



PINAL COUNTY
wide open opportunity

**PINAL COUNTY PLANNING AND ZONING COMMISSION
REGULAR MEETING
MINUTES OF November 21, 2013**

PRESENT: Mr. Hartman, Chairman
Mr. Salas, Member
Ms. Moritz, Member
Mr. Anderson, Member
Mr. Grubb, Member
Ms. Aguirre-Vogler, Member
Mr. Gutierrez, Member
Mr. Del Cotto, Member
Mr. Smyers, Member

ABSENT: Mr. Riggins, Vice-Chairman

LEGAL STAFF PRESENT:
Ms. Grieb, Deputy County Attorney

PLANNING STAFF PRESENT:
Mr. Stabley, Planning Director
Ms. MacDonald, Planner II
Mr. Ashbaugh, Planner I
Mr. Abraham, Planning Manager
Ms. Bruninga, Secretary II

PUBLIC WORKS STAFF PRESENT:
Mr. Chow, Development Section Chief

The meeting was called to order at 9:07 a.m., this date by Chairman Hartman in the Pinal County Administration Building A., Florence, Arizona.

DISCUSSION/APPROVAL/DISAPPROVAL OF MEETING MINUTES: September 19, 2013

MOTION

Commissioner Salas made a motion to approve the minutes of September 19, 2013. Commissioner Aguirre-Vogler seconded the motion. Motion passed unanimously. (8-0)

DISCUSSION/APPROVAL/DISAPPROVAL OF MEETING MINUTES: October 17, 2013

Commissioner Aguirre-Vogler stated that on S-035-13, page ten (10) she made an issue that the presenter did not come prepared with up to date information. Commissioner Aguirre-Vogler added that there was conflicting information provided as well. Mr. Stabley stated the minutes would be reviewed and brought back before the Commission.

Commissioner Aguirre-Vogler stated that on page eight (8), the motion for SUP-007-13 did not have the members listed that voted in opposition.

Commissioner Moritz stated that on page two (2), the last paragraph, there are no stipulations, yet later it states stipulation fourteen (14) is being changed. Mr. Abraham responded that this refers to the Comprehensive Plan that goes along with this case. Mr. Abraham added that staff would make this clarification.

Commissioner Moritz stated that on page five (5) stipulation twenty-nine (29) is stated twice. Mr. Abraham responded that this is a stipulation for both cases.

Commissioner Moritz stated that on page seven (7) Commissioner Moritz "stated" should be changed to "verified".

Commissioner Moritz stated that on page eight (8) it shows Mr. Abraham asking the same question twice. Mr. Stabley stated that staff will listen to the recording again.

Commissioner Moritz added that on SUP-007-13, she was opposed to the motion because the applicant purchased residential property, knowing that it would be used for a commercial purpose.

Commissioner Aguirre-Vogler asked if staff checks information when applicants come in. Mr. Stabley stated that staff reviews the information as it comes in.

MOTION

Commissioner Aguirre-Vogler made a motion to have the minutes for October 17 be reviewed and brought back before the Commission in December. Commissioner Gutierrez seconded the motion. Motion passed unanimously. (8-0)

PLANNING DIRECTORS DISCUSSION ITEMS

Mr. Stabley informed the Commission that Mr. Ashbaugh is leaving the Planning Department and has taken a position in the Public Works Department.

Commissioner Aguirre-Vogler asked for an update on the Community Plan training. Mr. Stabley stated that we are in the process of filling out the paperwork. Mr. Stabley added that the process is fairly difficult.

REPORT ON BOARD OF SUPERVISORS ACTION ON P & Z CASES

October 30, 2013

November 6, 2013

Mr. Stabley stated the Board of Supervisors went with the Commission's recommendations on all cases that were heard.

NEW CASES:

PZ-010-13 – PUBLIC HEARING/ACTION: Borgata at San Tan Heights, LLC landowner/applicant, Hoskin Ryan Consultants, Inc, agent, requesting approval of a zone change from CR-1A/PAD (Single Residence Zone with a Planned Area Development Overlay District) (**PZ-PD-037-99**) to (R-12) Single Residence Zoning District on 271.0± acres to plan and develop the 411 lot Borgata at San Tan residential development; pending and in conjunction with Board of Supervisors Planned Area Development (PAD) Overlay District approval under Planning Case (PZ-PD-010-13); situated in portions of Sections 2, 9 and 10, T03S, R07E G&SRB&M, tax parcels 509-02-080, 509-04-004, 005, 509-11-001R and 509-96-001 through 085 (legal on file) (located on the west side of Thompson Rd south of Hunt Hwy in the San Tan Valley area)

PZ-PD-010-13 – PUBLIC HEARING/ACTION: Borgata at San Tan Heights, LLC landowner/applicant, Hoskin Ryan Consultants, Inc, agent, requesting approval of an amendment to a Planned Area Development (PAD) Overlay District (**PZ(PD)037-99**) on 271.0± acres within the **San Tan Heights PAD** to plan and develop the 411 lot Borgata at San Tan residential development; pending and in conjunction with Board of Supervisors zone change approval under Planning Case (PZ-010-13); situated in portions of Sections 2, 9 and 10, T03S, R07E G&SRB&M, tax parcels 509-02-080, 509-04-004, 005, 509-11-001R and 509-96-001 through 085 (legal on file) (located on the west side of Thompson Rd south of Hunt Hwy in the San Tan Valley area)

Ms. MacDonald read a portion of the staff report and used a PowerPoint.

Ms. MacDonald stated that she received one letter in support of the proposal after the packets were sent out, from Ed Guerra.

Chairman Hartman asked about stipulation thirty-three (33), page ten (10), it states final design and tread width. Ms. MacDonald stated that the open space and design guideline manual sets specific tread widths for trails.

Chairman Hartman called the applicant forward. Mark Voigt, 6900 E 2nd St., Scottsdale came forward to address the Commission. Mr. Voigt gave a brief background of the project. Mr. Voigt stated that he agrees with all of the stipulations as presented.

Commissioner Grubb arrived at 9:36.

Chairman Hartman asked what the HOA proposal is. Mr. Voigt stated that the HOA will be created only for the residents at Borgata at San Tan Heights. Mr. Voigt added that the HOA will be responsible for landscape, trails, the exterior, with stringent architectural review and design guidelines.

Chairman Hartman stated that when the property initially came before the Commission for the zoning of CR1-A, there were concerns with the amount of fissures and potential problems. Chairman Hartman also asked if the applicant has cleaned up the refuse out of the fissures on site. Mr. Voigt responded that he is unaware of any areas that were used for fill on the site, he has researched the property and it has not been used as a refuse site.

Chairman Hartman stated that he has concerns with transportation, and the lack of deceleration lanes, adding that this can create a problem with a lot of traffic. Mr. Voigt stated that a preliminary study has been done, and added that staff requires a detailed traffic impact analysis along with the submittal. Mr. Voigt stated that he is prepared to comply with all of staff's requirements.

Chairman Hartman stated that the Queen Creek proposal reduces the number of homes by forty (40), adding that the reduction will not interfere with clustering. Mr. Voigt responded that this project is 1.5 units per acre, with the smallest lot being 70x125. Mr. Voigt added that the least costly home will be around \$350,000.

Commissioner Salas asked if Thompson Road will be extended. Mr. Voigt responded that the County proposal is full improvement of Thompson Road, and he will be responsible for the paving in front of his property. Commissioner Salas stated that there is a dirt portion of the road and he wants to know if it will be paved. Mr. Voigt stated that Thompson is paved from the school and riding stables, to the park entrance. Commissioner Salas asked if the dirt road at the extension of Thompson is the park entrance. Mr. Voigt asked if Commissioner Salas is referring to the part of Thompson Road that is abandoned. Ms. MacDonald showed a photo taken at the site, with paved road access. Mr. Voigt added that the property that Commissioner Salas is referring to is to the south of the site.

Commissioner Salas asked if the mountains on site are off limits. Mr. Voigt responded that the west side and "Northern Butte" will be preserved. Mr. Voigt added that this area is below the 10% slope limit.

Commissioner Moritz stated that she counted thirty-five (35) lots that are most vulnerable to the fissures, and asked how eliminating these lots would affect the overall plan. Mr. Voigt responded that this would have an adverse affect on the plan, adding that the plan already has 46% open space. Mr. Voigt stated that the building area has already been decreased by forty-three (43) acres. He also stated that the fissures have been identified and public hazard is being avoided.

Chairman Hartman opened the public portion of the meeting.

Gordon Brown, 1894 W. Judd Road, San Tan Valley, Arizona, came forward to address the Commission. Mr. Brown stated he is in support of the proposal, and the applicant has done an excellent job of blending into a transitional area.

Commissioner Smyers left at 10:06.

Commissioner Smyers returned at 10:08.

Dominic McCutcheon, 1544 W Lind Road, San Tan Valley, came forward to address the Commission. Mr. McCutcheon stated that he is in opposition of the proposal. He moved to the area because of the less dense population. Mr. McCutcheon stated that he spoke to a lot of people in the area that are in opposition, but they can't be present and haven't taken the time to write a letter, but he represents the average person and wants to stay in the area. He also stated that he wants the rules in place to stay the way they are. Mr. McCutcheon added that he is not a developer, but he knows the wash is impractical to build in or around.

Commissioner Salas asked what rules Mr. McCutcheon wants to keep. Mr. McCutcheon responded that he would like to keep the zoning restrictions, minimum lot sizes, and CC&R's the same, and he needs to protect his interest. Mr. McCutcheon stated that before he built his home, he looked at the master plan that outlined the zoning and what can be expected in the future. The proposed density was not a part of that overall plan. Commissioner Salas asked how large his property is. Mr. McCutcheon responded that his property is two and a half (2.5) acres. Chairman Hartman asked what direction his property is to the proposal. Mr. McCutcheon responded that he lives a couple of miles to the East on Lind Road. Chairman Hartman asked if he uses Thompson Road. Mr. McCutcheon stated that he occasionally uses Thompson.

Wayne Balmer, Planning Administrator, Town of Queen Creek, 22350 S Ellsworth Road, Queen Creek, Arizona, 85142, came forward to address the Commission. Mr. Balmer stated that the Town supports the general proposal, but their main concern is the northern portion of the property that is in the Town's planning area. Mr. Balmer stated that the Town's general plan shows one unit per acre. Mr. Balmer stated that fissures are a big concern, as they are an unknown. Mr. Balmer added that the number of lots adjacent to the fissures and the number of times that roads cross fissures are a concern to the Town. Mr. Balmer added that the Town likes the concept of the proposal, and suggested swapping in more of the high value homes. Larger lots would sell in that area, and would be a great fit with the County's plan and the Town of Queen Creek plan. Mr. Balmer added that the recommendation by the Town is to reduce the density, make larger lots, and move away from fissures. Mr. Balmer added that the Queen Creek Mayor and Council would support the project.

Commissioner Aguirre-Vogler stated that Mr. Balmer made some good points, and asked why this information wasn't provided to the Commission prior to the meeting. Mr. Balmer responded that he had met with Mr. Voigt, but they were unable to get together prior to the meeting. Commissioner Aguirre-Vogler stated that it is important to meet prior to Commission Hearings.

Chairman Hartman stated that he has his own issues with fissures, and he doesn't like the idea of building around them.

Commissioner Gutierrez asked if the Town of Queen Creek has plans to annex this area any time in the future. Mr. Balmer responded that the issue is state law doesn't make annexation easy, a majority of the property owners have to represent a majority of the assessed valuation, but with scattered property owners this is difficult. Mr. Balmer stated that another difficulty is that people want improvements made in order to agree to the annexation. Commissioner Gutierrez asked if the Town is concerned that the expenses in this area are larger with a potential annexation. Mr. Balmer responded that they are not concerned with this area, the concern is for the future and how it will be in twenty (20) years.

Ed Guerra, 1649 Sundance Road, San Tan Valley, Arizona, came forward to address the Commission. Mr. Guerra stated he is in favor of the proposal. Mr. Guerra stated that growth happens with time and he doesn't like to see the local people in disagreement about the project.

Commissioner Gutierrez asked if Mr. Guerra has any concerns with the traffic impact. Mr. Guerra stated that he uses Hunt Highway daily, and he is not concerned of the traffic, as any growth that occurs East of Ellsworth and Hunt Highway will impact the traffic.

Commissioner Moritz left at 10:29.
Commissioner Moritz returned at 10:33.

Stan Tomkiewicz, 31399 N. Pamela Drive, Queen Creek, Arizona, came forward to address the Commission. Mr. Tomkiewicz is in opposition of the proposal. He is concerned about the smaller lot sizes, and suggested a larger lot size be considered. Mr. Tomkiewicz stated that the trails and open space is nice.

Commissioner Grubb asked if Mr. Tomkiewicz was in opposition of the San Tan Heights or Johnson Ranch subdivisions. Mr. Tomkiewicz stated that he was not in opposition of the San Tan Heights subdivision, but the Johnson Ranch community was developed before he moved to the area. Commissioner Grubb expressed his confusion as this is a lower density than the subdivisions built in the area. Mr. Tomkiewicz stated that one mistake shouldn't be followed by another.

Commissioner Del Cotto left at 10:39.

Chairman Hartman stated that he hopes the public will go before the Board of Supervisors to express their position regardless of the outcome of the Commission.

Commissioner Del Cotto returned at 10:42.

Commissioner Aguirre-Vogler asked staff to remind the Commission the difference in lot size from CR1-A and R-12. Ms. MacDonald stated that the lot sizes in CR1-A are one (1) acre lots, and this proposal has lot sizes varying from eight thousand (8,000) to sixteen thousand (16,000) square feet.

Chairman Hartman asked what the density is in the clustered area. Ms. MacDonald responded that staff hadn't calculated the density specifically for the clustered areas. Commissioner Grubb stated that one map shows the overall density is 1.5 dwelling units per acre. Chairman Hartman stated that his concern is the density in the clustered areas only.

Tom Lang, 6875 W Hunt Highway, San Tan Valley, Arizona, came forward to address the Commission in favor of the project. Mr. Lang stated that he doesn't like to see building occur in fissure areas, and he would like to prevent any construction from blocking his view of the mountains. Mr. Lang stated that the applicant has done a great job with the fissures and added that the whole area has fissures.

Mr. Voigt returned to address comments and concerns expressed by the public. Mr. Voigt stated that the density in the clustered area is 1.7-1.8 dwelling units per acre. The lots are pretty large compared to what is already in the area. Mr. Voigt added that the San Tan Heights subdivision has a higher density of single family homes than what he is proposing. Mr. Voigt added that he appreciates the comments made by neighboring property owners and he understands the concerns. Mr. Voigt stated that he has done twenty-five (25) major master plan communities and does not let the owners deviate from the master plan. He said the only way to run a home owners association is to employ managers to ensure the design guidelines are adhered to. Mr. Voigt stated that he is concerned about the fissures, and has presented a report of all fissures in the area, some of which already have utilities and roads crossing them. Mr. Voigt stated that these are dealt with on a case by case basis, and he will take every precaution to ensure that no catastrophe is possible. Mr. Voigt stated that lowering the density will not

take the fissures out of the equation. He also stated that no immediate neighbors have expressed any concerns at the Commission Hearing.

Chairman Hartman stated that he has concerns with the fissures, and the Town of Queen Creek and its Council should be treated as neighbors, with their concerns taken into consideration. Chairman Hartman suggested reducing the number of residents in the fissure area. Mr. Voigt stated that he has done everything he was required to do regarding the fissures, grading, and offsite improvements. He added that the fissure areas will have setbacks and be built according to the fissure reports and the recommendations by geologists.

Chairman Hartman asked what policies there are in place to take care of damages caused by fissures. Mr. Stabley stated that he is unaware of any insurance that would cover fissure damages. Mr. Stabley added that the applicant has taken the recommendations from the engineer regarding fissure locations and mitigation of those fissures. The planning process will address the concerns regarding roadway crossings as well.

Commissioner Salas asked if the applicant will inform potential homebuyers of the potential fissures and their locations. Mr. Voigt responded that he is required by law to provide this information in a Department of Real Estate report, including fissures in the area, and their proximity to each home. Commissioner Salas asked if the applicant knows what caused the fissures in the area. Mr. Voigt responded that the main cause was a massive draw down of ground water due to farming in the area. He added that the water is back now, but this doesn't solve the existing fissures. Commissioner Salas asked if there is any subsidence in the area. Mr. Voigt responded that subsidence and fissures are the same thing.

Commissioner Moritz stated that the report provided by the geologist contains many negative comments, stating subsidence is identified and the preferred recommendation is to use the area as open space. She stated that the recommendation made by the Commission needs to be based on the health, safety, and welfare of the residents of the county, and the fissures are a big issue.

Commissioner Anderson asked how the plan would change if the forty-four (44) lots in the Queen Creek town proximity were removed. Mr. Voigt stated that he would have to redesign the project to cut out more large lots. Commissioner Anderson asked if this would create lots with varying widths. Mr. Voigt responded if this is the decision of the Commission and the Board of Supervisors, he will have to modify the number to be reduced.

Commissioner Grubb stated that he likes the project overall, but has concerns with the fissures being close to home lots. Commissioner Grubb added that it is hard to know how the fissures will affect the lots near them in the future.

Commissioner Salas stated that it appears the Town of Queen Creek has interest in the northern part of the property, and asked how they can help with the fissure problem. Mr. Balmer responded that the Town would show them on the plat with deed restrictions, show them on construction standards, and make the lots larger to place the home further away from the fissure areas, with fewer streets crossing the fissures as well. Mr. Balmer added that they would also keep more open space along the washes.

MOTION – PZ-010-13

Commissioner Moritz made a motion to forward case PZ-010-13 to the Board of Supervisors with a recommendation of denial. Commissioner Moritz added that she feels the fissure areas should be redesigned to make lots larger and steer development away from the fissures. Commissioner Salas seconded the motion.

Chairman Hartman asked for a roll call vote.

Commissioner Aguirre-Vogler Yes. The applicant should work closer with the Town of Queen Creek
 Commissioner Gutierrez Yes. He is concerned with the fissure area.
 Commissioner Anderson No. The developer has understanding of the fissures and a plan.
 Commissioner Smyers Yes. The fissures need to be addresses, and the lot sizes need to be reviewed, as well as their five (5) and ten (10) foot setbacks.

Commissioner Salas Yes. He would like to take caution to avoid further problems.
 Commissioner Moritz Yes. She would like to protect the safety of the homebuyers and see a reconfiguration of the lots.

Commissioner Del Cotto Yes. He would like to see more hillside lots.
 Commissioner Grubb No. He has concerns about the fissures, but the applicant has taken the appropriate steps to address them.

Chairman Hartman Yes. He is concerned about the fissure area and the health, safety, and welfare of the residents in the area.

Motion passed 7-2, with Commissioners Anderson and Grubb in opposition.

MOTION – PZ-PD-010-13

Commissioner Moritz made a motion to forward case PZ-PD-010-13 to the Board of Supervisors with a recommendation of denial. Commissioner Salas seconded the motion. Motion passed 7-2, with Commissioners Anderson and Grubb in opposition.

BREAK 11:24

RECONVENED 11:34

TENTATIVE PLATS:

S-014-12 - DISCUSSION/APPROVAL/DISAPPROVAL: Lotocka, LLC, landowner, Physical Resource Engineering, Inc., agent, requesting approval of a tentative plat for **Desert Living Estates**, 58 lots on a 83.81± acre parcel in the GR zone; situated in a portion of the southwest quarter of Section 30, T10S, R11E, G&SRB&M, Tax Parcel 410-16-0600 (located at the southeast corner of S. Marylynne Lane and E. Sianna Drive approximately 1.25 miles north of the Town of Marana) **(Continued from the October 17th, 2013 Planning Commission meeting).**

Mr. Ashbaugh read a portion of the staff report and used a PowerPoint.

Mr. Ashbaugh stated that staff recommends continuing the case because the roadway is not exclusive, and access can be taken away by the current owner. Mr. Ashbaugh added that the County cannot require any road improvements, until the road is transferred into the County's name.

Chairman Hartman called the applicant forward.

Nathan Cottrell (Address unknown) came forward to address the Commission and explained that a continuance is not needed, because there is an existing condition that states at the request of Pinal County the right of way will be assigned to Pinal County. Mr. Cottrell added that this was anticipated. Mr. Cottrell would like to add a stipulation stating that the right of way must be dedicated to Pinal County and be put in the County's name. Mr. Ashbaugh stated that a stipulation has been created, if the Commission chose to go that route.

Commissioner Aguirre-Vogler stated that this should have been transferred a long time ago, as the applicant has been given much time to have this completed. Commissioner Aguirre-Vogler stated that she would like to see a continuance.

Mr. Ashbaugh stated that stipulation twenty (20) would state "The applicant/developer shall initiate and complete the assignment process with the Arizona State Land Department to transfer the rights of way in Pinal County's name prior to final plat submittal".

Commissioner Aguirre-Vogler stated that the problem is sometimes these get lost in the shuffle and she would like a continuance to allow the Commission to see the transfer of the right of way. Ms. Grieb stated that staff works closely with applicants looking to ensure that there is legal access. Ms. Grieb added that she checked with Dale Harman in the Public Works Department, and was told that the process can be as short as three (3) weeks to a couple of months. Commissioner Aguirre-Vogler stated that the roads in the Missile Base area are horrible and there are a lot of problems out there.

Chairman Hartman stated that this has been transpiring a long time, and asked what happens if the right of way is not transferred. Mr. Ashbaugh stated the applicant would not be able to receive their final plat.

MOTION – S-014-12

Commissioner Moritz made a motion to approve findings 1-7 as set forth in the staff report and approve the tentative plat in S-014-12 along with its 19 stipulations, adding stipulation 20 as read by staff. Commissioner Salas seconded the motion. Motion passed with Commissioner Aguirre-Vogler in opposition. Commissioner Aguirre-Vogler stated that the applicant has had since 2004, and nothing has been done in this amount of time.

S-036-13 - DISCUSSION/APPROVAL/DISAPPROVAL: Peralta Canyon, LLC, landowner, Voyager Properties, agent, Atwell, engineer, requesting approval of a tentative plat for **Peralta Canyon**, 761 lots on a 320.23± acre parcel in the CR-3/PAD zone; situated in a portion of Section 16, T01S, R09E, G&SRB&M, Tax Parcels 104-09-016J, 016K, and 016C (located approximately half mile north of US Highway 60 in the Gold Canyon area).

Mr. Ashbaugh read a portion of the staff report and used a PowerPoint.

Chairman Hartman called the applicant forward.

Mark Voigt, 6900 E. 2nd Street, Scottsdale, Arizona, came forward to address the Commission. Mr. Voigt stated that the applicant agrees with all stipulations.

MOTION – S-036-13

Commissioner Moritz made a motion to approve findings 1-7 as set forth in the staff report and approve the tentative plat in S-036-12 along with its attached 27 stipulations as presented by staff. Commissioner Salas seconded the motion. Motion passed unanimously.

ADJOURNMENT

Commissioner Grubb made a motion to adjourn. Chairman Hartman accepted the motion.

Meeting adjourned at 11:52a.m.

RESPECTFULLY submitted December 19, 2013.


Jerry Stabley, Planning Director