on grass and dirt, unpaved surfaces. There is a lot of work for a Special Use Permit for the offsite shared parking. If the applicant doesn't think two more events are doable, he suggests they find other sites to host these events and the Temporary Use Permit to be withdrawn or denied.

Chairman Loper asked the applicant, the stipulations placed on this would make it difficult for you to operate on the two event dates proposed by staff. Ms. Burt said we only need the October 15 date, and she is happy to follow the guidelines. Going forward they will only want to do two a year, one in March and one in October. If we can't do this on our property, we could find another place to do this. She is only asking for the one event date, October 15. She'll do her best to comply and will figure out a new location or an SUP for other events.

Chairman Loper asked could they come back with another Temporary Use Permit for other events in 2023. Mr. Gérard said they can seek that type of application, but staff will view this as ongoing special events without staff's support.

Vice Chair Personne asked is the opposition from those that live on that street. Ms. Applegate said they live on the street directly to the south within 170 to 340 feet away. They are directly impacted and reside on 171<sup>st</sup> Drive.

Chairman Loper asked if anyone from the public wished to speak on this case. None.

Member Schwartz said the assembly of these type of events becomes the responsibility of the property owner, and the county has standards for the safety and well-being of the community. Many event organizers could execute that, and he doesn't think that is the case here. They are not setup for this, and it is not the right setting. He does not believe she can find a way to comply with the recommendations of staff. He commends her for trying to get the community together and hopes she can find the proper location and tools to execute this and meet our requirements. He is not in support.

Vice Chair Personne said she loves the idea of community events, but it should not create problems for the surrounding neighborhood. It concerns her the applicant is not able to comply

with the stipulations. She would support this one event and would not support another TUP. She needs to pursue a Special Use Permit.

Member Cardon said he believes the applicant is unable to follow the recommendations from staff. If he was one of the neighbors, he would be concerned especially with the number of attendees in the past.

Member Ward said she loves these types of events, but we need to take the neighbors into consideration.

Member Schwartz said if we gave them one more event, they still would not be able to comply with the stipulations; it would be a health and safety risk.

Vice Chair Personne said she is willing to support this one event, so they have an opportunity to transition but they need to comply with the stipulations.

Member Schwartz asked the applicant if we approve the one event for October 15 will she comply with the stipulations recommended by staff. Ms. Burt said yes.

Chairman Loper said he loves to see the type of events, but they need to be in the appropriate location.

**BOARD ACTION: Chairman Loper motioned to approve TU2022010 with condition 'a'-'r' for a single event date October 15, 2022, and Deny the November 19, 2022 and March 11, 2023 event dates with change to condition 'c' and inclusion of condition 'r'. Member Schwartz second. Approved 5-0. Ayes: Cardon, Schwartz, Ward, Personne, Loper.**

- a. Development of the site shall comply with the entitled site plan, "6816 N. 171<sup>st</sup> Dr.", stamped received August 1, 2022, consisting of 1 page, except as modified by any condition identified herein.
- b. Use of the site shall be in conformance with the Narrative Report entitled, "Temporary Events Narrative Pop-up Neighborhood Market", consisting of 1 page, stamped received August 19, 2022, except as modified by any condition identified herein.
- c. This Temporary Use Permit is authorized for events on ~~the following dates:~~ October 15, 2022, ~~and November 19, 2022~~ with start time of 9:00 a.m. and end time of 1:00 p.m. ~~Changes in proposed dates shall be provided to staff at least two weeks in advance of the change in event dates. This Temporary Use Permit shall expire on November 20, 2022.~~ 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. Each event shall be limited to a maximum of 75 people on-site (the include the number of people for vendors and visitors).
- e. There shall be no on-street parking on 171<sup>st</sup> Dr. and all off-site parking is limited to the existing commercial parcels at the SWC and SEC of 171<sup>st</sup> Dr. and Glendale Ave.

- f. 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 any condition.
- g. Approval of the Temporary Use is not an approval to construct. Prior to construction, development or use of the property, the applicant/owner shall obtain all necessary clearances and construction permits.
- h. All development and engineering design shall conform with the Drainage Regulation, Drainage Policies and Standards and current engineering policies, standards and best practices at the time of application for construction.
- i. Traffic Control is the responsibility of the owner/applicant who shall employ qualified personnel as required or necessary to control & direct traffic.
- j. No road closures/obstructions shall be permitted; and no signs or any other event related objects shall be placed with the public right-of-way unless a Special Events Permit is procured from the MCDOT Permitting Branch. (<https://www.maricopa.gov/499/Permits>).  
Owner/applicant shall refer to Chapter 5 of the MCDOT Traffic Control Manual: Work Zone and Special Events. (<https://www.maricopa.gov/DocumentCenter/View/300>) for more information.
- k. This Temporary Use shall in no way be construed to indicate the approval to construct any new buildings on site.
- l. Upon abandonment of the temporary use, the site shall be restored to its existing condition.
- m. 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.
- n. Prior to any event, food concessions shall be permitted by Maricopa County Environmental Services Department (MCESD).
- o. Alcohol is not permitted on site unless a Liquor License is obtained through the Clerk of the Board.
- p. 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.
- q. 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 patrolman 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.

Camping

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

- r. **An off-duty police officer will be hired to help monitor attendance and assist with traffic control.**

**TU2022035**

**Mi Hacienda Temporary Events**

**District 5**

**Applicant:**

Rod Jarvis, Earl & Curley

**Location:**

APN 300-14-001S @ 7644 S. 27<sup>th</sup> Ave in the Laveen area

**Request:**

Temporary Use Permit to allow for Temporary Events

Mr. Johnson presented TU2022035 and noted the site is approximately 5 acres and is adjacent to a similar use, Corona Ranch Rodeo and Events Center located northwest and west. The subject site, Mi Hacienda, is improved with a primary residence, several agricultural structures pole barns and corrals along with a lighted arena. Access is provided by 27<sup>th</sup> Avenue and this right-of-way is under the jurisdiction of the City of Phoenix. The City has provided no comment, and no further

permits are required for use of 27<sup>th</sup> Avenue to access to the property. The request is for 30 special event days over a six-month period, September of this year through April of next year. Event times are anticipated to be held between 5 p.m. -11 p.m. on Fridays, 5 p.m. - 12 a.m. on Saturdays, and 5 p.m. - 11 p. m. on Sundays. Arena lighting to be extinguished promptly at 10 p.m., and portable lighting will be used to illuminate guest areas and parking areas while guests remain on the property up until the last guest leaves. The site can accommodate 150 vehicles and guests will have access to the parking areas, event gathering area with adjacent bar, corral and arena, and ADA compliant portable restrooms. Allowing temporary events to be held on site while a Special Use Permit has been filed and awaiting revised site plans to be scheduled for a Planning and Zoning Commission date in the future. The applicant has complied with the public participation process as required by the SUP. The property owner intends to bring all structures into compliance for the purpose of running an event venue business for various family style events. Staff received one letter of opposition from an adjacent property owner to the south, with concerns of safety, traffic, noise, waste, and disturbance to livestock nearby typical of rural Laveen. Because of the opposition received at the time of public posting, this application is required to be heard by the Board of Adjustment. If opposition had not been received, the application would have been administratively approved after the ten-calendar day public notice period.

Chairman Loper asked who sent in the opposition letter. Mr. Johnson said Ms. Maria Silva.

Vice Chair Personne said the proposal was for 30 event dates, but she sees more dates proposed. Mr. Johnson said it is 30 event days over a 6-month period. Mr. Gérard said they identified several dates but will pick 30 in that time-period.

Member Ward said the event venue next door is primarily a weekend venue. She asked if the noise, parking, dust, and traffic has been discussed with staff. Mr. Johnson said yes, the applicant has discussed mitigation to those concerns. Parking will be on site and the City of Phoenix did not have any requirements for using 27<sup>th</sup> Avenue to access the site. Portable lighting will be used to light the guest area and the arena lighting will be promptly shut off at 10 p.m.

Member Ward said if one venue is having a wedding and the other a rodeo, this will hurt both businesses, noise especially. She asked if there is a way to negate the noise pollution between these two venues. Mr. Gérard said the applicant and representative are here to address those concerns. They will both have to learn to coordinate events to make these events as successful as possible.

Mr. Rod Jarvis, the applicant said he would like to save his time and comment after the speaker in opposition.

Ms. Maria Silva said Corona Ranch is next to the event venue they are proposing, and Corona Ranch is extremely loud, and it rattles their windows. The noise scares their animals, and they try jumping the fence. The announcer uses vile language, and it is disheartening. She asked will the parking for this venue be inside the gated area. She does have concerns if they will be parking across the street like a previous event where a lot of trash was left. Having Corona Ranch and this other venue is the same type of thing, very loud and very disturbing. The don't have peaceful enjoyment when these events occur and many times, they go beyond the shut off time with total disregard for the surrounding neighbors. She is strongly opposed to this.

Chairman Loper said Corona Ranch is not the venue we are discussing today, it's the TUP proposed use. Ms. Silva said but it is like Corona Ranch.

Chairman Loper asked staff if there is some other avenue, she can address her concerns with Corona Ranch. Mr. Gérard said complaints can be made and we can investigate if there are any violations based upon the conditions of their Special Use Permit, but it is an existing entitled operation. It is not a permanent zoning entitlement, and it could be terminated, or they will seek a different zoning for permanent operation.

Ms. Silva asked will they be selling liquor or bringing in their own liquor at these events. Chairman Loper said we will need to hear from the applicant.

Member Schwartz asked where she lives in proximity to the proposed site. Ms. Silva said a 1/4 mile south from Mi Hacienda. Member Schwartz asked if she was notified. Ms. Silva said yes, she received a notice and questioned the address. Mr. Gérard said for a Temporary Use Permit there is only a site posting. For a Special Use Permit it is a legislative action and a much bigger public notice component and that includes a mailing to those in a 300' radius and larger site postings and a legal ad.

Member Schwartz asked if she had a chance to meet with the applicant to discuss her concerns. Ms. Silva said no. Member Schwartz said it is a good idea to keep communication open and he encouraged her to discuss her concerns with the applicant so they can be good neighbors.

Ms. Silva said they don't want another venue like Corona Ranch with the noise pollution.

Chairman Loper asked if anyone else from the public wished to speak on this case. None.

Mr. Jarvis said the concerns will be addressed, but the complaint about noise is directed at Corona Ranch. There is an existing impact, and this would be a good place to put another business like that. Just because Corona Ranch has an SUP doesn't mean they have the right to conduct as a public nuisance. The sound impacts for our site will not impact the neighbors because the west speakers will be on the west border facing east and will not impact the south, and the way the structures or oriented. We are in the process of seeking a Special Use Permit. Mi Hacienda has been operating for two years without an SUP, and it was brought to the county's attention from a complaint. It's been taking a long time to complete the process due to the pandemic and this isn't a large project; it is hard to get engineers to work on this. They are requesting a Temporary Use Permit while they go through the Special Use Permit process. The parking will be on site for 150 vehicles and all the lots will be watered with no dust, and no parking on the street. They will have one to three security personnel onsite depending on how many in attendance at an event. They are just requesting Saturday and Sunday nights only, and not Friday.

Member Ward asked if there are any previous violations on this property. Mr. Gérard said we have had violations for events held in the past and for unpermitted construction. Mr. Jarvis said they will bring all as-builts in compliance during the SUP process.

Member Schwartz said he will make a motion to approve this TUP and asked the applicant to meet with Ms. Silva to discuss the plans for the site.

Member Ward said this site is too close to another event venue in the same location and it is not fair to the neighborhood. Noise travels and there will be dust from livestock, and she is opposed.

Member Schwartz said he is taking all the issues into consideration as it will be temporary, and this will be heard and under discussion with the SUP case.

Member Cardon said the applicant is willing to do what is requested of them along with the conditions that will address the concerns from the neighbors.

**BOARD ACTION: Member Schwartz motioned to approve TU2022035 with condition 'a'-'l' with applicant's request to modify condition 'f' to only allow events on Saturday and Sunday. Member Ward second. Approved 4-1. Ayes: Cardon, Schwartz, Personne, Loper. Nays: Ward.**

- a. Development of the site shall be in substantial conformance with the entitled site plan, "Site Plan for Herdez Temporary Use Permit", stamped received 07/22/22, consisting of one 24" x 36" page, except as modified by any condition identified herein.
- b. Use of the site shall be in conformance with the Narrative Report entitled, "Mi Hacienda Temporary Use Permit Narrative", consisting of 8 pages, stamped received 09/06/22, except as modified by any condition identified herein.
- c. 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 any condition.
- d. Approval of the Temporary Use is not an approval to construct. Prior to construction, development or use of the property, the applicant/owner shall obtain all necessary clearances and construction permits. Any structure erected for a temporary/special event per manufacturer's specifications for a period not to exceed 96 consecutive hours shall not require a construction permit.
- e. All development and engineering design shall conform with the Drainage Regulation, Drainage Policies and Standards and current engineering policies, standards and best practices at the time of application for construction.
- f. This Temporary Use Permit is authorized only for a maximum of 30 event days. Events to be scheduled on the following dates:



9/17/22-9/18/22	11/5/22-11/6/22	12/31/22-1/1/23	2/25/23-2/26/23
9/24/22	11/12/22-11/13/22	1/7/23-1/8/23	3/4/23-3/5/23
10/1/22	11/19/22-11/20/22	1/14/23-1/15/23	3/11/23-3/12/23
10/8/22	11/26/22-11/27/22	1/21/23-1/22/23	3/18/23-3/19/23
10/9/22	12/3/22-12/4/22	1/28/23-1/29/23	3/25/23-3/24/23
10/22/22	12/10/22-12/11/22	2/4/23-2/5/23	4/1/23-4/2/23
10/29/22	12/17/22-12/18/22	2/11/23-2/12/23	
10/30/22	12/24/22-12/25/22	2/18/23-2/19/23	

Events held on ~~Friday and Sundays~~ shall begin (customers entering site) no sooner than 5pm and shall end (all customers exited site) no later than 11pm. Event days held on Saturdays shall begin (customers entering site) no sooner than 5pm and shall end (all customers exited site) no later than 12 am. **Events shall only be held on Saturday and Sunday dates.**

The property owner shall notify the Planning and Development Department in writing at least two work days prior to hosting a special event day thereby providing the Department with a tracking number of event days.

Temporary Use Permit shall expire on **April 2<sup>nd</sup>, 2023**. 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.

- g. 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.
- h. 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.
- i. Prior to any event, food concessions shall be permitted by Maricopa County Environmental Services Department (MCESD).

- j. Alcohol is not permitted on site unless a Special Event Liquor License is obtained through the Clerk of the Board.
- k. 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.
- l. 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 patrolman 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.

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

Chairman Loper is recused for the next two cases – BA2022021 and BA2022033. Vice Chair Personne is acting Chair.

<b>BA2022021</b>	<b>Kregle Property</b>	<b>District 1</b>
<b>Applicant:</b>	Bill Lally, Tiffany & Bosco PA	
<b>Location:</b>	APNs 304-23-021P and 304-23-021F @ 12225 & 12247 S. Gilbert Rd. – Gilbert Rd. and Warner Rd., in the Gilbert area	
<b>Requests:</b>	Variance to permit: <ol style="list-style-type: none"><li>1) Proposed separation distance of a marijuana establishment from a school of 1,294.67' where 1,500' is the minimum separation required per MCZO 804.2.45.b.3 and;</li><li>2) Proposed separation distance of a marijuana establishment from a public park of 475' where 1,500' is the minimum required as per MCZO 804.2.45.b.4</li></ol>	

Mr. Mueller presented BA2022021 and noted the applicant is proposing a marijuana establishment in an existing building on site. The site is zoned C-3, where marijuana establishments are a permitted use, if the site is separated other uses within a set a minimum 1,500' distance - a church, school, daycare, park, playground, adult oriented business, or other marijuana establishments. The building on the proposed site fails to meet the required separation distance from both a school and a park. The Greenhouse Montessori School, located to the north and a public park owned by the Town on Gilbert is located about 475' southwest of the subject site. Staff received support and opposition on the proposed variances. The Town of Gilbert expressed opposition, a marijuana establishment would not be permitted in a commercial zoning district, nor would the subject site meet the 1000' separation the Town requires from residential. Staff also received opposition from an address located north of the subject site, expressed general concern over the proposed use and concern over potential improper posting at the site. Staff does have photographic evidence and a signed affidavit documenting proper site posting. The six letters of support were generally describing positive relationships with the potential proprietor of the marijuana establishment. These include business neighbors of other locations, the Town of Guadalupe which has a relationship with another Mint location, and some customers of other Mint establishments. The support letters do little to address the subject site and none of them address the specific variances the applicant has proposed. Staff is not in support of this variance request. The applicant has failed to demonstrate there is a peculiar condition facing the property because the subject site is relatively flat and does not present any unusual physical characteristics that would pose a hardship. The applicant is stating a hardship is present due to the proximity of existing uses. These uses have both been established well before the proposal of locating a marijuana establishment on site. Both uses are accessible via pedestrian infrastructure provided along Gilbert and Warner roads. The school located to the north is along a straight path of which a sidewalk is provided over the entire stretch. There are delineated crosswalks at the intersection of Warner and Gilbert roads facilitating access from the proposed site to the existing park. The applicant has failed to demonstrate the strict application of the zoning ordinance to the applicant's property has caused undue physical hardship that prevents the development of the property.

Mr. William Lally with Tiffany and Bosco, representing the applicant said the code is articulated where you have a public or private elementary or secondary school, and our argument is this is neither one of those, it is a Montessori School that's serves kids 14 months to 2 years old. The park is a small 6,000 square foot parcel left over from a county subdivision. It doesn't show up on any Gilbert maps or identified as a Gilbert Park. The code requires 1,500' from a public or private school, elementary or secondary school. A typical elementary school is grades K-6. This is a small Montessori school in a house that has kids 14 months to 2 years old and you're not likely to have students leaving the school alone. Mr. Gérard said if we are going to discuss what a school is, that is outside this Board's purview; from staff's perspective this is a school and there needs to be a separation.

Mr. Lally said the drop off area is outside the buffer area and if this were in Gilbert, they require 1,000' from medical marijuana uses. If you have older students, they would be venturing off this area to get to their homes. This population is different than a population at an elementary or secondary school. The park was missed in our first review and staff's first review, and it wasn't brought to our attention until the Town of Gilbert sent a letter saying there is a city park 475' away from the site. The park has no signage and no parking, and it doesn't jump out as a municipal park. We are across a busy intersection and the interaction between the two sites is highly unlikely. The site has been a heavy commercial use for many years. He believes the school isn't a true public school or the park isn't a true public park, and they will not have the same impact as elsewhere. It is a unique situation to allow for a variance.

Member Schwartz asked if he read the e-mail from the Town of Gilbert and to read the second paragraph. Mr. Lally said, they do not allow marijuana facilities within 1,000' of a public or private park and the park is approximately 500' away.

Vice Chair Personne asked how they were made aware of the park not being on the Gilbert map. Mr. Lally said when the case was originally filed, a letter was received, and we were asked to modify our application to include the variance to the park. They never realized it was a park and investigated the location, and it is not a typical city park.

Ms. Veronica Gonzalez with the Town of Gilbert said the town is in opposition to this request. The site is less than 1000' feet away from existing residential districts to the north and the east, and less than 500' away from a public park known as Sonoran Town Park, and less than 1000' away from two existing private parks in residential districts. The site is 200' away from a Town of Gilbert multi-use path to the east of this property. If annexation is to be requested in the future, this would be a non-conforming site. This does not meet the minimum requirements in the county zoning ordinance, and she asked the Board to deny the variance request.

Mr. Lally said the Town of Gilbert's rules are different than the county. She referenced a private park and the multi-use trail, and the county code doesn't recognize private parks or trails. If this is an annexable area, they would have already pursued those property owners to annex into the Town of Gilbert. The code has justifications that truly fit the real world uses, like a true school and a true park. He doesn't believe either one of those uses are that at all. There are seven letters of support in the packet, and they should be taken into consideration. He believes they have proper justification for the variances and doesn't think those two uses will be impacted. The Town of Gilbert won't be annexing anytime soon, and we have community support.

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

Member Cardon said he did read all the support letters. He believes the staff report is accurate and he will make a motion to deny this variance case.

Member Schwartz said staff did a great job laying out the report and he appreciates Mr. Lally's arguments, but he is agreement with Mr. Cardon and will second the motion.

Vice Chair Personne said she shares the concerns and believes there is no extenuating circumstances or peculiar conditions.

**BOARD ACTION: Member Cardon motioned to deny BA2022021. Member Schwartz second. Denied 3-1. Ayes: Cardon, Schwartz, Personne. Nays: Ward.**

<b>BA2022033</b>	<b>Arizona Sand &amp; Rock Property</b>	<b>District 5</b>
<b>Applicant:</b>	Shaine Alleman, Tiffany & Bosco, PA	
<b>Location:</b>	APN 104-64-001A @ 5310 W. Roeser Rd. – NWC of Roeser Rd. & 51 <sup>st</sup> Ave., in the Laveen area	
<b>Request:</b>	Variance to permit: 1) 36-foot-high light pole where 18 foot is the maximum permitted height per MCZO, Art. 1102.7.6	

Mr. Johnson presented BA2022033 and noted the request would allow 36-foot light poles for parking and storage area of the entire lot. The current use is for overflow parking and storage of semi-trucks from nearby warehouses, allowed by an approved Special Use Permit. The applicant has failed to demonstrate there is a peculiar condition facing the property in the property's existing use had been granted under a Special Use Permit. There are appropriate channels to vary the light height standards as done with the other development standards varied under the Special Use Permit, thus a variance is not warranted. The applicant has failed to demonstrate applying the requirements of the zoning ordinance to this property. The applicant has demonstrated the peculiar condition / physical hardship is not self-created in the line of title. The property owner pursued a Special Use Permit to vary development standards as part of the Special Use Permit application. The applicant has failed to demonstrate the general intent and purpose of the zoning ordinance will be preserved despite the variance because the ordinance allows site plan amendments for holders of approved Special Use Permit. It has not been demonstrated that the increased lighting will not adversely impact adjacent residential neighborhoods and open space areas.

Vice Chair Personne asked why they need higher lights. Mr. Johnson said the current use under the SUP is storage of semi-trailers and the 18' is not high enough for the lot to be secure and illuminated. The trailers are 10' to 18' in height and does not allow adequate lighting for the entire lot.

Mr. Shaine Alleman with Tiffany and Bosco said this is an established area for industrial uses for over several decades, and the residential neighborhood came into existence 7 years ago. There is an SUP that was approved last year to allow this use for Amazon to have extra storage space. There are many trucks on this site worth millions of dollars of inventory and they have been targeted in the past. There is a security guard on site 24/7, and it is gated, and the lighting is very important. Security can't see if people are hiding in between trucks. With this being considered a parking lot with parking spaces we are regulated to 18 feet in height. The extra height in lighting is needed on this site because the truck trailers are 14' to 15' and at 18 feet you don't get the

lighting that is needed. The property is located directly adjacent to the Rio Salado wash where this is dark area and can attract criminal activities. It is isolated with adjacent properties that are not used in the evening hours, so there is no one around except an on-site guard. The use is different from most other industrial type uses housing valuable inventory on-site and not housed in a secure building. The trailers are approximately 14'-15' and 18' light poles are not adequate for security lighting. An unnecessary hardship exists where security is the utmost importance to protect the million dollars of inventory, and without proper lighting they won't have that security. Allowing 36' height will result in less lights than if required to do 18'. These lights will be shielded and follow the lighting codes with no light spillage beyond the property line. No opposition was received from the neighbors.

Member Schwartz asked if you had to put in additional 18' lights how many would be needed. Mr. Alleman said he is not certain, but they would have to add more poles and put them further out to the property line and that could cause spillage off the site. The 36' height would be the best solution to balance the needs and requirements of the site.

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

Member Ward said with an increase in homelessness and crime, the safety aspect of this is important and she is in full support.

**BOARD ACTION: Member Ward motioned to approve BA2022033 with condition 'a'. Member Cardon second. Approved 4-0. Ayes: Cardon, Schwartz, Ward, Personne.**

- a) Variance approval establishes a maximum height of 36 feet for APN 104-64-001A for lighting structures used to illuminate parking spaces.

**Adjournment:** Vice Chair Personne adjourned the meeting of September 15, 2022 at 1:23 p.m.

Prepared by Rosalie Pinney  
Recording Secretary

September 15, 2022