BOARD OF SUPERVISORS' MEETING
PLANNING AND ZONING AGENDA
October 5, 2016

CONSENT AGENDA

1. Title: Higley 202 Retail Center
   Case #: **Z2016029**
   Supervisor District: 1
   Applicant/Owner: Law Office of David Cisiewski/ Juanita Moore, Thomas Kelly
   Request: Zone Change from Rural-43 to C-2
   Site Location: Generally located approximately 428' north of the northeast corner of Loop 202 (San Tan Fwy.) and Higley Road in the Gilbert area.
   Commission Recommendation: On 9/8/16, the Commission voted 6-0 to recommend **approval** of **Z2016029** subject to conditions 'a' – 'i':

   Provided the following conditions are met:

   a. Development of the site shall comply with the exhibit entitled "Conceptual Site Plan", consisting of 1 full-size sheet, dated April 2016 and stamped received June 16, 2016 except as modified by the following conditions.

   b. Development of the site shall be in conformance with the Narrative Report entitled "Higley 202 Retail Center", consisting of 10 pages, dated June 14, 2016, and stamped received June 16, 2016 except as modified by the following conditions.

   c. The applicant/property owner shall submit a 'will serve' letter from Rural Metro Fire Department for fire protection services for the project site. A copy of the 'will serve' letter shall be required as part of the initial construction permit submittal.

   d. Until such time as the site is served by public water and sewer, uses on the site shall only be those acceptable to the Maricopa County Environmental Services Department (MCESD) that can be accommodated by septic systems. A public water system and public sewer system shall be required prior to establishment of any non-residential use that requires potable water.

   e. The following Maricopa County Department of Environmental Services Department (MCESD) conditions shall apply:

      1. Development and engineering design shall be in conformance with the Maricopa County Stormwater Quality Management and Discharge Control Regulation. It is required, the owner/developer to prepare a Stormwater Pollution Prevention Plan and obtain approval by Maricopa County Environmental Services Department (MCESD) prior to construction. (A separate submittal to MCESD would be required.) It is required, upon

completion of construction, the owner to fulfill MCESD requirements and obtain a post-construction stormwater permit.

2. If applicable, the site plan shall contain a note designating the entity responsible for operation and maintenance of the on-lot stormwater management facilities consistent with an approved operation and maintenance plan.

f. The following Planning Engineering conditions shall apply:

1. Access design and alignments will require review by ADOT and/or the Town of Gilbert. Right-of-way dedication may be required by ADOT or the Town of Gilbert along Higley Road.

2. A Traffic Impact Study (TIS) must be provided with the application for a Plan of Development. The TIS must address any required offsite improvements and vehicle storage requirements within the driveway given the proximity of the drive-thru to the site entrance off Higley Road.

g. The C-2 zoning approval is conditional per Maricopa County Zoning Ordinance Article 304.6. Within five (5) years of Board of Supervisors' approval there shall be administrative approval of a Plan of Development for the commercial site or the zoning may be considered for reversion to Rural-43 at public hearing of the Board of Supervisors after recommendation by the Planning and Zoning Commission, unless within such time the property is annexed by the Town of Gilbert.

h. Noncompliance with any Maricopa County Regulation or condition of approval shall be grounds for initiating a revocation of this Zone Change as set forth in the Maricopa County Zoning Ordinance. 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 owner 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, a hearing shall be scheduled with the Board of Supervisors for consideration to revert 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.

2. Title: Marbella Ranch
Case #: **Z2016054**
Supervisor District: 4
Applicant & Owner: Marbella Ranch Limited Partnership
Request: Modification of Condition to the R-5 RUPD zoning district
Site Location: Generally located west of El Mirage Road, about ½ mile south of Northern Avenue in the Glendale area
Commission Recommendation: On 9/8/16, the Commission voted 6-0 to recommend **approval** of **Z2016054** subject to conditions 'a' – 'y':

Provided the following conditions are met:

a. Development of the site shall comply with the Zoning Exhibit entitled "Marbella Ranch Site Plan", consisting of 2 full-size sheets, dated revised April 10, 2014, and stamped received April 11, 2014, except as modified by the following conditions.

b. Development of the site shall be in conformance with the Narrative Report entitled "Project Narrative Rezone Marbella Ranch Updated Narrative for Z2014011", consisting of 10 pages, dated July 22, 2016, and stamped received July 22, 2016 except as modified by the following conditions.

c. Zoning approval is conditional per Maricopa County Zoning Ordinance, Article 304.6, and ARS §11-814. The applicant shall submit a written report every five years from the date of Board of Supervisors approval of Z2014011 which details the status of this project, including progress on obtaining necessary entitlements, licenses, and permits; compliance with the conditions of approval; compliance with the approved narrative report; compliance with the approved land use plan; and justification as to how the approved zoning still represents appropriate land use planning for the property and unincorporated Maricopa County in accordance with the goals and policies in its comprehensive plan and applicable area plan and land use plans. The status reports to be administratively reviewed by Planning and Development with the ability administratively to accept or to carry the status report to the Board of Supervisors (Board), upon recommendation by the Planning and Zoning Commission (Commission) for consideration of amendments or revocation of zoning for undeveloped parcels. Status reports will be required until completion of all final plats and/or plans of development.

d. The following R-5 RUPD for the *Single Family Traditional* shall apply:

1. Height: 30'/2 stories for detached single family residential
2. Rear Yard: 12' for attached single family residential townhome
3. Lot Area: 5,000 sq. ft.
4. Lot Width: 45' for detached single family residential and 30' for attached single family residential townhome

5. Lot Area Per Dwelling Unit: 5,000 sq. ft. for detached single family residential and 3,000 sq. ft. for attached single family residential townhome
6. Rear yard setback: 20' for detached single family residential

e. The following R-5 RUPD standards for the *Neo-Traditional* shall apply:

1. Front Yard: 5'
2. Side Yard: 5' or 2' for side loaded garage
3. Street side Yard: 5'
4. Rear Yard: 5'
5. Lot area: 2,500 sq. ft.
6. Lot Width: 45' for detached single family residential and 30' for attached single family residential townhome
7. Lot Area Per Dwelling Unit: 2,500 sq. ft.
8. Lot Coverage: 55% for detached single family residential and 60% for attached single family residential townhome

f. The *Multiple Family* to include apartments and condominiums shall meet the base R-5 zoning district standards, no variations to the standards with these products.

g. Not less than 34 acres shall be developed as recreational open space to include playgrounds, tot lots, mini-parks and amenities. At the time of each preliminary plat submission, the developer shall include a description of the status, cumulative acreage and proposed amenities as identified with this condition.

h. All transformers, back-flow prevention devices, utility boxes and all other utility related ground mounted equipment shall be painted to complement the development and shall be screened with landscape material where possible.

i. The following Maricopa County Department of Transportation (MCDOT) conditions shall apply:

1. The owner shall provide a total half-width of right-of-way for the following roadway:

   El Mirage Road 65 feet

   All such dedications shall be in fee and free of al liens and encumbrances. Prior to acceptance of such dedication, the applicant shall provide the County an owner's title insurance policy issued to the County, the MCDOT environmental checklist and any and all other requirements as set forth in the "MCDOT Right-of-Way Dedications Reference Guide". Until Maricopa County has accepted said dedication, all responsibilities, including but not limited to maintenance and repair for the property to be dedicated shall be that of the applicant.

2. Construct ultimate half-width improvements on El Mirage Road. Roadway must meet County Standards in effect at the time they are constructed.

3. Construct ultimate half-width improvements and right-of-way on Glendale Ave. per the City of Glendale requirements.

4. Roadway review of planning and/or zoning cases is for conceptual design only and does not represent final design approval nor shall it entitle applicants to future designs that are not in conformance with current MCDOT Design Standards.

j. All interior streets within the proposed development are to be constructed to minimum County standards.

k. Prior to issuance of any permits for development of the site, the applicant/property owner shall obtain the necessary encroachment permits from the Maricopa County Department of Transportation (MCDOT) for landscaping or other improvements in the right-of-way.

l. Prior to any Final Plat approval, the applicant shall submit to the Maricopa County Planning and Development Department a "will serve" letter and verification of approval of a Maricopa Association of Governments (MAG 208) amendment from Liberty Utilities which demonstrates a willingness and capability to serve Marbella Ranch.

m. All outdoor lighting shall conform to the Maricopa County Zoning Ordinance.

n. Development of the site shall be in compliance with all applicable Maricopa County Air Quality rules and regulations.

o. An archeological survey shall be submitted to and approved by the Arizona State Historic Preservation Office prior to issuance of a grading permit. The applicant must contact the State office prior to initiating disturbance of the site. The applicant shall provide the Planning and Development Department with written proof of compliance with this stipulation.

p. The Final Plat shall have a note that the property is within an area of known land subsidence and/or earth fissuring. No development including paved roadways or residential lots within 100' of the mapped confirmed fissure, drainage and storm runoff should not be concreted or directed towards the fissure or offsite area. Further, notice that the property is in area of known land subsidence and/or earth fissuring and a definition of both land subsidence and earth fissures shall be prominently displayed in the sales office, in the covenants, conditions and restrictions (CC&Rs), and in any disclosure statements for conveyance documents. However, if said report concludes negative impact regarding land subsidence and/or earth fissuring the required notification can include such results.

q. Prior zoning clearance or Final Plat approval, developer(s) and/or builder(s) shall establish emergency fire protection services, covering all real property contained within the project area during course of construction and shall obtain a 'will serve' letter substantiating coverage from the appropriate Fire District, servicing the site.

r. The following Maricopa County Sherriff's Office (MCSO) conditions shall apply:

1. Prior to any final plat, the master developer shall enter into a development agreement with the Maricopa County Sherriff's Office (MCSO) to provide law enforcement services to Marbella Ranch and surrounding areas.

2. This development agreement shall include, but not necessarily be limited to, the master developer's requirement to pay their proportionate share for start-up costs (vehicle purchase and patrol equipment, e.g. radios, tasers, and vehicle laptops); and interim fees for law enforcement services associated with the property unless it is annexed into an incorporated municipality or until full law enforcement service contract is otherwise implemented. The development agreement may also include, but not necessarily be limited to the master developer's requirement to donate to the County, for use by the MCSO, their proportionate share of separate office space complete with tenant improvements or land (the size to be determined in the development agreement), or payment of fees when a permit is issued.

3. This development agreement shall include the terms listed in this stipulation unless otherwise mutually agreed to by MCSO and the master developer; furthermore, the development agreement shall be signed by both the master developer and the MCSO and provided to the Maricopa County Planning and Development Department for public record.

s. The following Drainage Review conditions shall apply:

1. Drainage review of planning and/or zoning cases is for conceptual design only and does not represent final design approval nor shall it entitle applicants to future designs that are not in conformance with Section 1205 of the Maricopa County Zoning Ordinance and the Maricopa County Drainage Policies and Standards.

2. All development and engineering design shall be in conformance with Section 1205 of the Maricopa County Zoning Ordinance and current engineering policies, standards and best practices at the time of application for construction.

t. Variations to the development standards as indicated in the approved Unit Plan of Development (UPD) table may be varied by the Board of Adjustment in

accordance with Article 303.2.2 of the Maricopa County Zoning Ordinance (MCZO).

u. All habitable buildings constructed within this subdivision shall be constructed to attain a noise reduction level as per ARS § 28-8482(B).

v. Amendments to the site plan and narrative report shall be processed as a revised application in accordance with Maricopa County Zoning Ordinance Article 304.9.

w. Noncompliance with the conditions of approval will be treated as a violation in accordance with the Maricopa County Zoning Ordinance. Further, noncompliance of the conditions of approval may be grounds for the Planning and Zoning Commission to take action in accordance with Chapter 3 (Conditional Zoning).

x. Non-compliance with the regulations administered by the Maricopa County Environmental Services Department, Maricopa County Department of Transportation, Drainage Review Division, Planning and Development Department, or the Flood Control District of Maricopa County may be grounds for initiating a revocation of this Zone Change as set forth in the Maricopa County Zoning Ordinance.

y. 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.

3. Title: Dillon Aero
Case #: **CPA2016001**
Supervisor District: 5
Applicant/Owner: Lewis Roca Rothgerbert Christie / Flying Bucket LLC
Request: Comprehensive Plan Amendment (CPA) to change the land use designation from Rural Development Area to Heavy Industrial CPA approval is by Resolution.
Site Location: Generally located west of 99th Ave. approximately 2 miles south of Schumacher Ln.
Commission Recommendation: On 9/8/16, the Commission voted 6-0 to recommend **approval** of **CPA2016001** subject to conditions 'a' – 'c':

Provided the following conditions are met:

a. Development of the site shall be in conformance with the Narrative Report entitled "Dillon Test Range General Comprehensive Plan Amendment", consisting of 23 pages including the land use exhibit, dated stamped received July 1, 2016, except as modified by the following conditions. The Comprehensive Plan Amendment shall only apply to parcels 300-32-001A and 300-32-001D. Within 30 days of Board of Supervisors approval, the applicant shall submit a

revised Comprehensive Plan Amendment narrative report that references the two parcels utilized for the test range operations.

b. If the Board reverts the zoning back to Rural-190, this land use plan shall be considered for amendment to change the land use designation back to Rural Development Area. The Comprehensive Plan Amendment shall only apply to parcels 300-32-001A and 300-32-001D for the test range operations.

c. 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 owner to enjoy uses in excess of those permitted by the land use existing on the date of application, subject to conditions. In the event of the failure to comply with any condition of approval, the property shall change to the land use designation that existed on the date of application. It is, therefore, stipulated and agreed that such change 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 change.

4. Title: Dillon Aero
Case #: **Z2016004**
Supervisor District: 5
Applicant/Owner: Lewis Roca Rothgerbert Christie / Flying Bucket LLC
Request: Zone Change from Rural-190 to IND-3 Industrial Unit Plan of Development (IUPD) to allow for a weapons testing facility
Site Location: Generally located west of 99th Ave. approximately 2 miles south of Schumacher Ln.
Commission Recommendation: On 9/8/16, the Commission voted 6-0 to recommend **approval** of **Z2016004** subject to conditions 'a' – 'k':

Provided the following conditions are met:

a. Development of the site shall be in conformance with the Site Plan entitled, "Dillon Aero Flying Bucket Property", consisting of 10 full-size sheets, stamped received July 1, 2016 except as modified by the following conditions. Within 30 days of Board of Supervisors approval, the applicant shall submit a revised site plan showing the IND-3 IUPD zoning district only applies to the testing operations on parcels 300-32-001A and 300-32-001D and identify the location of the proposed 20' (h) berms.

b. Development of the site shall be in conformance with the Narrative Report entitled "Dillon Aero Test Range Rezoning Request", consisting of 13 pages stamped received August 16, 2016, except as modified by the following conditions. Within 30 days of Board of Supervisors approval, the applicant shall submit a revised narrative report indicating the IND-3 IUPD zoning district only applies to the testing operations on parcels 300-32-001A and 300-32-001D and address the location and height of the proposed 20' (h) berms.

c. The applicant/property owner shall submit a 'will serve' letter from The Goodyear Fire Department or other fire department approved by Maricopa County staff for fire protection services for the project site. Alternatively, Maricopa County staff may accept alternative means of fire protection deemed acceptable to staff. A copy of the 'will serve' letter or other materials deemed acceptable by Maricopa County staff shall be required as part of the initial construction permit submittal.

d. The owner shall apply for building permits for all existing structures. The owner shall receive final inspections on all existing structures from Planning and Development within one year from Board of Supervisors approval of Z2016004.

e. Approval of this Zone Change is contingent upon compliance at all times with all conditions and requirements imposed on the property or applicant by Alcohol, Tobacco, Firearms and Explosives (ATF); Homeland Security (HS); and all U.S. Customs and Border Protection (CBP) requirements for the property, applicant or operations and the associated Foreign Trade Zone. If at any time the property, applicant or operations are not in full compliance with all ATF, HS or CBP requirements or if the applicant uses the property for commercial recreational and sporting purposes (such as charging a fee to allow members of the public to target practice or otherwise use the property), the zoning may be scheduled for public hearing by the Maricopa County Board of Supervisors (Board), upon recommendation by the Maricopa County Planning and Zoning Commission (Commission), to consider revocation of zoning.

f. The applicant/owner shall submit a written report outlining the status of the development every 2 years from the date of approval by the Board of Supervisors. The status report shall be reviewed by staff to determine whether the entitlement remains in compliance with the approved conditions.

g. The following IND-3 IUPD standards shall apply:

1. Building Height – Maximum 50'
2. Parking – 0 spaces provided
3. Screening – 4' (h) cattle fencing with warning signs

h. The following Engineering condition shall apply:

1. All development shall include its associated infrastructure, including but not limited to roads, drainage channels and swales, and retention. Each area developed for the purpose of this use shall provide or exceed its required 100-year, 2-hour retention volume. All retained water, up to 100-year, 2-hour storms volume, shall drain within 36 hours of the storm event that provided the retained storm water. All drainage infrastructure shall be connected to its downstream elements so as to create a connected system according to the layout and designs submitted. No drainage infrastructure shall be reduced in capacity or effectiveness going downstream.

i. 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.

j. The property owner/s and their successor waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with conditions.

k. 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.