

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

January 27, 2022  
9:34 a.m.

Gotowebinar.com  
Phoenix, Arizona

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**MEMBERS PRESENT:**

Mr. Jimmy Lindblom, Chairman  
Mr. Lucas Schlosser, Vice Chairman  
Mr. Greg Arnett  
Mr. Kevin Danzeisen  
Mr. Matt Gress  
Mr. Erik Hernandez (left at 11:53 a.m.)  
Ms. Kate McGee  
Ms. Francisca Montoya (left at 11:45 a.m.)

**MEMBERS ABSENT:**

Mr. Spike Lawrence  
Mr. Jay Swart

**STAFF PRESENT:**

Mr. Tom Ellsworth, Planning & Development Director  
Mr. Darren Gérard, Planning Services Manager  
Ms. Rachel Applegate, Senior Planner  
Mr. Adam Cannon, Planner  
Mr. Jose Castañeda, 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

**REGULAR:**

**Z2021096, Z2021129, Z2021090**

Chairman Lindblom made the standard announcements and asked if there were any changes or comments to the minutes for the December 9 meeting. None.

**COMMISSION ACTION: Chairman Lindblom approved the minutes as written from December 9, 2021.**

**REGULAR AGENDA**

**Special Use Permit - Z2021096 (Cont. from 1/13/22)**

**District 4**

Project name: **Crossriver RV Storage**

Applicant: Gary McCoskey

Request: Special Use Permit (SUP) for an RV storage facility in the Rural-43 zoning district

Maricopa County Planning and Zoning Commission Minutes  
Meeting of January 27, 2022

Location: Generally located 300' east of the SEC of Harmony Ln. and 119th Ave. in the Sun City area

Mr. Castañeda presented Z2021096 and noted the applicant is requesting a Special Use Permit for an RV storage facility that has been operating since 2015. Currently, there is a violation case on the property regarding the business operation. Staff received one letter of opposition located within 300 feet of the site. A letter received from the City of Peoria noting their General Plan Land Use designation for the site is Estate Density Residential, and the RV storage does not align with the existing single-family uses in the area. The staff analysis found the proposed SUP is consistent with the existing land uses in the area while the City of Peoria noted the site is designated for large lot estate density. The character in the area is in alignment with the request. In staff's opinion, the proposed use is complimentary to the character of the area more industrial than residential. A similar request was approved five parcels to the east, and there is a mining exemption north of the site. Approval of the Special Use Permit would improve the site with screening. The applicant has worked with staff to increase the height of screening from 6-foot high CMU block wall to 8 feet, and provide a 5-foot landscaping setback along the front yard. Staff recommends approval of this request.

Chairman Lindblom asked the reason for the twenty year Special Use Permit. Mr. Castañeda said the 20 years was the request from the applicant, and staff did not have any concerns of negative impacts in the area. The screening and landscaping is an improvement to the existing uses.

Mr. Gérard said staff looked at what the land use patterns would be over that 20-year period. We do not foresee any changes in that period that would cause this special use to have adverse impacts or becoming incompatible. Staff believes the twenty years is appropriate, and it can be revisited after that period.

Mr. Gary McCoskey, the owner of Crossriver RV Storage said he is seeking approval for the Special Use Permit. He has never had any issues with the site until he made the application for the SUP, then he received opposition. When he purchased the property there were abandoned RV's, junk cars and someone camping on the property. He came in and graded the property, and put down crushed asphalt. The SUP would allow him to improve the fencing around the site and allow him to get his own power and water services to the site. He did not put in any streetlights so it could remain low impact to the neighborhood. Traffic is very light and he only takes long-term storage customers, so there is not people working on the site daily.

Mr. Bertrand Boutin said he has lived in the area for 50 years. This individual started camping on the property without power or water, and very slowly, they turned his backyard into a parking lot. This could have a couple hundred RV's going down Rose Garden Lane, which is one way in and out. They run a repair shop in the middle of the property grinding and pounding. This snuck in here, and we now have tractor-trailers thinking they can park on Rose Garden Lane. The entire area is becoming a parking lot. He moved out there to be away from the city. The neighbors on both sides of him now think they can start storing RV's as well, and this is becoming a big commercial operation down here. They are drawing power and water from the neighbor. He did not submit a

complaint until they requested a permit because he did not think this was a permanent thing.

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

Mr. McCoskey said there was someone living in a camper when he purchased the property. He talked to the surrounding neighbors in 2015, except for Mr. Boutin. He set up the RV Storage and tried to keep the use as low impact as possible. He cannot control what goes on around them. He is receiving utilities from the neighbor to the south. The entire area is becoming more industrial with the materials pit, RV parking, and a construction company in the area. The Boutin property, aka Lemonade Acres is a movie production company, and they do movie shoots on the property. Everyone is doing different things in this area and it is not strictly Rural-43 type activities.

Chairman Lindblom asked if there was a buffer between Lemonade Acres and the masonry wall. Mr. Castañeda said other than the retention basin on the south side of the property, then the wall and the adjacent property.

Commissioner McGee asked if the commercial activity on either side of the subject property and the production company permitted. Mr. Castañeda said the only one he shows permitted is five parcel to the east. A lot of this type of activity has been in this area since 2014, and he does not have any record of the adjacent parcels having any entitlements.

Commissioner McGee said she understands the violation process is complaint driven. Mr. Gérard said that is correct, we police zoning violations reactively on citizen complaints. If we get a citizen complaint and see an adjacent property in violation, we will write them both up.

Commissioner McGee said the parking of semi-tractor trailers on Harmony Lane does raise some red flags. Mr. Castañeda said he has checked the adjacent properties and the one on the southwest corner of Harmony and 111<sup>th</sup> Avenue had violations opened and subsequently closed. They could have cleared out the property and then moved things back. The violation on the subject parcel did not come in until the application for the Special Use Permit and the notices went out.

**COMMISSION ACTION: Commissioner Gress motioned to approve Z2021096 with conditions 'a'-'i'. Vice Chair Schlosser second. Approved 8-0. Ayes: McGee, Arnett, Hernandez, Gress, Montoya, Danzeisen, Schlosser, Lindblom.**

- a. Development of the site shall be in substantial conformance with the Site Plan entitled "2", consisting of 2 full-size sheets, dated September 22, 2021, and stamped received October 1, 2021, except as modified by the following conditions. Staff will determine if slight refinements to the site plan remain in substantial conformance. Amendments may be major or minor in accordance with Chapter 3 of the Maricopa County Zoning Ordinance.

- b. Development of the site shall be in substantial conformance with the Narrative Report entitled "Crossriver RV Storage LLC", consisting of 5 pages, dated August 10, 2021, and stamped received October 1, 2021, except as modified by the following conditions.
- c. The following Planning Engineering conditions shall apply:
  - 1. 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.
  - 2. 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.
  - 3. Detailed Grading and Drainage Plans must be submitted with the application for Building Permit.
- d. This special use permit is valid for a period of twenty (20) years and shall expire on **February 2042**, or upon termination of the use for a period of 90 or more days, whichever occurs first. All site improvements associated with the special use permit shall be removed within 90 days of such expiration or termination of use.
- e. Site Screening: 8' minimum CMU Block Wall on the south, east, and west property boundaries. 6' minimum CMU Block Wall on the north property boundary.
- f. All buildings subject to noise attenuation as per ARS § 28-8482(B).
- 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 property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.
- i. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, 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.

**Zoning - Z2021129 (Cont. from 1/13/22)**

**District 1**

Project name: **194<sup>th</sup> Street & Riggs Rd.**  
Applicant: Zachary Pebler, Zachary A. Pebler, PLLC  
Request: Zone Change from Rural-43 to R1-35  
Location: Generally located at the SEC of 194<sup>th</sup> St. & Riggs Rd.

Mr. Cannon presented Z2021129 and noted the request would allow for a lot split of four lots on the property and the ability to develop four single-family residences. Staff is recommending denial of this request. Planning and Development does not review minor land divisions of five lots or less, they are a civil transaction handled by the County Recorder and Assessor's office. Under the existing Rural-43 zoning, three lots can be yielded and meet Rural-43 development standards. Creating a fourth lot would create one non-conforming lot and would be unable to receive a building permit. Staff believes the zone change to R1-35 is intended for the purpose of yielding the fourth lot. The request represents a spot zoning for the sole benefit of the property owner. If approved staff believes, the zone change request would set a precedent that encourages additional requests and development of defacto subdivisions without the private expenditure and development of required improvements to properly serve the properties. Staff did review both the Queen Creek Area Plan and the Queen Creek General Plan; the land use is rural with a density of 0-1 dwelling units per acre. Queen Creek did comment stating the site should retain consistency with the rural land use and develop no greater density than one dwelling unit per acre. Staff feels the request is not consistent with both the land uses of both the County Area Plan and the Town of Queen Creek General Plan, or the general views of the surrounding community. The applicant did comply with citizen participation requirements with a virtual meeting held and a conference call with two individuals. The applicant noted were supportive of the proposal. There were no known opposition or support letters received.

Mr. Zachary Pebler, the applicant said the intent and request is to rezone the parcel from RU-43 to R1-35 to allow the builder one more lot to accommodate for .96-acre lots, so just under the one-acre standard by only 1,700 sq. ft. We are trying to look like Rural-43 as much as possible. Looking to the west Riggs Road is five lanes, and four lanes looking east with median. This area is deviating away from the rural use to mainly a single-family area. Rural-43 asks us to protect farmland, open land uses, and orderly growth, and R1-35 is sustaining single-family residential development of lots 35,000 sq. ft. or larger. Take into consideration the present land use, lot sizes in the area, and future land uses and utilities. This property does not have any irrigation infrastructure, so it would not apply to farmland

and the rural use in the area is far dissipating and accelerating at a fast rate. We are trying to promote the orderly growth of RU-43 by keeping them at .96-acre lots with four new custom homes. We have public utilities available by the Town of Queen Creek water, SRP will serve us, and these properties will have septic systems. A quarter-mile to the west there is property with spot zoning with R1-35 land with new houses built in the last four to five years. To the east, you can see R1-35 zoned annexed land in the Town of Queen Creek. There is that precedence here. The setback standards for RU-43 and R1-35 are close to the same with the front and rear yards completely the same, and the side yard in R1-35 narrowed by 10 feet on each side. Only one of those homes would need to have a deviation from RU-43 standards. The largest house the builder promoted to the neighbors with the lot coverage only 17%, still far under the RU-43 and cohesive to what is in that area as well. We offered a Zoom meeting and had one lot owner and one homeowner attending. We reached out to all of the surrounding neighbors before making this application with no concerns. The only concern during the meeting was the drainage along 194<sup>th</sup> Street running south to north which has some volume when it rains, and to possibly make some drainage access on the western border. The builder agreed to improve aesthetic of the wall on 194<sup>th</sup> Street to match the western home. They have zero opposition. He is seeking approval of the rezoning to R1-35.

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

Vice Chair Schlosser asked why staff is recommending denial. He said they are lacking 1,700 sq. ft. which is 40'x40'. Does the R1-35 allow for that if we were to approve this case? Mr. Cannon said yes R1-35 zoning district would allow a fourth lot to be created; this is handled through the Recorder and Assessor's office as would a split to three. When we look at a zone change, we look at a number of things. We do see this as a spot zoning because the sole benefit for a single property owner and it is a small area of land that is incongruent to the surrounding rural/residential zoning. The other thing staff looked at was the comments received from the Town of Queen Creek. Staff does not want to promote zone changes for the purpose of lot splits, and a precedent will be set.

Vice Chair Schlosser asked if they could split a property up to five times. Mr. Peck said yes, but each of the lots created must conform to the underlying zone. If they were to do the four lot splits, one of those lots would be an illegal lot and not able to obtain a building permit because it does not conform to the zone.

Mr. Peck said this applicant is telling you only one house would be 20 feet. If you rezone this, all of the houses can be 20 feet. The statement they are going to stucco the wall to match the house, is not something the commission can require in a zone change. They can do anything R1-35 zoning allows. There is a difference between a permanent zone change, which is general as opposed to an SUP.

Chairman Lindblom asked under an R1-35 rezone, how many lots could be on this property. Mr. Cannon said just four. Chairman Lindblom asked what the smallest size it can be is. Mr. Cannon said 35,000 square feet if zoned R1-35.

Vice Chair Schlosser said, he understands the concerns in establishing precedent, but if anyone were to be on site and look at the property, you will not be able to tell the difference between the undersized lot and the one with the additional 1,700 square feet. He does not have a problem with this application request.

Chairman Lindblom asked if the stipulations in the packet are okay and why. Mr. Peck said the only stipulations that are okay would be those applicable to all properties throughout Maricopa County that are in the R1-35 zoning district. Anything related specifically to this property is completely unenforceable.

Mr. Gérard said we cannot stipulate to block walls along the south perimeter or certain lot size where one lot can be a certain size because that would be specific standards and necessitate an RUPD overlay. It would not be applicable to the general R1-35 development standards. If you approve the R1-35 zoning, any lot can be created within that zone as small as 35,000 square feet. The stipulations before you are for standard R1-35 zoning.

Commissioner Arnett asked if the lots to the west and the two to the east one-acre lots. Mr. Cannon said one of those is a lot that was reduced because of a taking. The property to the west is considered legal non-conforming. The other lot east of the property, he did not find any information as to why that one was under-sized in comparison to the Rural-43 requirements.

Commissioner Arnett said this would be four more lots in the line of eight lots. The four lots proposed would be the largest of those eight lots. It is totally in line of what they are doing.

Chairman Lindblom said he understands the spot zoning concern and them trying to stay consistent with one-acre when this is .96. This is minimal and consistent to what they are doing with the rest of the community. Commissioner Arnett said the .96 is not the only thing, but there are other things like the setbacks differences.

Commissioner Gress asked are you saying this is close and the principle is being abided, but not close when you consider those other elements of zoning. Commissioner Arnett said he is trying to preserve the zoning for the area, but he does not believe it will make a difference. Even though it opens up other things, he does not think it is that big of a deal.

Chairman Lindblom said if he were to drive down Riggs Road his head is not going to turn to look at what they build, it will look and feel the same.

Chairman Lindblom asked what the Town of Queen Creeks position is. Mr. Cannon said their letter said, the site should retain consistency with the rural land use and develop with no greater density than one dwelling unit per acre.

Chairman Lindblom asked if farm animals are allowed in RU-43 and not R1-35. Mr. Gérard said you can have farm animals in Rural 43, and farms are a permitted use. In R1-35, you switch from rural to single-family residential zoning district and farm animals are not permitted. You can have up to five chicken hens and you can have horses as long as

you have a minimum of 1,200 square foot of open corral per animal and a minimum setback for the corral of 40 feet. You are limited; nothing else would be permitted as in Rural 43.

Vice Chair Schlosser motioned to approve this case. Chairman Lindblom asked with the stipulations. Mr. Peck said whether you include stipulations is irrelevant. If it becomes an R1-35 zone then whatever is required of the R1-35 zone is required of this property.

Vice Chair Schlosser said, he motions for approval with no stipulations.

**COMMISSION ACTION: Vice Chair Schlosser motioned to approve Z2021129 without the stipulations. Commissioner Hernandez second. Approved 6-2. Ayes: Arnett, Hernandez, Montoya, Danzeisen, Schlosser, Lindblom. Nays: Gress, McGee.**

**Zoning - Z2021090**

**District 4**

Project name:	<b>WestWing Recycling &amp; Transfer Station</b>
Applicant:	Gammage & Burnham PLC – Stephen Anderson
Request:	Zone Change with Overlay from IND-2 IUPD to IND-3 IUPD
Location:	Generally located approx. 3,060' NE of the intersection of El Mirage Rd. & Loop 303

Mr. Cannon presented Z2021090 and noted the request would allow for the development of a waste and recycling transfer station facility on 10 acres. The site is located in the general distance of the City of Peoria and the City of Surprise. The new site is located just over a quarter mile from the nearest residence. The old site was located within 644 feet from the nearest residence. The access of the site is from El Mirage Road north from the Loop 303 and a connector road that leads to the WestWing Business Park, which is zoned IND-2 IUPD. Garbage and recycling collection trucks servicing neighborhoods and commercial clients will travel from their point of origin along assigned collection routes until either their route is complete or collection vehicle is full. At that point, the trucks will travel either northbound or southbound along Loop 303 and exit at the El Mirage Road exit. The applicant prepared a zoning exhibit and if approved staff expects to be in substantial conformance in the forthcoming plan of development. The facility will have public hours; the hours of operation will be from 5 a.m. to 5 p.m. and closed on Sundays. They will have approximately four employees. When trucks arrive on the site they will deposit waste recycling to a tipping floor and from there a loader will remove the items from the floor and place items into a transfer truck located in the transfer pit, a portion of the site that is below grade. The transfer truck will exit the site the same way it came in from, the Loop 303. They will take the materials to a recycling processing center, or if it is waste, it will go to the Southwest Regional Landfill on State 85. This proposal has generated a great deal of passion for and against the zone change. Staff collected letters and petition signatures with over 7,000 individuals, 1,749 in support and 5,346 in opposition. The applicant complied with the citizen participation process and fulfilled site-posting requirements. Several public meetings and town halls were held with many members of various communities attending. Also, met with HOA's and prepared a website, and sent out newsletters to over 700 people. Staff received concerns from the public relating to traffic, noise, fire, odor, property values, pestilents, value and effectiveness of the facility, and potential for other IND-3 uses. Support letters were of



economic benefits, and a potential for municipal recycling program to return and Republic Services operates as a good public citizen. Staff also received six letters of support from public officials. The applicant received a will serve letter from Arizona Fire and Medical, comments from ADOT and comments from Western Area Power Administration which indicated no concerns with the zone change. No comments received from adjacent municipalities. Additional comments came in later, to be included in the short report to the Board of Supervisors. Staff is recommending approval of this request subject to the revised conditions presented in the handout. The applicant has adequately addressed the concerns of the public and comments of staff, and the site is efficient distance to nearby communities to mitigate any potential impacts. The facility is a necessary operational component for solid waste and recycling collection. The site is designated as an industrial and mixed-use employment land use in the Peoria General Plan and the County Area Plan. The site is surrounded by a barrier with the 303, and buffered by industrial land to the south and north. Staff also believes the site will ultimately benefit the northwest valley and is necessary due to the growth in the area. The site proposed a dedicated access to the industrial park that will allow for truck storage and traffic to the site without impeding traffic flow through the neighborhoods, which was a concern with their previous site.

Mr. Stephen Anderson said he is a land use attorney with the law firm, Gammage & Burnham along with Ms. Cheryl Griemsmann, land use planner. Also joined by two representatives of Republic Services, Mr. Javara Perrilliat, the area president, and Mr. Stephen Herring in charge of the community outreach. Mr. Shaine Alleman, land use attorney with Tiffany and Bosco representing the owners of WestWing Industrial Park, and Mr. Keith Paffrath with Forensic Fire Consultants. The 10-acre site is located at the southwest corner of the WestWing Power Station, in the northwest valley for decades on 185-acres. More than 18 times the size of the site, they are proposing. A quarter-mile to the south and a half-mile to the east the Loop 303 swings around their site with approximately 30,000 cars and trucks per day. The sound walls were installed to protect the residences on the south side of the 303. They cannot see their site and they cannot see them. This makes our site ideal because we will be invisible to area homeowners. Once the access road is built our truck traffic will be driving on roads that no resident uses today or in the future. Our site is vacant and surrounded by empty desert land, and has been planned for employment and industrial land uses. We are consistent with the long-standing plan for this area. The WestWing Industrial Park is already zoned IND-2 and we are making a small jump to IND-3. The industrial park is 75 acres in size less than half the size of the power station. We are under contract for the most remote 10-acres of the park, less than 14 percent of the parks total acreage. The County approved the park in 2019 without any citizen comment or opposition. There was little to no community interest with the County approved battery facility last year on the north side of the power station directly across the street from homes. The traffic report submitted with the industrial park zoning indicated the park would generate more than 3,000 trips per day, which is more than 37 times of traffic we are projecting out of our portion of the site. The IND-2 zoning allows sewage treatment plants, adult uses (strip clubs), marijuana dispensaries, and truck terminals are allowed which are clearly intense uses. Transfer facilities are not on this list. Since we are going for IND-3 zoning, we have a narrative restricting some of the uses to knock out some of the more objectionable things like the strip clubs, medical marijuana dispensaries and sewage treatment plants. This zoning actually narrows the allowed uses.

Those uses could happen on the site tomorrow without any public input. Once the industrial park is built out, you will not be able to see us from the freeway. We are a small isolated parcel surrounded by larger existing approved industrial uses and the freeway. The basic business purpose of a transfer facility is to reduce truck traffic. The EPA manual says, "By consolidating shipments to the disposal site, a waste transfer system will have net positive impacts in terms of reducing community-wide truck traffic, air emissions, noise, and highway wear." That is what a transfer station does. A couple years ago, the City of Surprise had to terminate their recycling program. Now we have proposal for a recycling transfer station and the City of Surprise mayor, Skip Hall is excited about this. He sent a letter stating the transfer station has the potential to get recycling back to Surprise and he would like to see the proposal approved. There has been a lot of support from the City of Surprise residents including a petition signed by more than 1,000 people. Waste transfer stations are regulated by Arizona Department of Environmental Quality (ADEQ) pursuant state statute. They maintain a list of all registered waste transfer stations in Arizona on a county-by-county basis. There are 32 existing transfer stations all over Maricopa County. The Phoenix North Gateway Transfer Station is the largest in the state. The building alone is 216,000 square feet. Our proposed building is 17,000 square feet and covers four percent of our lot, and the site is among the smallest commercial facility in the county, number 13 of the 15 facilities by size. All loads must be tarped, transfer never takes place outside the building, the building is closed on three sides, the bay doors on the building face north toward the unoccupied power station, the public won't see in because you can't see in. The building is equipped with misters, and the main job of the misters is to control scents, and help reduce the risk of fire. Recyclables and trash do not spend a lot of time at a transfer station they are loaded on a semi as soon as convenient. Republic is committed the tipping floor will be cleaned every single night, no trash or recyclables will be on the floor overnight, and It will close the bay doors every night. No other facility in the county has agreed to these two commitments. The transfer station is fenced, gated and secured overnight, and will be equipped with cameras inside and out. It is not only crime prevention but also a fire prevention step. This condition was imposed for the battery facility approved by the commission for fire regulation. We thought it was a good idea and are incorporating it here. These two conditions came from the neighborhood discussions - semi's coming off the 303 are controlled and directed not to use their air brakes as they pull off or enter the freeway, and Republic will have a dedicated hotline for neighborhood comments and concerns. Monthly free bulk disposal for area residents. This will be the first transfer station in the northwest valley. Twenty years ago, there was nothing out here, no subdivisions and no grocery stores, and no freeway. There was no waste transfer stations out here because there was no trash. The population has now exploded and now there is a need. There were two letters from elected officials; one was from Phoenix city council member, Jim Waring, and one from Representative Steve Kaiser. They represent the neighborhood where we operate the Cave Creek Transfer Station for years. They both indicated we have done a good job and have had zero complaints about that facility. We had meetings with 14 HOA's and 4 open houses at the property, 4 tele-town halls, and we toured the Corte Bella Government Affairs Committee through the Cave Creek Recycling and Transfer station. We operated a project website with all of our technical reports available to the public. There has been a great deal of concern and many letters of support. We have staff's recommendation for approval subject to stipulations. We reviewed all of the proposed stipulations and we are in agreement with all of them. They propose to rezone 10-acres

of industrial zoned land of IND-2 to IND-3 at the foot of a 185-acre power station. He asks the commission to concur with staff and recommend approval of this modest rezoning request subject to the stipulations.

Mr. Duane Yantorno said he is the chair of the Corte Bella Government Affairs Committee and they represent over 3,000 residents. It is an adult community made of adult professionals, located less than a mile from the proposed transfer station. They are opposed to this transfer station. The committee has closely studied this proposal and have been actively involved since the beginning. They invited Republic Services to participate in their town halls, and we had a site visit to their Cave Creek facility. There is a number of heavy industrial properties located within this vicinity and they studied two other transfer stations. Once the commission approves this rezone, you end up with additional heavy industry going into the adjacent area and they are opposed to going from IND-2 to IND-3. He asks the commission to hear their concerns. They collected petitions from those in their community and surrounding communities with 4,413 signatures and a number of letters from people in the community expressing their concerns. If this is approved it will set a precedent for others coming in.

Ms. Linda Wright said she is a resident of Corte Bella and she echoes the statement by Mr. Yantorno. There are seven communities in this area and some are within one mile. If rezoning happens from light to heavy, you will not be able to deny future applications and it would be a great detrimental to our community. She asks they carefully consider and not approve this rezoning request.

Ms. Rosemary Ooton said she lives in Cross River. Her husband works a mile away from a recycling transfer station, and it has a bad odor. We cannot see that facility but we can smell it. It has also brought in rodents at his work. Strip clubs and marijuana facilities may come in, but you cannot smell them. She believes this will bring down the property value of homes.

Mr. Kevin Jeffrey said he lives in Cross River and his wife was unable to attend, but wanted to read her concerns. The proposed site is a half-mile from their home. She asks the commission to deny the rezone that would be close to their home and many neighbors. Her family is concerned of the health ramifications of placing this facility near our home because she and one of the children have a medical condition that affects our immune system. Our bodies inappropriately respond to any triggers including various smells and chemicals that can trigger a life threatening reaction. We sold our previous home that was closer to the city and moved to get away from the concentration of smells and chemicals that affect her health. Now the rotting odors of trash and chemicals, they would be afraid to step outside for the fear of triggering their immune systems. This facility should be placed further away from existing homes and in an area that is more appropriate for heavy industrial businesses. No one wants to live this close to this type of facility. We are counting on the commission to protect us and deny this request. Mr. Jeffrey said he has concerns with a few of the conditions, and asked what the rationale would be for the mitigation to last only five years. A transfer station can be useful but it does not need to be so close to his home. It is closer to his home from the originally proposed site. Five miles away will not make a huge difference to Republic Services but

it will make all the difference in the world to his family, the value of his home and the community.

Mr. Jeff Whitaker said he is a resident of the Cross River community and would like to echo the other points stated. This proposal is very close to the surrounding communities and he opposes this transfer station. There is no direct benefit. It could be somewhere else along the 303 closer to Surprise where most of the support came from.

Ms. Kristin Anderson said she is a resident of Rancho Cabrillo located 1.1 miles from the proposed transfer station. On January 24 she visited the proposed site took video and there was no 15 day posting of this public hearing within the 300 feet right-of-way from property being rezoned. They had their signs posted on the south side of the 303 on El Mirage Road farther away than required. Records show WestWing Business Park has two owners both based in Surprise and one owner out of Canada. She would like to know who the actual owners are since documentation is not available publicly. Who is the designated agent for WestWing Business Park? The IUPD of this report specifies the added overlay zone is only restricted to this particular project leaving the other 65 acres IND-2. She would like to know what their future plans are for the other 65 acres. In 2019, this parcel went through rezoning to IND-2 with no opposition because light industrial is okay. The residents do not want rezoning for IND-3 for heavy industrial. Seventy-five percent of the residents are in opposition to this proposal.

Mr. Rick Hayner said he lives in Corte Bella and no one is against a transfer station or the value of recycling. He is concerned with the smell and stink it will cause. It will be located so close to several communities and they will be downwind from the stink. He asked why this location and why not five miles farther, and would anyone like a transfer station less than a mile from their home.

Ms. Michelle Riordan said this is directly south of her home, and if the wall wasn't there this would be in her backyard. They do not want this in their community with the environmental ramifications. This is going to affect the families that have worked so hard. She asks they choose a different location somewhere far from their homes.

Mr. Tom Rooney said he represents the Sunleya HOA and they are located directly south of the proposed site on El Mirage Road. He echoes many of the concerns with this transfer station. The video only showed a northern view of the 303, if they turned the view to the south, you would see the houses on the other side of the retaining wall. He has been to another facility and when you get within a mile of it, you can smell it depending which way the wind is blowing. We are within a half mile of the site. He is also concerned with an increase in rodents, coyotes, pests, truck traffic and property values. El Mirage Road is the only road they have to get in and out of their subdivision, and trucks will head down El Mirage and won't drive over to Happy Valley Road. This will have a noise impact on their community. If the City of Surprise supports this then why don't they move it closer to Surprise.

Mr. Aaron Vaughn said he lives north of the proposed facility; he shares the same concerns of the smell, the noise and rodents. The traffic on Happy Valley Road has

exploded and it is getting worse from all the new residents. There is no exit to get back on the 303. This all sounds great for the City of Surprise.

Ms. Debra Humpal said visited the site in Cave Creek and the proposed site, and noticed Republic is strategically placing their property in the very furthest corner. What follows is undesirable to the people in the community. We saw wreckers and salvage yards with big mobile homes and old cars. The neighbors in that community had no problem with Republic; it is what followed once they came in. Deer Valley Road has turned into a truck route and she does not want El Mirage Road turned into a truck route. How would you feel having this in your backyard?

Mr. David Judy said he is a new resident of the Cross River community and he is concerned putting in a dump a mile away from his house. He would not have purchased his house if he had known it was a mile away from a dump. This will have a profound impact on the property values. Many people are unable to speak that would be opposed to this because their homes are not been built yet with two or three communities even closer to this location. A large pest issue will take place and feed the coyote problem. There is no way they will drive down the 303 to get to this facility, and the quickest way to get to the site is by Happy Valley Road or down Bell Road which will increase the traffic from the residents on El Mirage Road. The children of this community will be at risk, along with the visual appeal of the community. The video was misleading, if they would have flown the drone the other direction you would see a plethora of houses on the other side of that wall. This will stink, as he has lived near a transfer facility and if this one goes in he will putting his house up for sale. The City of Surprise will be the one benefiting from this not us; we will be the ones taking the brunt of this with the increased traffic and obnoxious smells and we will receive zero benefit. The community has the same concerns and he hopes they will vote against this.

Mr. Anderson said our trucks would not have access to Happy Valley Road. The cost of installing El Mirage Road is expensive and they do not have plans to extend roads north to Happy Valley Road, and it will have no impacts. IND-3 zoning is not a laundry list category, you have to be specific with the use you are proposing and it is not a precedent. The landowner has their own CC&R's for the industrial park that will not allow things like an auto salvage yard. He encouraged those that inquired about what will happen with the rest of the 65 acres of land to ask Mr. Alleman, he is representing the owner. He heard we are too close to homes, but the other 14 transfer stations are one mile from subdivisions. Most transfer stations are built within a quarter mile of homes. Transfer stations need to be close to where the trash is being generated. The Cave Creek Transfer Station is 1,600 feet to the closest home and there have been no complaints of this facility. In north Scottsdale, their transfer station is less than 2,800 feet away from homes and an age-restricted community is going in 1,800 feet away from this facility. At the Germann Road Transfer Station, there are homes 2,600 feet from their facility and Tumbleweed Park is adjacent to the site. They have no complaints from the City of Chandler or from the parks department or the residents. We will keep our commitments because we have done so at all of our other locations and we are going to do so here.

Chairman Lindblom said Commissioner Hernandez and Commissioner Montoya left the hearing early. He closed the hearing for public comment and opened it for commissioner discussion.

Commissioner Gress said there is clearly passion about neighborhood issues, but he is compelled by the applicant's commitment to the community, and the application materials. There is a huge tower station and the Loop 303, which is a heavily commercialized industrial corridor. The use of this facility makes sense. The valley is growing and we are seeing population expand and we have to have the infrastructure in place to meet these needs. We look at the intensity of use, the use around that area, and the character of the area and it makes sense to him that this land be rezoned accordingly. He is in support of this application.

Vice Chair Schlosser said, he echoes the comments from Commissioner Gress. We did approve the battery storage facility where he had concerns with the safety, and there was little to no opposition with that hazardous use. The Loop 303 acts as the perfect buffer to the residents to the south of this development. At some point, there will be big box industrial distribution buildings between the 303 and this facility, and the communities to the south will be shielded by it. He is in favor of this application.

Commissioner Arnett said this is what good planning looks like. He takes this very seriously, he lives less than a half-mile from a water treatment facility, and he used to live right next door to a waste treatment facility. He has a business next to one of these transfer facilities. He has known them to be good neighbors. He likes the stipulations and the conditions that would prohibit further uses that are challenging for industrial uses. The applicant and staff should be commended, and he is in support of this application.

Chairman Lindblom said he would not want this in his backyard, but it needs to be somewhere and that is the challenge of finding balance. These are the things we need in our community to keep communities clean and vibrant. We have to have unpleasant things like a waste facility. We have to find that balance and be realistic to what is around us. There are things around his home in Gilbert that he does not like, but they are necessary. It has to be somewhere and the question before us is it in the right place, and the way they are going to operate, and it minimizes the impacts to the community. He believes Republic has answered those concerns and wants to commend all those that spoke today.

**COMMISSION ACTION: Vice Chair Schlosser motioned to approve Z2021090 with conditions 'a'-'u'. Commissioner Gress second. Approved 6-0. Ayes: McGee, Arnett, Gress, Danzeisen, Schlosser, Lindblom.**

- a. Development of the site shall be in conformance with the Legal Description entitled "Warranty Deed", consisting of 4 pages, dated June 19, 2018, and stamped received August 5, 2021, except as modified by the following conditions.
- b. Development of the site shall be in substantial conformance with the Zoning Exhibit entitled "WestWing Transfer Facility", consisting of 6 full-size sheets,

dated December 14, 2021, and stamped received December 17, 2021, except as modified by the following conditions. Staff of the Planning & Development Department may determine slight refinements to remain in substantial conformance to this exhibit/plan in a future Plan of Development application. Major and minor amendments to a Plan of Development will be determined in accordance with Chapter 3 of the zoning ordinance.

- c. Development of the site shall be in substantial conformance with the Narrative Report entitled "WestWing Recycling & Transfer Facility Narrative", consisting of 28 pages, dated December 16, 2021, and stamped received December 17, 2021, except as modified by the following conditions.
- d. The following Planning Engineering conditions shall apply:
  1. Without the submittal of a precise plan of development, no development approval is inferred by this review, including, but not limited to number of proposed building lots/units, drainage design, access and roadway alignments. These items will be addressed as development plans progress and are submitted to the County for further review and/or entitlement.
  2. No permits for development of this project shall be issued until permits for the construction of the required offsite infrastructure are issued. Development of the site is contingent of offsite roadway and utility improvements to access and serve the site. The offsite improvements are not considered part of the entitlement for this application. Permitting for the offsite improvements requires approval from a multitude of permitting agencies (PA) as follows:
    - a. El Mirage Road at Loop 303 (PA: ADOT)
    - b. El Mirage Road from Loop 303 to E/W Connector Road (PA: MCDOT)
    - c. E/W Connector (Private) Road within FCDMC Owned Property (McMicken Dam Outflow) (PA: FCDMC)
    - d. Remainder of E/W (Private) Connector Road (PA: PND)
    - e. ASLD approval for all public/private R/W
  3. Engineering review of re-zone cases is 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. Zoning approval is conditional per Maricopa County Zoning Ordinance, Article 304.6, and ARS § 11-814 for five (5) years, within which time the Plan of Development and initial subdivision infrastructure or Plan of Development and initial construction permit must be obtained.
- f. All recycling and waste shall be transferred off of the facility floor on a daily basis leaving the floor to rest overnight empty of waste and debris.
- g. All floors within the recycling and waste transfer shall be swept free of debris and cleansed at the end of daily operations.
- h. A single loading truck is permitted to remain within the facility overnight.
- i. Under no circumstance shall trucks harboring recycling or waste be permitted to be stored overnight on the exterior of the facility beyond the hours of operation stated in the applicant's narrative.
- j. No alternative storage container shall harbor recycling or waste overnight.
- k. The recycling and waste transfer facility bay doors shall be closed overnight.
- l. One day per month, the operator of the recycling and waste transfer facility shall host a free bulk trash disposal day in accordance with the regular public hours of operation stated in the narrative and in accordance with public participation documents submitted by the applicant.
- m. The operator of the recycling and waste transfer facility shall provide a dedicated hotline for community complaints or questions in accordance with the public participation documents submitted by the applicant.
- n. Following final construction permit approval of a transfer station, an annual status report shall be submitted by the owners of the property for the first five years of operation. The status report shall be administratively reviewed by Planning and Development with the ability to administratively accept or to carry the status report to the Board of Supervisors (Board) to review compliance with the conditions of approval, upon recommendation by the Planning and Zoning Commission (Commission) for consideration of amendments or revocation of zoning. The status report shall address the following:
  - 1. Compliance with the conditions of approval;
  - 2. Number of free bulk trash disposals processed as part of the community's monthly free bulk disposal day;
  - 3. The nature of any complaints received by members of the public and resolution actions taken;



- o. Conditions 'f' through 'i' will expire upon the successful acceptance of five annual status reports as required of condition 'm'.
- p. The following IND-3 IUPD standards shall apply:
  - 1. Height: 40'
  - 2. Min. Front Yard: 10'
  - 3. Min. Side Yard: 5'
  - 4. Min. Rear Yard: 25'
  - 6. Parking: Nine (9) regular parking spaces including one (1) ADA space shall be required for the recycling and waste transfer facility only. All other uses developed shall be required to adhere to MCZO Chapter 11 – Section 1102 parking regulations.
  - 7. Sight Visibility Triangles: Two (2) required sight visibility triangles at the primary ingress and egress proposed in the zoning exhibit are waived.
  - 8. Screening: A 6' tall solid wall or a fence made of composite materials or masonry shall be required and shall be fully opaque. Slatted chain link and chain link fencing for perimeter screening shall be prohibited.
  - 9. Directory Signs: Maximum sign area of 24 sq. ft. and shall not exceed 8' (h).
  - 10. Directional Signs: Maximum sign area of 12 sq. ft.
  - 11. Wall Signs:
    - a. The total aggregate area of all wall signs on a property shall not exceed fifteen percent (15%) of one (1) face/plane of a single/multi-tenant building, or wall plane of an individual business frontage where more than one (1) tenant occupies the building.
    - b. Face plane is measured as a vertical plane from the ground to top of parapet or eave line of pitched, or mansard roof. Where a parapet is behind a hip roof, shall follow the eave line.
    - c. If a property has multiple buildings, the property owner may choose which building face plane is used to calculate aggregate sign area.
  - 12. Freestanding Sign including Center Identification Signs:
    - a. One (1) freestanding sign shall be allowed oriented and located adjacent to the Loop 303 Freeway subject to the following:
      - 1. Shall not exceed 60' in height.
      - 2. Shall not exceed 250 sq. ft. in sign area per face.

3. Shall not be included in the calculation of the total number of other freestanding signs outlined below and/or wall signs permitted.
  4. Minimum separation: 200' separation from any other freeway freestanding sign or off-site advertising sign.
  5. 50' from non-freeway lot lines, 200' from rural or residentially zoned properties.
  6. No EMDs allowed with freeway freestanding sign.
  7. Base of sign must be at least 35% of the full sign width.
- b. All other freestanding signs shall comply with the following development standards:
    1. Shall not exceed 150 sq. ft. in sign area.
    2. Shall not exceed 24' provided that any signs within 100' of a rural or residential zone, unless developed for non-residential use, shall not exceed 12' in height; however, for each 5' beyond the 100', the maximum may increase 1' to the maximum height of 24'.
  - c. May be a moving, rotating or revolving sign; however, no sign shall rotate faster than seven (7) revolutions per minute.
  - d. Remaining permitted standards of industrial signage that are not shown herein shall be permitted.
- q. The following uses shall be permitted in the IND-3 IUPD zoning district:
1. Recycling and waste transfer station; and,
  2. All uses permitted in the IND-2 IUPD zoning district.
- r. Administrative approval of a Plan of Development will be required prior to approval and issuance of construction permits to develop and establish use of the site. Prior to issuance of a building permit, written confirmation will be required from the emergency fire protection jurisdiction having authority that the facility has been designed in accordance with their regulations and requirements, and that emergency fire protection service will be provided to the facility. Prior to issuance of the certificate of occupancy, local fire protection jurisdiction review and approval will be required.
- s. 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.
- t. 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.
- u. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this

approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation of the Zone Change. The Zone Change enhances the value of the property above its value as of the date the Zone Change is granted and reverting to the prior zoning results in the same value of the property as if the Zone Change had never been granted.

Chairman Lindblom adjourned the January 27, 2022 meeting at 12:17 p.m.

Prepared by Rosalie Pinney  
Recording Secretary

January 27, 2022