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PINAL COUNTY PLANNING AND ZONING COMMISSION
(PO NUMBER 230372)

Regular Meeting
9:00 a.m.
Thursday, July 17, 2014
EOC Room - Building F
31 N. Pinal St., Florence, Arizona

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1 HARTMAN: ..Zoning Commission. Commission members,
2 please to have you in attendance today. I turn to the
3 audience and, and it's - you're always welcome. The
4 applicants, you're here because of the applicants. We welcome
5 the applicants too. We're honored to have Supervisor Todd
6 House here with us today. He's shaking his head. But we
7 appreciate that. He comes and kind of supervises us, I guess,
8 you might say. All right. Anyway. Steve Abraham, our
9 assistant director, you're the director today.

10 ABRAHAM: Yes I am.

11 HARTMAN: Is our assistant director here?
12 Temporary, temporary director.

13 ABRAHAM: I think it's interim.

14 HARTMAN: Interim, all right, I'll get my words -

15 ABRAHAM: And no, he is not here, but I wanted to
16 let you know that Himanshu Patel will be serving the interim
17 until a more permanent director could be found.

18 HARTMAN: Thank you.

19 ABRAHAM: So if you have any issues, you can
20 certainly contact him.

21 HARTMAN: And it's a pleasure, it's a pleasure to
22 have Mark here is our attorney today. Mark, thank you for
23 being here. Patricia Grigg came before us earlier and
24 informed us that she's not here today and she is, she is
25 retiring August 1st and she's been here since 1990, 1990. And

1 so we're definitely going to miss Patricia. She's been our
2 legal person and she's actually done an excellent job. She's
3 been through numerous directors of the Planning and Zoning
4 Department. I think she started with Phil Hogue, which was
5 quite a few years ago. So with, with that, we'll, we'll start
6 our regular session with the minutes of June 19th. Commission
7 members, you have had the opportunity to review the minutes,
8 is there any corrections, additions or may I have a motion?

9 SALAS: So moved, Chairman.

10 HARTMAN: Frank, Frank Salas makes a motion to
11 accept the minutes as written. Do I have a second.

12 GUTIERREZ: I'll second.

13 HARTMAN: David Guti - Commissioner Gutierrez
14 seconds the motion. With that, Commissions Members, if
15 there's no further discussion, (inaudible) vote, all in favor
16 say aye.

17 COLLECTIVE: Aye.

18 HARTMAN: Aye. Opposed. Hearing them, motion
19 carried. All right, with, with that, Steve, if you will take
20 over the agenda from here.

21 ABRAHAM: A couple of announcements, and I already
22 took care of the first bullet point about our new interim
23 director. The second bullet point is kind of exciting for me
24 that - and thank you for some of our Commissioners for being
25 guinea pigs, but we've managed to create a process and a

1 system in which the Commissioners may be able to use tablets
2 rather than packets for your books. We have a electronic
3 delivery system that's basically automated at this point that
4 we can put the packets on the web, you can download them, and
5 right now it's a, it's a matter of really working out the
6 technological needs with IT, versus how much the tablets are
7 actually going to cost the department, and we're - we were
8 able to, over the last couple months, really come down with a
9 good system for delivery of that information to the
10 Commissioners. So the idea is not to force the Commission
11 into going with the tablets, that is not what the plan is, but
12 it - what we would like to see is a slow transition from your
13 paper materials to the tablets. Basically, a new member for
14 example would be appointed to the Commission, they would get a
15 tablet. I've got a test tablet that I can give Commissioners
16 if you'd like to take a look at it, but I'd like to look at it
17 some more to like if Commissioners are fans of hockey, the
18 hockey helmet rule where, you know, you're grandfathered in,
19 you've been a vet, and you get to keep your book, but if you
20 go to a tablet, you gotta stay with a tablet, and our new
21 folks have tablets as well. So there's still some, some
22 issues to iron out before we actually and fully unveil the
23 technology, but it's going to be hopefully in the next couple
24 months when we figure out how to get this information and get
25 the tablets to the Commissioners. And I'll be looking - I'll

1 be talking to probably each and every one of you asking if
2 you're ready or willing to take a tablet, rather than your
3 packet.

4 HARTMAN: All right, Commissioner Mary Vogler.

5 AGUIRRE-VOGLER:: I think I've been kind of vocal
6 about the fact that this County doesn't offer Wi-Fi,
7 especially in my area, so I will have a definite problem with
8 that.

9 ABRAHAM: Absolutely, yeah, and we, we took that
10 into consideration that if, for folks who have bad internet or
11 you're live in areas of the County where, you know, you know
12 your packets can get like a small phone book, you know, in
13 size, so there's graphics, packets, PAD books, hundreds of
14 megabytes in size, so it would take a long time to get it by
15 dial up, so we understand that and we're not - that's one of
16 the reasons why we're not going to say you must go to this
17 system. However, the tablets do have the ability to hook into
18 hotspots at, you know, McDonald's, Starbucks, things like
19 that, so maybe an opportunity to get a coffee. But anyway -

20 RIGGINS: (Inaudible) interesting comment could be
21 made back on that.

22 ABRAHAM: So anyway, just wanted to give you some -
23 where we're headed with that. It's still - there's still some
24 cost issues we'll need to work out, but wanted to let you
25 know. Because Jill and Rand were our guinea pigs for this and

1 seemed pretty successful, I mean, with some exceptions. But
2 we'll, we'll iron those issues out moving forward. And then
3 the last item, I wanted to basically wait until the end of the
4 meeting to talk about, and the content of that, that item is
5 basically the relationship of the Code Compliance Department
6 with the Planning Department, and how those cases that you'll
7 see that are in a code compliance process, make their way
8 through us to you, onto the Board of Supervisors, so I want to
9 discuss some finer points with that. A couple of
10 announcements, one is that case SUP-008-14, which is a request
11 from Frances Evans to permit a dog boarding facility. This is
12 on the northwest corner area of Royce and Gary. This case
13 will not be heard today, due to a notice deficiency by the
14 applicant, so if you were here for that case, SUP-008-14, go
15 ahead and get with a staff member, myself or Evan, and we'll
16 take your comments if you made the trip down today. Also,
17 IUP-002-14 was inadvertently put on our website, that also
18 will not be heard today, so if you're here for IUP-002-14, get
19 with me, I'll take your comments, and we'll - and that'll be
20 rescheduled for a later date as well. That didn't show up on
21 your agenda because we caught that in time, before it ended up
22 on your agenda. But I wanted to announce just because it
23 spent about a week on our website, just to make sure no one
24 came down for that. Also, I think that actually concludes the
25 pre-hearing discussion. I'd be happy to answer any questions

1 that you have on any of those items.

2 HARTMAN: Steve, I think that as Chairman, and
3 anyway I'd like to call for an election next month of a chair
4 and vice-chair, and so that the Commission Members know that
5 election's coming up next month. Okay, with that, if you'll
6 go onto item number three, Steve, we'll appreciate it.

7 ABRAHAM: I'm sorry. Item number three. You have
8 your report on Board of Supervisors cases. Any questions on
9 any of those items?

10 HARTMAN: Commission Members, questions? No
11 questions? All right, Steve. Let's go on to item - we'll
12 open it to new cases, if you will. SU - the first case is
13 number - item number 4, SUP-003-14.

14 ABRAHAM: Evan will be your coordinator on that case
15 today.

16 BALMER: Okay, Mr. Chairman, Members of the
17 Commission, this is case SUP-003-14. It's located on the west
18 side of Sage Street, north of Barnes, in the Maricopa area.
19 The request is for a special use permit to operate a horse
20 boarding facility on a one and a half acre parcel. The
21 applicant is Glenn Hunter and Lea Melti-Hunter. Here's the
22 county map, you can see it's on the far western end of the
23 County. The area map shows it located just north of Barnes,
24 south of Miller Road, and west of Sage Street. You can see
25 that it's kind of surrounded by BLM land. The comprehensive

1 plan designation for this parcel is very low density
2 residential. The zoning on this property is GR, as is much of
3 the surrounding zoning, however the blue area just to the east
4 of Sage Street is zoned SR, suburban ranch. Here's an aerial
5 of the property. The applicant's site plan. Photos were
6 taken from two different locations, the first was on Sage
7 Street. This is looking north on Sage Street, east, south on
8 Sage street, and then this is looking west on Sage Street down
9 Polk, which is where the property is located. That's where my
10 second set of pictures were taken. This is looking north on
11 Polk into the subject property. This is another one looking
12 north. This is east on Polk towards Sage Street, so you can
13 kind of see the distance there. And then this is west on Polk
14 Place. There are 14 stipulations for this case, and I
15 actually received another letter yesterday that I would like
16 to read. It's from Paul Schroder at 635 North Sage Street.
17 The letter is in support of the proposal. He says I received
18 a Notice of Public Hearing yesterday regarding my neighbor's
19 application for a permit to board horses and had planned to
20 attend the meeting in support of them, however, due to
21 conflicting work schedule, I will not be able to be there. As
22 a close neighbor, I have been aware of the Hunters' work with
23 horses for several years and see no problem with it. They
24 live quietly and their activity has not bothered anyone I know
25 of in any way. Please accept this letter as my comment in

1 support of issuing this permit and allowing the Hunters to
2 continue their work. And he is within the 600 foot notice
3 area. That concludes my presentation. I'd be happy to answer
4 any questions you would have for me, also the applicant is
5 present.

6 HARTMAN: Commission Members, any questions of Evan
7 before we get started? Evan I, I have one question on
8 stipulation number five. Why overnight accommodations for
9 customer horse owners are prohibited.

10 BALMER: Sure. A lot of the stipulations for this
11 case come from the - that which would be associated with a
12 home occupation. That was the most similar thing that we
13 could find within the zoning ordinance, and that's actually a
14 stipulation from the home occupation that we would use in that
15 regard.

16 HARTMAN: Okay. And then item number - stipulation
17 number three. No veterinarian services shall be performed on
18 site.

19 BALMER: No major veterinary services. Obviously
20 exams, things like that, are okay, but part of the zoning
21 stipulates veterinary services at a higher, I believe it
22 starts at 10 acres. So there will be no large veterinary
23 procedures.

24 HARTMAN: All right, well we'll discuss that
25 Commission Members later on as we move through, so these are

1 just points that I, I saw that I thought. And then the number
2 of horses on the property shall not exceed 21.

3 BALMER: That is what is currently at the site.

4 HARTMAN: All right. That's good to know. All
5 right, with that, I will call the applicant to come forward
6 and if you will, sign, sign in, give us, give us your name for
7 the recording and then sign in, and that allows staff to be
8 able to send you any information so we have you down.

9 MRS. HUNTER: My name's Lea Melti-Hunter and I own
10 our residence on the property. And I, I guess I'm open to
11 question, or?

12 HARTMAN: Okay, if - let me just kind of explain it.
13 If you would, just kind of give us a resume of what you're
14 currently doing and what you would plan to do, and then we'll
15 talk about the stipulations.

16 MRS. HUNTER: Okay. In brief, in 2004-2005 when the
17 economy fell, I had just met my husband at that time. We
18 weren't married. A lot of his friends were lose - in that
19 area, were losing their homes, didn't have a place to put
20 their horses, so he started taking them in, and as he was
21 nearing retirement age, developed it into a little boarding
22 business. We had no idea that any permits were required
23 because we're way out in County. There's no limit, as far as
24 our zoning, there's limit to the number of horses that can be
25 on the property, only if there are horses, or boarded horses.

1 (Inaudible) point matter, we found out about a year ago. We
2 were served notice that we needed to get a permit, and so here
3 I am. And as we do keep horses on property, we profit
4 probably \$150 a month, maybe \$200. We're not there for the
5 money. My husband has a great love for horses, so do I, and
6 he enjoys teaching the kids that come out how to ride. We
7 both feel that horsemanship - horses and horsemanship are a
8 huge factor in the Arizona history, Arizona lifestyle, and
9 it's something that we see going away more and more and more.
10 The kids that come out to learn to ride, learn a good deal
11 more than horseback riding. They learn respect for the
12 animal, they're not allowed to have phones or computers on the
13 ranch. They learn multitasking, they learn team playing, they
14 learn that sometimes you work well with people you're mad at.
15 They learn to take care of their tack, they learn to take care
16 of the animal. The boarders that are there are people who
17 love their horses, want them cared for. We take care of them.
18 Glenn has shown some of them how to find horses, how to work
19 with horses, a good number of them don't need any help. We go
20 out and trail ride with our, with our boarders, with our
21 friends. One couple in point had a horse boarded in Mesa for
22 \$700 a month. They were from Illinois and hated Arizona.
23 They came here because their son was very ill. They
24 discovered they could put both horses on our property for less
25 than they were paying for the one in Mesa, and in Mesa you

1 can't ride. You're locked into your little pasture. Now they
2 love Arizona because they've been out in the desert with us,
3 and they both have their horses here. What we're asking for
4 is not so much to start a business, but let us continue with
5 the work that we have already began.

6 HARTMAN: All right. That - let's start out with
7 the Commission. Do you have any question Commission Members?
8 Commission Member Smyres.

9 SMYRES: Yes ma'am, I've got a couple of questions
10 and I apologize. I had my notes nice laid out, they're laying
11 on my dining room table so I'm going to have to do this from
12 memory. First off, the road into your property, you say that
13 is a private road?

14 MRS. HUNTER: It's - yeah, it's an ingress/egress,
15 it's an easement road, but we maintain the road yourself.

16 SMYRES: Oh it is just an easement, it is not
17 maintained by the County?

18 MRS. HUNTER: No sir.

19 SMYRES: Okay, have you obviously looked at the 14
20 stipulations that staff has recommended?

21 MRS. HUNTER: Briefly. I didn't understand all of
22 them.

23 SMYRES: Okay, I'm going to ask you a question.
24 Number four says no non-residents of a premises can be
25 employed here. Yet in your narrative you indicate that you

1 allow young people - I shouldn't say children - young adults
2 to work on the property in lieu of payment. Will this
3 stipulation prevent that, or is that going to be a problem?

4 MRS. HUNTER: I don't think it would be a problem,
5 sir. We have a good number of people, particularly young
6 people that have wanted to take riding lessons and cannot
7 afford it.

8 SMYRES: Right.

9 MRS. HUNTER: We don't turn these kids away, we
10 never will. If they can't afford it, we work out something
11 with them. We find that they're - I think it's good for the
12 kids if they fill like they've earned something, so we let
13 them rake the stall, we let them give a horse a bath, we let
14 them brush them - there's - we let them sweep out a barn. I
15 don't see that as employment. It's an hour's work for an
16 hour's lesson.

17 SMYRES: My second question is it says here that
18 there be no more than five customers on the site at one time,
19 how many of your people have multiple horses, like a husband
20 and wife both have a horse there?

21 MRS. HUNTER: Four of them.

22 SMYRES: I guess what I'm getting at is if all four
23 of these people show up, there's eight people, would that be a
24 problem? Because here we're saying we limit it to five, but
25 if - are we looking at five individuals, five, you know, are

1 we limiting so that she can't get all of her people in there
2 at one time?

3 EVANS: Mr. Smyres, it would be five people.

4 SMYRES: Okay.

5 BALMER: And that is one of the stipulations that
6 goes back to the home occupation.

7 MRS. HUNTER: I don't see an issue with that. We've
8 never had more than two or three there at one time.

9 SMYRES: I can't think of any other questions.
10 Thank you.

11 HARTMAN: Okay, thank you Commissioner Smyres.
12 Other Commission Members? Commissioner Mary Aguirre-Vogler.

13 AGUIRRE-VOGLER: Could you show those photos again?
14 You say there's 21 horses on the property right now?

15 BALMER: Sure.

16 AGUIRRE-VOGLER: I didn't see any.

17 MRS. HUNTER: Well there are 21 stalls.

18 BALMER: There - you can see the site plan, it might
19 be better to -

20 AGUIRRE-VOGLER: No, I saw the site plan, I want to
21 see the actual photo.

22 BALMER: There are no photos of the actual horses,
23 but the stalls for the horses are labeled on the site plan.
24 They're located behind the residence.

25 AGUIRRE-VOGLER: So you need to change number three

1 then on the veterinary services, because if there's some minor
2 incidents, there should - they should be taken care of. I
3 don't know how this SUP will monitor number six. It's, I
4 don't know, kind of loose out there. I will wait until we
5 hear more.

6 HARTMAN: Okay, Commissioner Moritz.

7 MORITZ: Well obviously there are a whole lot of
8 things here that are not in sync with doing what you're doing,
9 but we all know that the ten acres, not having more than two
10 horses on the, on a - or one horse per acre that kind of
11 thing. I wanted to make sure there are no shows. This is
12 strictly people who want to board their homes [sic], you don't
13 do big horse shows or anything. And then on - let's see,
14 stipulation five, I think part of that is to prevent holiday
15 trailers and that kind of thing too. And yes, the veterinary
16 service has to be changed, and you have horseshoe and farrier
17 service that comes out, I'm sure.

18 MRS. HUNTER: We have a farrier that comes out.

19 MORITZ: Yep, uh huh. And it's - I really wanted
20 to check on that no shows, but that's good, that's fine. I
21 think that's all I have.

22 MRS. HUNTER: We don't do shooting, we don't do
23 shows, we don't (inaudible).

24 MORITZ: Good, thanks.

25 SMYRES: Chairman Hartman, I have one other

1 question.

2 HARTMAN: Okay, Commissioner Smyres.

3 SMYRES: If I've read this correctly, you have
4 approximately 24 stalls on your property now?

5 MRS. HUNTER: 23.

6 SMYRES: 23.

7 MRS. HUNTER: We keep, we keep two or three stalls
8 vacant for two reasons. First all, it allows us to move
9 horses around while we're cleaning stalls. Also there was one
10 occasion for about a week where we knew we had two horses
11 leaving and two coming in, so we did all those two for about a
12 week.

13 SMYRES: To put up these stalls, do you have to have
14 a permit?

15 MRS. HUNTER: No, they're rail stalls.

16 SMYRES: There's no problem with being close to the
17 setbacks or anything like that.

18 MRS. HUNTER: No.

19 SMYRES: Okay, thank you.

20 HARTMAN: Okay, Commission Members. Commissioner
21 Gutierrez.

22 GUTIERREZ: Not to harp on any, on the veterinary
23 services, what type of veterinary services have you
24 traditionally in the past done there? I mean, you know, like
25 sand colic and that type of treatment?

1 MRS. HUNTER: We've had two - he come - we have our
2 - the vet comes out once a year to check the horses and give
3 them their shots, which is very routine. Our boarders share
4 the expense on that. It gives them the benefit of having a
5 recent vet check and very inexpensive way to have their horses
6 vaccinated. The only other thing I can think of that a vet
7 has come out on is we had a horse that grew a cyst and he came
8 out and removed that. On colic or if a horse catches a cold,
9 generally Glenn calls him and he tells him what to do and we
10 do it.

11 GUTIERREZ: Okay. Well nothing major, I mean that's
12 something you'd take the horse in if it were major.

13 MRS. HUNTER: No if they were to be - need major
14 services we would take them into the vet.

15 GUTIERREZ: Okay. Thank you.

16 HARTMAN: Commission Members? Yes, Commissioner
17 Grubb.

18 GRUBB: Mr. Chair, thank you. On number eight it
19 says no signs advertising the use or permitted, and yet I saw
20 a sign. Was that directing to your property? When we were
21 going through the photographs?

22 MRS. HUNTER: It was and I - that went up before we
23 even knew we needed one.

24 GRUBB: Okay.

25 MRS. HUNTER: It's been there for several years.

1 GRUBB: It looked like it.

2 MRS. HUNTER: (Inaudible).

3 GRUBB: Well no, I mean it's typical of the area, I
4 mean it, you know, not criticizing, no.

5 MRS. HUNTER: All right.

6 GRUBB: And it says no signs, so apparently you're
7 going to have to remove that, but - and I'm the old fire
8 chief, so I'm worried about fire and EMS response to your
9 property. You have a lot of people coming and going, a lot of
10 horses, the chances of somebody getting injured, how far away
11 from you is - and who is your emergency responder out there?

12 MR. HUNTER: By the time they get there (inaudible).

13 GRUBB: I understand that. You know, I realize you
14 live in a rural area.

15 HARTMAN: If you're going to speak from the
16 audience, sir, if you would come forward and identify
17 yourself. We're on a tape recording and -

18 MR. HUNTER: I'm Glenn Hunter, I'm her husband.

19 HARTMAN: All right, Glenn.

20 MR. HUNTER: The nearest fire department is
21 volunteer, and we've had them out there several times over the
22 years. By the time the police get there and the fire
23 department get there, the fire's done.

24 GRUBB: And I understand that, that happens in rural
25 Arizona and that's - I mean I realize that, I worked in that

1 environment and I understand that part. I'm more concerned
2 about somebody getting injured and what happens next.

3 MRS. HUNTER: Okay, I may be able to respond. Our
4 property is kept very clean. There's not anything there that
5 would burn, possibly smolder that we could put out. We would
6 see that and put it out. We keep our area clear, so there's a
7 good fire break, very minimum ability to burn anything, and we
8 don't have flammable buildings.

9 GRUBB: Again, I'm not so much worried about that,
10 because I understand that rural lifestyle. I'm more concerned
11 about who's coming if there's an emergency, a medical response
12 for one of your visitors or a family member or something
13 happens, somebody gets thrown from a horse, who's coming?

14 MRS. HUNTER: Generally Southwest Ambulance for an
15 injury.

16 GRUBB: How far away is that?

17 MRS. HUNTER: It's about 15 minutes.

18 GRUBB: Okay, thank you.

19 HARTMAN: Okay, Commission Members?

20 MORITZ: Mr. Chairman?

21 HARTMAN: Yes.

22 MORITZ: Over here.

23 HARTMAN: Commissioner Moritz.

24 MORITZ: I just wanted to make sure that we all
25 understood that there actually is a requirement to have stalls

1 and buildings 100 feet away from property lines, and I don't
2 know that that is accurate or applicable to your current
3 condition?

4 MRS. HUNTER: Well, we can't make them (inaudible).

5 MORITZ: I just wanted to make sure that you knew.

6 MRS. HUNTER: And we're aware of that and that's why
7 we are asking for a special use permit, and an exception to
8 that. You know, obviously we're making it work very well.

9 HARTMAN: Actually, and in our codes, there's
10 something that's not quite right because I've been on this
11 Commission long enough to remember that the Apache Junction
12 Horsemen's Association came before this Commission and the
13 Supervisors and wanted a zero setback for horse shelters, and
14 they got it. And so that is, as far as I know, still in
15 effect. I don't know how - I was reading that same thing here
16 on the footage of setbacks, and I don't think that's correct.
17 I think you have a zero setback, that you can go right with
18 your horse shelters. And I remember this Commission arguing
19 back and forth that oh that'll create a fly problem and
20 everything, and then some of the Commissioner Members say no,
21 the flies don't like the - the horses don't go in the shade,
22 if the flies are bad they stand out - there was a whole big
23 discussion and everything, so anyway, as I remember it, the
24 Superstition Horsemen's Association got that ruling, zero
25 setback and the Supervisors, I remember Dean Weatherly was the

1 Supervisor and I told him that was the first mistake he ever
2 made was voting for that, which I was against it because I
3 don't think it's right for a neighbor to move their, their
4 shelters and buildings right next to the property line. But
5 anyway, I do think that you have a legal right to have the
6 shelters right next to your -

7 MRS. HUNTER: And as far as I know I believe it was
8 also taken up by one of the horsemen's associations that does
9 not limit the number of horses that we can have the property,
10 what's in question is whether we can board them.

11 RIGGINS: Mr. Chairman?

12 HARTMAN: Yes.

13 RIGGINS: I do believe the difference in what you're
14 discussing is GR zoning and personal use and commercial use.
15 I believe that's the issue at hand here. I think the setback
16 changes when it becomes commercial use.

17 HARTMAN: Well that, that would definitely need to
18 be investigated. Mark, can you add anything to us, legally on
19 this, on this issue?

20 LANGLITZ: Commissioner Riggins is correct, that the
21 personal use horse stalls can go right up against the property
22 line, but in a commercial application, they need to follow the
23 acreage requirement and the distance requirement.

24 HARTMAN: Now is this classified a commercial or
25 just an SUP?

1 MRS. HUNTER: Just an SUP.

2 LANGLITZ: Well, it's just an SUP, but part of the
3 discussion I think Evan had was that you have - we put a
4 battery of stips on here to try to make it more like a home
5 occ, rather than a commercial use, but it's certainly within
6 the Commission's purview to allow the placement of those
7 structures. You could stipulate them to be moved away, of
8 course.

9 HARTMAN: Which we've done with dog kennels. We've
10 asked that, you know, the existing kennels be moved away from
11 the property line.

12 LANGLITZ: Absolutely.

13 HARTMAN: All right. Something to think about
14 Commission Members. All right, Hunters, I have - this is as
15 so stated by Vice Chair, this is more of a commercial feeding
16 operation, as a matter of fact I'd call it an intensive
17 feeding operation for that small of an acreage and that number
18 of animals. I'm a horse love and a farmer and feed livestock
19 myself, and I know that if you've got 21 head of animals and
20 you say you're rotating them, that's a lot of work. I mean
21 that's intensive operation. I have some questions on - now
22 the manure, the removal of the manure, the health issue there.
23 In your, in your writings you stated that you put the manure
24 out front and the neighbors come and pick the manure up.

25 MRS. HUNTER: What we don't use.

1 HARTMAN: What you don't use.

2 MRS. HUNTER: Yeah. Our standard procedure, most of
3 it when we clean out a stall, goes into the arena and is
4 tilled under. It keeps the ground soft and it's very clean.
5 Our horses are fed a supplement that kills fly larvae so it
6 does not create flies and it does not create a smell. We have
7 two neighbors within Hidden Valley, not next door to us, that
8 are landscapers, when we have any left that will come and get
9 it within 24 hours after we call them.

10 HARTMAN: That sounds good. Okay, then my other
11 question was with you state that you have a couple of pens
12 empty so you can rotate the animals when you're cleaning pens
13 and things.

14 MRS. HUNTER: Mm hm.

15 HARTMAN: And I know as a, as a horse lover that
16 these animals does have parasites and you need to control the
17 parasites. Now you mentioned about the fly larvae, that's
18 one, but there's also worms and other -

19 MRS. HUNTER: We worm our horses every 90 days. We
20 expect our borders to worm theirs every 90 days, and we do
21 keep a record on when they're wormed. Some of them do it
22 themselves, some of them ask Glenn to do it.

23 HARTMAN: Do you ever take fecal samples and send it
24 to a veterinarian?

25 MRS. HUNTER: If there's any indication of a reason

1 for it.

2 HARTMAN: Okay.

3 MRS. HUNTER: But again, the vet, when he does his
4 vet check once a year would notice if somebody looked like
5 they needed a -

6 HARTMAN: Yeah, the fecal's, the fecal sample's
7 about the only way you can really tell unless a horse is
8 really not eating, goes off their feed or something like that.

9 MRS. HUNTER: Yeah.

10 HARTMAN: You know, tapeworm.

11 MRS. HUNTER: That's usually, that's usually sand.

12 HARTMAN: All right. Let's see, I had, I had some
13 other questions. Dust control. Talk to us about dust
14 control, because it - if you have livestock or people, you
15 have dust. In other words when you have a lot of activity on
16 property, there's, there's always dust. Do you, do you do any
17 dust control at all?

18 MRS. HUNTER: We have not had an issue. Generally
19 the activity doesn't take place on the property. The people
20 come and get their horses and ride them out in the desert.
21 There's generally, if we have anything in the arena, it's one
22 or two horses. We live in the middle of the Sonoran Desert,
23 we have dust. If there were no horses in five miles, we would
24 have dust. We have no paved roads. It has not created a
25 problem for us, not any of our neighbors have had any issue

1 with dust.

2 HARTMAN: One of the restrictions is no roping and
3 Gymkhanas or any type of (inaudible) like that.

4 MRS. HUNTER: We don't do that. All we do is board
5 and ride in the arena, or you know, let them out - we let out
6 generally two horses at a time into the arena so that they can
7 exercise.

8 HARTMAN: And we covered the flies and odor.

9 MRS. HUNTER: We covered the flies and odor.

10 HARTMAN: I do question the number of animals. I
11 know that that's what you're currently feeding?

12 MRS. HUNTER: That's what we have. Six of them are
13 ours.

14 HARTMAN: So you have a horse farm.

15 MRS. HUNTER: We have six horses of our own, the
16 other 15 are guests.

17 HARTMAN: Do you have a stud service there also?

18 MRS. HUNTER: No sir, absolutely not.

19 HARTMAN: Okay.

20 MR. HUNTER: We have no studs on the property.

21 HARTMAN: All right.

22 MR. HUNTER: I don't have the facilities for that.

23 HARTMAN: Exactly.

24 MR. HUNTER: (Inaudible) and so do you.

25 HARTMAN: Because that, because that's part of a

1 commercial operation also.

2 MRS. HUNTER: No, we don't do breeding.

3 HARTMAN: All right. Okay, Commission Members?

4 Further questions?

5 MRS. HUNTER: If you'd - if it pleases you, sir,
6 there are some people that came -

7 HARTMAN: Well I will call, I will call to the
8 public.

9 MRS. HUNTER: They can probably speak better than I
10 can.

11 HARTMAN: Yeah, I'll call to the public is what I'll
12 do. Those in favor and those opposed.

13 MRS. HUNTER: Okay.

14 HARTMAN: All right, Hunters. Thank you. And then
15 I'll reserve the right to call you two back, if you would like
16 to, to answer any, any questions further. Okay, with that,
17 let's, let's move on. Yes?

18 GUTIERREZ: I've got (inaudible).

19 HARTMAN: Okay. Excuse me, one more question.

20 Gutierrez. Commissioner Gutierrez.

21 GUTIERREZ: You just had that picture up there of
22 the aerial view of the property.

23 BALMER: Excuse me, the site plan?

24 GUTIERREZ: No. Yeah, the site plan's fine. On
25 that, when I was looking at the site plan and stuff - when I

1 was looking at the site plan, are the stalls already built on
2 the property?

3 MRS. HUNTER: Yes sir.

4 GUTIERREZ: Yeah. Would the - and can you go to the
5 one of the, the aerial view, the - yeah, right there. Just
6 what I'm not clear on, is that building on the, on the north
7 side of your property there, is that where the stalls are?

8 MRS. HUNTER: Yes sir, that's not a building, it's
9 actually a shade.

10 GUTIERREZ: Okay, it's just a shade.

11 MRS. HUNTER: Yeah, it's up on - it's on - it's
12 poles that are anchored to the ground and just a saddle top.

13 GUTIERREZ: And that's, that's where all the stalls
14 are in that -

15 MRS. HUNTER: Yeah, you'll see several smaller ones.

16 GUTIERREZ: Okay.

17 MRS. HUNTER: Okay.

18 GUTIERREZ: Okay, I just trying to clarify that.

19 MRS. HUNTER: That's all right.

20 MR. HUNTER: Most of the stalls are 12 by 12, or 12
21 by (inaudible). The shades are (inaudible).

22 GUTIERREZ: Okay.

23 MR. HUNTER: (Inaudible).

24 GUTIERREZ: Okay. That's what I was thinking, I
25 just wanted to -

1 MRS. HUNTER: Yeah, the shades are 12 by 12, the
2 stalls are generally 12 by 16, 12 by 20.

3 GUTIERREZ: Okay. Thank you.

4 HARTMAN: All right, thank you. With that, I'll
5 call to the public. Anyone that would like to come forward
6 and speak either for or against this SUP. Yes sir, if you
7 would. If you'll state your name and give us your address,
8 and then also write it down there on that, on that pad.

9 HOSLEY: Okay. My name is David Hosley. I live on
10 Desert Valley Road in Maricopa, which is the road right off of
11 Sage that is directly behind their property. I've known these
12 folks for five years since I moved here. Just to give you a
13 little bit of their character, the way that I met them, I was
14 driving down the road, it was about the third time I ever had
15 a water wagon and the damned wheel fell off and this gentleman
16 came by and helped me and got me going, and since then we've
17 become friendly as neighbors do and they help each other. I
18 see absolutely no problem with their operation. They bother
19 nobody. I've been to their property a number of times,
20 they've been to mine. They're very decent people. I know
21 what they're doing, they love horses and this is a way for
22 them to supplement their retirement funds and I am absolutely
23 100 percent for what these people are doing. Thank you.

24 HARTMAN: Commissioner Members, questions of David?
25 Thank you, David. With that, anyone else would like to come -

1 yes sir, if you would. Let's please don't be repetitive on
2 kind of the same comments. If you would, add to what has
3 already been said, either for or against. Yes sir, if you
4 would. And do the same thing, write down your name and
5 address and give us your name and address.

6 PATTERSON: Hi, my name is Paul Patterson and I live
7 in Maricopa. Let me get my name down here.

8 HARTMAN: Okay.

9 PATTERSON: I'm a little bit nervous. I'm not used
10 to this at all. I met these people about two years ago. My
11 grandson got in a lot of trouble, he had two horses, they were
12 boarded on the other side of - in Phoenix. And he, he and his
13 girlfriend at the time had some problems and he lost - both of
14 them lost their jobs and so the horses went about four months
15 without being - room and board being taken care of. And I
16 didn't know there for a while that he had two horses. Well,
17 to make a long story short, I knew he got in trouble with his
18 girlfriend, he was going to go to jail. He still - he got rid
19 of one horse to help pay for the room and board that he owed,
20 and the guy was nice enough to do that, but the second horse,
21 which is the older one, Flex, is a thoroughbred and my
22 grandson looked up on the internet and found this place and I,
23 I don't know too much about horses at the time. I've rode
24 horses, you know, get up on one and they ride in a straight
25 line, something like that, follow the leader type thing, so I

1 didn't really have that much experience, and I sure didn't
2 know much about horses. And - but I says okay, I'm going to
3 pay for this if you happen to go to jail, which he did, then
4 I'm going to have the horse so I can ride him, I learn how to
5 ride him. And thanks to these people, they've been really
6 great people. Great friends. Their location's perfect. They
7 take care of my horse - I call it my horse now because I'm
8 paying for it - and the horse came there and he was starved.
9 He was all bones and everything else and Glenn and Lea have
10 been great about telling me and advising me what to do and how
11 to do it, what not to do, and there's a whole bunch of that,
12 and then a couple times I got in trouble. I actually got hurt
13 out there, but that's because I didn't follow what Glenn told
14 me to do. And I, I pay attention nowadays, a whole lot, and
15 the horse is much, much better. It's a great place. I
16 usually go over there two-three times a week, not so much in
17 the summertime but winter time, and I've met all the people -
18 well not all the people - but a lot of the people that come in
19 board, even temporary, and the ones that are (inaudible) and
20 why and the horses, and I've learned a whole bunch about it.
21 I've learned how to ride very decently. I ride around the
22 area, you couldn't beat the area. I feel a lot of trust in
23 these people as far as my horse, and being taken care of
24 properly. He's an old guy, he's about 20 years old and he
25 used to be a racehorse, I guess. But he's well taken care of.

1 If any of the horses have a problem, they're right there and
2 they get the proper support. If they need either - well just
3 recently I think he had a horse that got colic and they had to
4 take the horse to the vet, and that's not a problem. And I -
5 if I am a little more organized, I'd tell you more about it,
6 but I know it's a good place to be, I love it. I drive 17
7 miles each way because I live - come into Maricopa, I'm on
8 347, I live right in the first place, and my wife (inaudible)
9 me having a thing about horses now because of that. I do love
10 going out there. I thank you for your time.

11 HARTMAN: All right, thank you Paul. One second.
12 Commission Members, questions? Paul, thank you.

13 PATTERSON: Thank you.

14 HARTMAN: All right. I call to the public. Yes
15 ma'am, if you would on the front row.

16 C. HOSLEY: I just - my name is Carol Hosley. My
17 husband was up here. And I just have two things. Dust
18 control was one of the things that you had asked about and we
19 definitely have a lot of dust out in the - our area, but it is
20 not from their horses. There's ATVs that ride all the time,
21 and if you want dust control, it's the ATVs that make the
22 dust. The horses come by my property everyday when they're
23 out for their ride, and there's absolutely no dust problem.
24 The other thing is I broke my back and I live one street over
25 from them. The response time was like ten minutes for the

1 ambulance to get there, they have an ambulance that's pretty
2 close by. And I also had to be taken by helicopter, and the
3 helicopter was here in a very short time. So if there's any
4 problem with somebody having an injury, there will be response
5 there in a very quick time. And no dust.

6 HARTMAN: Thank you. Thank you. Commission
7 Members, questions? All right. Anybody else? Yes sir, if
8 you would come forward. I'll mention the same thing, if you
9 will, write your name down and give us your name and address
10 also.

11 CAHALL: Thank you. My name's Chris Cahall. I'm an
12 American Family Insurance Agent in Maricopa and I happen to be
13 the insurance agent for Glenn and Lea. American Family has
14 very strict regulations regarding cleanliness for their
15 suburban farm ranch, and I can absolutely tell you that every
16 time that I've made my visits, my drive-bys, when I'm out
17 checking on other properties if I can insure them, that they
18 keep their farm very clean. The upkeep and the hard work that
19 Glenn and Lea put out is outstanding, I absolutely am for
20 this, this special cause.

21 HARTMAN: All right. Commission Members, question
22 of Chris? Thank you. And I appreciate each one of you
23 mentioning a different viewpoint, which is, which is
24 thoroughly appreciated. Okay, more. Yes sir. If you - or
25 ma'am, whichever. Ma'am. There was more than one of you

1 there, but that's all right. I got ladies first.

2 VEZMAROVIC: My name's Kariann Vezmarovic. My
3 daughter is one that takes classes out - or training out
4 there. I have now started going out at the ranch four times a
5 week to water horses. I'm not an employee of theirs, but I
6 love the horses and I love spending time with them. Their
7 horses are well taken care of. They take care of us well. I
8 know there was a question about whether or not the kids were
9 working for their lessons. We've become family with them.
10 The work that we go out and we do, I'm volunteering my time,
11 and because of that, he volunteers his time to teach my
12 daughter how to ride. I don't ask him to do that, I'm happy
13 to pay him if he wants me to pay him, but it's sort of just a
14 give and take. So that's my perspective.

15 HARTMAN: Very good. Commissioner Members? No
16 questions. All right. Anyone else? Yes ma'am, on the front
17 row.

18 GORE: My name is Karen Gore, and I live in Maricopa
19 also, on the other side of the mountain from Glenn and Lea,
20 and my sister and I came to know Glenn and Lea. About a year
21 ago, we got some horses and we needed somewhere to ride and we
22 didn't have a horse trailer, and Glenn has come out and got us
23 on weekends and trailered us out to his property. We go out
24 ride in the desert for a few hours, and then we load our
25 horses up and go home. We're frequent fliers there. We're

1 there all the time, our horses are not, and we just go over
2 and ride, and Glenn and Leah are like a big family. If we
3 have a problem with our horses, they've always been there to
4 help us. They've come to our property and helped us. It's
5 just, it's a wonderful thing. We're from California where we
6 had horses, and we couldn't afford them there. We come here,
7 and now we've got horses and my special needs son is now
8 getting into them and it calms him. He gives - gives him a
9 purpose. It's just a wonderful place to be and everybody out
10 there is family. Everybody helps everybody and nobody has any
11 worries because there's 24 hour care for our horse - for the
12 horses out there. You know, Glenn's always out there. If he
13 has a problem, he has - calls you right away, and if you need
14 help, he'll be there for you, whether it's on his property or
15 somebody else's.

16 HARTMAN: All right, Commission Members, questions?
17 I will make a comment that the BLM land is actually an
18 excellent place. There's no designated trails, I don't
19 believe on that BLM land, but you can, you can ride wherever
20 you want to and that's public lands, it's kind of a unique
21 situation. And it's good to have that land right next to this
22 facility. Okay. Yes ma'am, if you would. You didn't raise
23 your hand high enough. There we go.

24 TUCKER: My name's Naomi Catts-Tucker and I have
25 trained horses for years, some professionally at different

1 times, and sometimes just for people that I know. I've known
2 Glenn and Lea for several years. I most recently have been
3 going over to help Glenn with his horse and some things that
4 he wanted to learn with his horse, plus it's also - I haul my
5 horse occasionally over to his house so I'm not riding by
6 myself and not running the risk of having an accident when I'm
7 home by myself. But I just wanted to mention that their
8 facility is extremely well run. I know it seems like a lot of
9 horses to be 21 horses on that small piece of property. This
10 is no different than multiple other properties out there that
11 people just don't know about. That is very common practice
12 out there. They, however, do it much better than most. Their
13 property is clean, it's neat, it's kept up. When we talk
14 about safety, I have never run into any safety issues or
15 hazards, or things that I've worried about for my house or I
16 worried about for myself. When I've been out there, the
17 people are always very welcoming. Glenn does offer a lot of
18 information and help to the people that come out there and
19 ride. I think he adds a lot to the experience that
20 (inaudible) who are running it, not just somebody who's
21 running it for a business. They do treat people like family,
22 but at the same time, they keep very high standards. Their
23 place is very clean. One of the things about the dust issue
24 is that by putting the manure back into the area, it keeps
25 that light feathery dust that we have out there down, so it

1 doesn't blow, it doesn't create the dust issue that you have a
2 lot of places. Same thing with the stalls. The horses poop
3 in the stalls, it, you know, keeps the dust down. So there's
4 probably less dust on their property than any of the other
5 properties around there, in fact. They do regular wormings,
6 they do regular shots. Their horses - their own horses and
7 the horses that are kept there are kept under very, very good
8 conditions. And to the best of my knowledge, most of the
9 people around there have animals too, it's not like this is
10 something that's being plopped down in the middle of a
11 residential neighborhood.

12 HARTMAN: All right, thank you for those comments.
13 Questions? Thank you. Anyone else? Okay, yes ma'am. Yes
14 ma'am in the blue. No, I'm going back. You're all waiting.
15 Commissioner Moritz, they're all waiting. He's more vigorous
16 than the rest. He will be called next.

17 DONAHUE: Hi, my name is Pat Donahue and my family
18 had been interested in getting a horse. My son-in-law
19 basically found Glenn and Glenn helped him purchase a horse
20 that was very suitable to our family. I rode for many years,
21 my daughters did not, and they purchased a horse, moved it to
22 Glenn. Glenn went, checked the horse out for us, said it was
23 a safe horse, especially for my daughters and moved it to his
24 stables where if my daughters went out there, and he would
25 show them what to do, taught them everything that they do know

1 about taking care of a horse, riding the horse. Unfortunately
2 the horse did hurt herself and at that time Glenn spent hours
3 helping her. He showed me what to do with her also. He knew
4 what to do, he checked with a vet to make sure that he was
5 doing the right thing. You know, we spent three months
6 rehabilitating her, he spent hours, hours with her. Wasn't
7 getting paid to do that, he was paid to, you know, take care
8 of her. He - we did - my daughter did move the horse recently
9 because she wanted her closer. They live way farther away,
10 and he's always there. We have questions, he's come out to
11 help me at a time. She did colic at his place and I know that
12 Glenn walked her for hours in the middle of the night. He did
13 learn after that to use the little (inaudible) so that he
14 wouldn't have to be out there for hours with her. He saved
15 her life because she was very bad, and if it wasn't for Glenn,
16 we wouldn't have her.

17 HARTMAN: All right. Thank you. Commissioner
18 Members? Questions? Yes sir, back in - yes sir. And the
19 same thing, if you'll give us your name and (inaudible).

20 KNOTT: My name is Fred Knott, and I'm from the
21 great horse city of Chicago. We came down here a couple years
22 ago. Well first of all, I ditto everything everybody said.
23 I'll second that, save some time. The things that are
24 important to us - and we came from Illinois - there was a lot,
25 lot of horse boarding facilities, surprisingly. So we're

1 moving to Arizona, we thought Arizona, horse culture capital
2 of the world. There'll be a lot of places to go. Well
3 there's not. There's really not. And the ones that we found,
4 my wife and I, we have two horses, very expensive. We had to
5 leave one horse in Illinois because we couldn't afford to
6 bring both of them down here. We found Glenn's, it's
7 affordable, that's important to me, okay? That's one thing
8 that hasn't brought up. He's not out here to make a killing
9 on anybody. He loves horses. So we were able to bring both
10 horses down, which I got pictures when the horses came
11 together. They rubbed their heads around each other, they
12 were so glad to see each other. Really, really important to
13 me that we can afford to have both horses here. You addressed
14 the issue about fecal samples. My wife is very particular
15 about the horses' health. Glenn can attest to that. She
16 sends samples to a horseman's lab in (inaudible), Illinois
17 monthly. Not one time has there every been worms. So we've
18 been here 14-15 months with Glenn. Never one time with worms.
19 She's extremely particular about cleanliness, health, if he
20 can satisfy her, he can stratify anybody in this state. And,
21 you know, I couldn't, I couldn't be more happy or satisfied
22 with this man's operation.

23 HARTMAN: Thank you, Fred. Commission Members.

24 Okay, I would like to ask is there anyone else that would -
25 maybe somebody would speak against? Not a, not a single

1 person.

2 KNOTT: Ain't gonna happen.

3 HARTMAN: All right. With that, if you don't mind,
4 I'm going to close it to the public, and Hunters, I don't, I
5 don't think that you really need to come back before us
6 because I didn't hear anything negative, it was all
7 beneficial. Did you have anything else you wanted to say?

8 MRS. HUNTER: (Inaudible).

9 HARTMAN: Come to the podium, if you will, where the
10 mike is.

11 MRS. HUNTER: Chairman, one the things I failed to
12 comment on, and it is part of our facility, we feel - and
13 there are a dozen little boarding facilities out there - the
14 first time I came into he county building after we got our
15 notice (inaudible) told somebody that, she said don't tell me,
16 we don't want to know, because then I have serve all of them.
17 We do provide a - as a group of - as a boarding facility, we
18 provide a viable service out there and it does impact our
19 area. People drive cars to come out there, that's money
20 that's spent in Pinal County. They buy tack, that's money
21 that's spent in Pinal County. We buy four tons of feed a
22 month, that's money spent in Pinal County. Okay. If we and
23 other facilities similar to ours were not there, those people
24 would go away, okay? That money would be spent likely in
25 Maricopa County. You know, we do - just from that, people

1 eat, they travel, they buy saddles, they buy jeans, they - and
2 we'd like to keep that money in the County.

3 HARTMAN: All right. Yes, Mary Aguirre-Vogler has a
4 question.

5 AGUIRRE-VOGLER: You alluded to the fact that you
6 didn't know you needed a permit?

7 HARTMAN: No.

8 AGUIRRE-VOGLER: And, and you came in for that
9 reason? Were you cited?

10 HARTMAN: Yeah, we were cited. We -

11 AGUIRRE-VOGLER: Because that, that I didn't find in
12 our book.

13 HARTMAN: Yeah, we received a notice probably -

14 AGUIRRE-VOGLER: But normally we have it in the book
15 that you were cited. Is that in here and I missed it?

16 BALMER: I don't believe it is in the analysis
17 section, you're correct.

18 MRS. HUNTER: (Inaudible).

19 AGUIRRE-VOGLER: No, it's normally in our book,
20 right?

21 HARTMAN: Yeah, and I think some place I picked it
22 up in my mind that, that they had - that's why they were here
23 is because of a citation.

24 MRS. HUNTER: That's how we knew to come in.

25 HARTMAN: Yes.

1 MRS. HUNTER: Because we received a letter from the
2 County.

3 AGUIRRE-VOGLER: Steve, don't we normally put that
4 in our books so we kind of know the background?

5 ABRAHAM: Yeah, most of the time we do. I think in
6 this case we just inadvertently omitted it.

7 AGUIRRE-VOGLER: Hm, strange.

8 MRS. HUNTER: Thank you, Mr. Chairman.

9 HARTMAN: All right, Thank you Ms. Hunter. Okay, at
10 this time I'm going to close it to the public and I'm going to
11 move back to myself for a question. I - this, this question,
12 Steve, Planner Balmer, but I think I'm going to go to Mark,
13 our legal. Normally under an SUP, it's either goes to the
14 land or it's to the individual. Now, now I've heard that the
15 Hunters are really responsible in running this horse facility,
16 and I know from previous occasions that we seem to have lost
17 the ability that - or the desire to tie an SUP to the current
18 owner, and it seems like to me that, personally, that it's
19 more of a permanent SUP when you give it to - sign it to the
20 land. So Mark, my question is, should we not have something
21 that designates whether this goes to the individuals that are
22 applying for this, or that it goes to the land? So if they
23 sell this property, then the future people that own it can
24 carry on the business as so specified with these stipulations.
25 LANGLITZ: Mr. Chairman, the special use permit runs

1 with the land, but if the property was sold and there was a
2 subsequent owner and the - there was not compliance with the
3 special use permit, it could be revoked.

4 HARTMAN: And that's the beauty of an SUP. If the
5 stipulations that are down are not followed, then this, this
6 SUP could be revoked, is that right?

7 LANGLITZ: Yes, Mr. Chairman, that's correct.

8 HARTMAN: So it's not necessarily a permanent zoning
9 to the property.

10 LANGLITZ: That's correct.

11 HARTMAN: Okay. That answers that question. All
12 right. Commission Members, we turn it back to you for further
13 discussion and a motion.

14 RIGGINS: Mr. Chairman.

15 HARTMAN: Yes, Vice Chair Riggins.

16 RIGGINS: Mr. Chairman, even though this case is
17 requesting a commercial use in the GR zone, it doesn't conform
18 with the underlying zoning. I believe that this case is
19 special in that if these 21 horses, of which six of them
20 already belong to the applicants were theirs, then what
21 they're doing would be perfectly fine. It would make no
22 difference whatsoever. The fact that they're running a
23 commercial activity is what, what causes any noncompliance.
24 Add to the fact that they're in a pocket up close to federal
25 land and every neighbor and every person that has anything to

1 do with them is absolutely in favor of them continuing what
2 they're doing, and in that case in my mind, I think they
3 should continue what they're doing myself. I do, however,
4 have a few problems with the stipulations because I don't want
5 to see them get into a position to where they inadvertently do
6 not follow a stipulation because of the normal practices that
7 they're doing, and those stipulations really aren't important
8 to the integrity of the County protections of the SUP. If I'm
9 allowed to make the motion on this, my, my motion would change
10 a few of these stipulations. First of all, I would change
11 stipulation one to go from 21 horses to 23, because that's the
12 number of pens on the property, and the applicant has always
13 said that every now and then in their rotations there could be
14 23. I see no reasons why they should be tripped up over such
15 a thing. Number - stipulation number three, I would insert
16 the word major, that there would be no major veterinary
17 services performed on site. Stipulation number four, I would
18 delete in its entirety because they are doing, they are doing
19 services in exchange for labor that could possibly trip them
20 up if somebody wanted to, and I see no reason in the world why
21 such a thing should happen. And in stipulation number six, I
22 would double every one of those numbers, because I see why - I
23 don't see any reason in the world why they should be tripped
24 up over something that's already very small anyway. I would
25 also mention that in terms of any kind of impact on the

1 environment, in our upcoming federal PM10 dust mitigation
2 issues that we have in Pinal County, one of the best BMPs for
3 dust mitigation is manure application. So as was pointed out,
4 they're actually making the situation better out there,
5 they're not making it worse. I would be prepared to make this
6 motion and go forward, unless other people have things to
7 discuss.

8 LANGLITZ: Mr. Chairman.

9 HARTMAN: Yes.

10 LANGLITZ: It's Mark Langlitz.

11 HARTMAN: Okay who - okay, Mark, our attorney. Yes,
12 there you are.

13 LANGLITZ: I'm sorry. I would make one suggestion
14 for Commission Members to add to the changes, to the
15 stipulations that Vice Chairman Riggins made, and that is in
16 number three, I would - at the very end of that include a
17 comma and say except in an emergency. So I think that
18 stipulation would read no major veterinary services shall be
19 performed on site, except in an emergency if - I'm not a horse
20 person, so I don't know what, what can happen, but if -

21 RIGGINS: I think it's an excellent (inaudible).

22 LANGLITZ: Thank you, Mr. Chairman.

23 HARTMAN: I can comment that you don't call a
24 veterinarian unless it's an emergency, because they cost. All
25 right, all right Commission Members? Your thoughts.

1 MORITZ: Mr. Chairman?

2 HARTMAN: Commissioner Vogler.

3 MORITZ: On the property right now there appear to
4 be 24 stalls. Right?

5 HARTMAN: I mean excuse me, I said Vogler, Moritz,
6 Commissioner Moritz.

7 MORITZ: I see 24 stalls identified, there are 21
8 horses on property. The other three are used for rotation, so
9 I'm still sticking with the 21, I think that's more
10 appropriate. But I do agree with the other stipulations
11 identified and as the planner Evan has identified three, and
12 (inaudible) I think it's a good way to go.

13 HARTMAN: And I, I would concur with your comments,
14 because many times for some reason the water in one doesn't
15 work and in order to facilitate, you gotta move an animal
16 around, and you really should have an extra pen at least, you
17 know, so to fill up every pen - anyway. All right.

18 RIGGINS: Mr. Chairman, I would - I'd like to make
19 motion.

20 HARTMAN: Let's see if there's any more comments
21 before we - yes, Commission Smyres.

22 SMYRES: I've got one question, it's more for staff
23 than - I think this is a road easement, not a dedicated road.
24 Normally (inaudible) 33 66 foot wide, are we using an entire
25 66 foot wide easement? And what is the County's liability on

1 a road easement versus a dedicated road, since we are, in
2 essence, if we approve this, inviting people to come down that
3 easement? Are we exposing the County to more liability than
4 if they just had neighbors dropping by and was not running a
5 boarding facility? Are we - and I know easements everywhere
6 in the County and there's no simple answer to this question,
7 but are we exposing yourself to a greater liability by using
8 these easements?

9 LANGLITZ: Yeah, it would be private. Mr. Chairman,
10 Commissioner Smyres, if it's a private easement there's no
11 liability whatsoever on the part of the County. If it's - and
12 I'm not sure that I understand the exact nature of this
13 roadway - if it's not dedicated to the public, then it's -
14 okay, if it's not dedicated to the public then it's private,
15 and there's no liability on the part of the County whatsoever.

16 HARTMAN: Could we call back to the applicant to
17 explain that a little further on the easement of the road? Is
18 it, is it private or is it County, or what easement do you -

19 MRS. HUNTER: I believe it is, I believe it's
20 identified as a required public easement because otherwise you
21 would not have access to the property or the one behind us.

22 MR. HUNTER: If you pull up our plat map, you have
23 the house (inaudible) that sits on the corner, you have our
24 house.

25 LANGLITZ: Sir, can you get a little closer to the

1 microphone?

2 MR. HUNTER: If you look at our plat map, which you
3 have a picture of, there's a house on the corner, our house
4 and there's a vacant lot next to us; all of us had to give up
5 23 feet of road. I maintain that road with my own tractor.
6 The County has nothing to do with it. It's a private road.

7 HARTMAN: So it's a private easement.

8 MRS. HUNTER: Yeah, it's a private easement.

9 HARTMAN: All right. That answers their question.
10 Thank you.

11 MRS. HUNTER: All right, thank you.

12 LANGLITZ: Mr. Chairman, I can also add, even, even
13 if it was an easement where it could be used by the public in
14 general and not just a group of adjacent property owners, it
15 still wouldn't be a County road. We would have no
16 responsibility for (inaudible) we wouldn't be able to do
17 anything to improve that road, so it's still really strictly
18 private.

19 HARTMAN: All right. Commissioner Smyres, does that
20 answer your question?

21 SMYRES: Yes sir, it does.

22 HARTMAN: Okay.

23 GRUBB: Mr. Chair?

24 HARTMAN: Yes, Commissioner Grubb.

25 GRUBB: One more thing and I hate to keep belaboring

1 this, but in the air quality report, their comments are that -
2 and it lists this SUP along with others, other issues for
3 today, the above-proposed site plan review cases should have a
4 paved road arterial access to the project, paved road access
5 within the project, and paved parking lots. And that's their
6 recommendation and it's incorporated into this process. So
7 are we going to require these people to pave their parking
8 lot, their easement and the arterial road that feeds down to
9 their property, because that's what this says.

10 HARTMAN: Well that -

11 GRUBB: And I'm a little concerned about putting
12 that requirement back on these people, it takes the rural
13 flavor away from this property.

14 HARTMAN: And I don't see that in the stipulations
15 that have - that Evan has written for this applicant. Evan,
16 your comment on that. Public Work - not Public Works, but
17 public health.

18 BALMER: Sure.

19 HARTMAN: They made a recommendation, but you did
20 not include that, that the paving of the parking area, the
21 driveway and everything would be included.

22 BALMER: Right, Mr. Chairman, Commissioner Grubb,
23 that's something that we are going to address in site plan
24 review, that's the next, the next step.

25 HARTMAN: Okay, thank you.

1 BALMER: And air quality will be involved with that
2 process.

3 GRUBB: Okay, I just don't see a reason to impose
4 this on these people.

5 HARTMAN: Well, one of the things, Mr. Riggins
6 mentioned that manure is used a lot of time for dust control,
7 and there's a lot of the farm areas that they actually take
8 manure and spread it around the (inaudible) of the fields to
9 help put organic matter on the soil to help hold the dust
10 particulates down.

11 MORITZ: Mr. Chairman? In past cases, if I recall
12 correctly, paving was used as a term to mean any substance
13 that would reduce dust, it didn't mean that top (inaudible),
14 any of that could be a stabilizer of some sort.

15 HARTMAN: And we don't have a stipulation directing
16 that and it's going to be addressed further on, so I don't see
17 that as a problem. Now, if you would come back up. Mr.
18 Hunter, come back up if you would.

19 MR. HUNTER: We have a private well. Now if you
20 went and spread manure, or blacktop down through there and oil
21 and everything else, you're going to contaminate my well. End
22 of the story.

23 HARTMAN: All right. Okay. Commissioner Members,
24 we'll turn it back to you at this time for a motion.

25 RIGGINS: Mr. Chairman?

1 HARTMAN: Yes, Vice Chair Riggins.

2 RIGGINS: I would like to go ahead and make a
3 motion.

4 HARTMAN: If you would.

5 RIGGINS: And in, in need of explanation, I'm going
6 to continue to change stipulation number one to 23 as opposed
7 to 21 because the nature of the operation as been described,
8 they themselves keep pens empty for rotation, but they've
9 already stated that there has been times that there might be,
10 because of something, a horse or two extra that gets put in
11 the rotation pens, and I see no reason whatsoever to get them
12 out of compliance over such a thing, so I'm going to make the
13 motion as I originally stated. And that is, I make a motion
14 that the Pinal County Planning & Zone Commission forward case
15 SUP-003-14 to the Pinal County Board of Supervisors with a
16 favorable recommendation, with the attached 14 stipulations,
17 changing stipulation number one to read 23, changing
18 stipulation number 3 to read no major veterinary services
19 shall be performed on site, except in circumstances of
20 emergencies; stipulation number 4 to be deleted in its
21 entirety; and stipulation number 6 to be changing every
22 numerical requirement and doubling it from 5 to 10, from 5 to
23 10, from 4 to 8, and from 2 to 4.

24 HARTMAN: Okay, do we have a motion, second?

25 SALAS: I second the motion.

1 ??: I've got a -

2 HARTMAN: Okay, we'll have a discussion. We have a
3 - Commissioner Salas seconds the motion. Okay, now a call for
4 discussion Commissioner Members?

5 GUTIERREZ: Yeah, if, if we remove stipulation
6 number 4, then there'd be 13 stipulations.

7 RIGGINS: Thank you very much. I will change the
8 underlying motion to state there's 13 stipulations. Thank you
9 for the correction.

10 HARTMAN: All right. Am I - as discussed earlier,
11 I'd rather see us go with 21 rather than 23.

12 ?: Me.

13 AGUIRRE-VOGLER: Me too.

14 MORITZ: Me too.

15 HARTMAN: I'd hate to have to go through the whole
16 voting again. Commissioner Riggins, would you reconsider that
17 number one to 21?

18 RIGGINS: I'll ask the Commission, why is it that
19 they wish to take something that they realize is already being
20 done in an operational plan in this facility, and the
21 applicants have already stated that there is a potential - and
22 not a potential - that they actually have had from time to
23 time because of moving in and moving out, more than 21 horses
24 - why would you wish to put them in a position of defaulting
25 on their SUP over this circumstance? They run a very nice

1 operation, everybody has said they have. They keep pens open
2 because rotationally that's what they do, I don't see any
3 reason whatsoever in putting them in a position to default on
4 their SUP.

5 HARTMAN: Commissioner Members, comment on Mr.
6 Riggins? Commissioner Moritz.

7 MORITZ: As I've mentioned before, 24 stalls. They
8 currently have 21 horses, six privately owned, 15 boarding,
9 that gives them the opportunity to rotate and it just doesn't
10 seem, with all of the things that are in a variance to this
11 requirement, what is the thing about two horses. 21 is good
12 for me, that's how it is right now, that's everybody's opinion
13 right now, I still say 21.

14 HARTMAN: Commissioner Mary Aguirre-Vogler.
15 Commissioner Members? 21? Okay.

16 SALAS: I have a question.

17 HARTMAN: Yeah, go ahead, Commissioner Salas.

18 SALAS: I said question on the motion. Bring it to
19 a vote, find out whether it's passable or not.

20 HARTMAN: All right, we can, we can do that. With
21 that we'll call for a voice vote, all those in favor of the
22 motion as so stated, say aye.

23 Aye.

24 HARTMAN: Those opposed so state.

25 No.

1 SALAS: Two no's.

2 HARTMAN: Okay, what do we - Evan - no, I think we
3 had four.

4 LANGLITZ: Mr. Chairman, why don't you ask for a
5 roll call vote.

6 HARTMAN: All right, let's go with a roll call.
7 Thank you, Mark. Okay roll call vote.

8 RIGGINS: Mr. Chairman, I believe this is petty.

9 HARTMAN: It definitely is.

10 RIGGINS: But by the same token, by the same token,
11 I do believe the Commissioners that are trying to forward this
12 are wrong in what they're doing, I think they'll probably
13 lose, but I don't want a split decision narrowly going to the
14 Board of Supervisors, because that's what the Commissioners
15 will cause in something that I think is a, is a very important
16 vote for these, for the applicants. And in that, in that, I
17 will go ahead and change my original motion to 21 to placate
18 those Commissioners that think it's necessary.

19 HARTMAN: Thank you.

20 LANGLITZ: Mr. Chair, we -

21 HARTMAN: We need, we need a -

22 ??: Second.

23 HARTMAN: And the second will also change to 21?

24 Concur?

25 SALAS: I'm seconding.

1 HARTMAN: Okay.

2 GRUBB: Point of order, Mark, don't we have to go
3 forward with the, with the roll call since it was called for
4 by the Chairman on that particular motion before we can
5 entertain another motion?

6 LANGLITZ: Well it's - let me think for a second.

7 HARTMAN: We had the motion change to 21 and we had
8 the second change that motion also. And then, then I can call
9 for a voice vote, if that's what you want.

10 RIGGINS: Mr. Chairman, there was a vote and it was
11 unable to be identified, and therefore, you called for a roll
12 call, and as a point of order that roll call must occur before
13 you can entertain another motion.

14 MORITZ: And it won't be a stalemate Mr. Chairman.
15 It won't be a stale mate because there are nine of us.

16 RIGGINS: So as a, as a, as a point of fact, as a
17 point of fact when the roll call vote is made and it is
18 decided one way or the other, that will be the end of it.

19 MORITZ: Yes.

20 LANGLITZ: Mr. Chairman? You can - if you want to
21 change it, one of the Commission Members can make a motion for
22 reconsideration, and if that is seconded, then revise the
23 motion to the number to 21, if that's what you want to do, and
24 then take a vote on that. We're kind of stuck here with the -
25 procedurally we want to do the right thing. I know where we

1 want to get to, but the proper thing would be to have the roll
2 call vote and then see what happens then.

3 HARTMAN: Okay, let's, let's go with that. Roll
4 call vote. As the motion was originally stated.

5 ABRAHAM: Okay, Commissioner Grubb.

6 GRUBB: No.

7 ABRAHAM: Commissioner Del Cotto.

8 DEL COTTO: Are we, are we - this is for -

9 ??: Original vote.

10 ??: 23.

11 HARTMAN: This, no, 23.

12 ABRAHAM: This is for 23.

13 DEL COTTO: I'm going to vote the 23.

14 ABRAHAM: So that is a yes vote.

15 HARTMAN: Yes vote, okay.

16 ABRAHAM: Commissioner Moritz.

17 MORITZ: No.

18 ABRAHAM: Commissioner Smyres.

19 SMYRES: Yes.

20 ABRAHAM: Commissioner Gutierrez.

21 GUTIERREZ: Yes.

22 ABRAHAM: Commissioner Salas.

23 SALAS: Yes.

24 ABRAHAM: Commissioner Aguirre-Vogler.

25 MORITZ: It doesn't matter.

1 HARTMAN: Yes? Yes vote?

2 AGUIRRE-VOGLER: Yes.

3 ABRAHAM: Vice Chair Riggins.

4 RIGGINS: Yes.

5 ABRAHAM: And Chairman Hartman.

6 HARTMAN: No.

7 ABRAHAM: One, two, three against, six to three in
8 favor. The motion passes.

9 HARTMAN: All right, that - that cleared that up.
10 Okay, with that, you have been given a favorable
11 recommendation to go to the Board of Supervisors, your next
12 stop will be the Supervisors, and with a favorable
13 recommendation.

14 RIGGINS: And good luck on your endeavor, I think
15 you're doing a wonderful job out there.

16 HARTMAN: And I think, I think that the reasons you
17 heard the no votes is the numbers, and this number 21 is the
18 number that was written here. Okay, with that, do we want to
19 take a ten minute recess?

20 SMYRES: Yes please.

21 HARTMAN: Okay, we will adjourn for ten minutes
22 while (inaudible) and everybody settles down. Thank you.

23 [Break.] Okay, our next case us SUP-006-14.

24 DENTON: Are you ready?

25 HARTMAN: Yes, we're ready.

1 DENTON: All right. This site is located .2 miles
2 west of the intersection of State Route 387 and Minapore
3 Street in the Casa Grande area. The applicant is requesting a
4 special use permit to operate a skydiving facility on 4.27
5 acres in the general rural zone. The applicant is Skydive
6 Coastal California, and the agent is Pinal - yeah, Pinal
7 Design Group. The subject property is located in the north
8 and western portion of the County, just north of Casa Grande.
9 On the aerial map the subject property is highlighted in red
10 and is within the Askins Estate Subdivision which is the white
11 area around the subject property. It is - the subdivision
12 itself is adjacent to the City of Casa Grande which is on the
13 west border of the subdivision, the southern and the eastern
14 portion of the subdivision. The comprehensive plan is rural
15 residential and there's a mix of different uses around the
16 subdivision itself. The existing zoning is GR and the
17 adjacent zoning is also GR. The property is currently being
18 used as a drop zone and (inaudible) gravel area that you see
19 in the center of the property is where they are dropping. The
20 surrounding land uses around the property is currently vacant.
21 The applicant site plan, they are proposing a paved parking
22 lot, also with a modular building, and with a drop zone
23 located just west of the modular building. The photos was
24 taken on Minapore Street, and this is looking south away - I
25 mean looking north away from the subject property. This would

1 be like looking back towards the Interstate 10. And this is
2 looking south in the subject property, and that's that little
3 gravel area that you saw on the aerial. And this is looking
4 west. And the flag there is part of their, I guess to
5 identify where they need to land. And this is looking east.
6 They did have, at the time I went out there, they did have
7 some vehicles (inaudible), and they also have a Mobile Mini on
8 the site and our previous director gave them a temporary use
9 permit for the Mobile Mini to keep their storage equipment. A
10 couple of factors of consideration, and you do have this in
11 your staff report, but the Commission can look at travel -

12 LANGLITZ: Excuse me, I'm sorry, Mr. Chair?

13 HARTMAN: Yes.

14 LANGLITZ: It's important that there be - all
15 discussions between Commissioner Members, have to be able to
16 be heard by the public. I know it's a technical requirement,
17 but there should not be any side discussions, I'm sorry.

18 HARTMAN: I concur totally. It was a question on a
19 map detail.

20 LANGLITZ: I, I understand, but the public doesn't
21 know that. That's the problem. I -

22 HARTMAN: Understand. Pardon me.

23 LANGLITZ: Okay, thank you.

24 HARTMAN: No problem. And this will come up. On
25 the map there's some question about the city boundaries and

1 the state boundaries. I mean State Land Department
2 boundaries, the city and the state, so that, that was the
3 question that I was trying to get cleared up.

4 DENTON: And I can clear that up, too, for you as
5 well.

6 HARTMAN: If you would, if you would.

7 DENTON: Well on the right-hand side of Pinal
8 Avenue, which is located here, this is state land. And this
9 is also within the City of Casa Grande, and the City of Casa
10 Grande's on the southern boundary and also on the western
11 boundary of the subdivision. And the subdivision is the areas
12 in white.

13 HARTMAN: And the white piece is 160 acre county
14 island.

15 DENTON: That's correct, yeah.

16 HARTMAN: And the State land is actually city of
17 Casa Grande?

18 DENTON: That's correct.

19 HARTMAN: All right. That was my question. I
20 hadn't really noticed that before, but okay.

21 DENTON: All right. So you guys have some factors
22 of consideration, which is also in your staff report, but you
23 can look at traffic conditions, the surrounding area, public
24 input and so on. And then also as - also wanted to remind the
25 Commission too that, you know, in our comprehensive plan we do

1 have some planning guidelines that you guys can consider as
2 well and they can look at adequate access, buffering between
3 different land uses and capability with the surrounding land
4 use. And then you can look at the, you know, if it mitigate
5 like negative visual impacts arising from scale (inaudible)
6 mass or large commercial buildings and etc., and you also have
7 a list of that too in the staff report, but I just want to
8 make sure that you guys look at those plotting guidelines as
9 you guys deliberate amongst each other. And also for
10 discussion too, you might want to think about maybe - if you
11 guys want to forward it with a recommendation of - a favorable
12 recommendation, you also might want to look at the number of
13 drops. The City of Casa Grande, they also expressed that
14 having a time limit placed if they did annex, that the use go
15 away, so you might want to talk to the applicant about that as
16 well. And there's ten stipulations associated with this case.
17 That concludes my presentation. I'm available for any
18 questions that the Commission may have.

19 HARTMAN: Commission Members, any questions of
20 planner Denton? All right, thank you.

21 RIGGINS: Yes I do have one.

22 HARTMAN: Yes? Vice Chair Riggins.

23 RIGGINS: The - just so I'm sure I'm correct, the
24 160 I'm looking at is broken into fairly large lots all around
25 this parcel, and that is all general rural?

1 DENTON: That's correct.

2 RIGGINS: Thank you.

3 HARTMAN: And the one comment - if you would, the
4 comment by the City of Casa Grande Planning & Zoning was if
5 this property is annexed, the SUP would be withdrawn?

6 DENTON: Yeah, they would like the use to go away.
7 In their letter, they did speak about like they didn't want
8 like a legal nonconforming use. That's what they were worried
9 about, so they did ask if we could consider that. So that
10 would be up to the Commission if they want to consider it,
11 adding a stip or not.

12 HARTMAN: Okay. With that, I will call the
13 applicant to come forward. If you'll state your name and
14 address for the record, and also write it down.

15 WRIGHT: Good morning, I'm Chuck Wright with Pinal
16 Design Group, Casa Grande, Arizona. I'm here representing
17 Luther Kurtz of Phoenix Area Skydive and the property owner,
18 Richard Halliburton, and I'm here to present our comments and
19 points of view on the proposed skydive, Skydive Arizona's
20 operations here in Casa Grande. Luther Kurtz runs a, a pretty
21 nice, a pretty nice small operation for, for beginning
22 skydivers. We presented this case back in January to, to the
23 planning staff and they made several recommendations to us to
24 meet, be qualified for this, for this application, and we have
25 met, we have met or agreed to, to all of those requirements.

1 We've gone through the process of notifying all the property
2 owners in the area. One of the stipulations of the planning
3 and zoning application process is to have a, is to have a
4 neighborhood meeting where we contact property owners within
5 1200 feet to provide feedback to us, to come at a - as a - at
6 a designated location and come and sit down and talk about the
7 project, about how they feel about it, and their pros and cons
8 and what they don't like about it, so we did that. We mailed
9 out letters to, to all the property owners within 1200 feet.
10 I mentioned to Mr. Kurtz that, that one of the property owners
11 within that area owned 78 percent of the property, which his
12 DRBD Properties, and we sent letters to him and everybody
13 else. We had, we had three people show up at this, at this
14 neighborhood meeting, and DRBD was not among them. So we, we
15 presented our case to the neighborhood meeting, told them what
16 we were doing, the three applicants - I mean the three
17 participants voiced their concerns and most of them gave us
18 their approval to move forward. And so we - hearing those
19 comments from, from those property owners, we thought okay, we
20 either - we were either indifferent to DBRD or they somehow
21 didn't reach our - they didn't get our communications after
22 sending 30 letters to them. So, having no comments from them,
23 we proceeded with the planning staff to, to a final
24 destination of this PnZ application and we met with Mr.
25 Detric and agreed to the ten stipulations that he has on the

1 board. So I don't think that we will have a problem meeting
2 what the Planning and Zoning staff wants us to do. I'd like
3 to take a few moments to talk about Mr. Kurtz's, Mr. Kurtz's
4 operation. Mr. Kurtz is from Harbor Springs, Michigan. He
5 has a degree in aerospace engineering, a commercial pilot's
6 license, and world record for most tandem jumps in a 24 hour
7 period. He owns and operates six skydiving operations across
8 the country, and he is also a law school student. Mr. Kurtz
9 is a good community oriented businessman, having started a
10 skydiving business in Harbor Springs, Michigan. He asked
11 local folks if he could bring an airplane to come out for the
12 summer show in Harbor Springs and the locals accepted his
13 operations. That was his first operation, Harbor Springs.
14 Mr. Kurtz has operations in, in (inaudible) Michigan, Miami,
15 Florida, Washington D.C., Phoenix, Arizona and Los Angeles,
16 California. Skydive Arizona specializes in beginning
17 parachute jumping. All jumpers are relatively new to the
18 sport and will always be jumping in tandem with a certified -
19 a trained, certified jump instructor with thousands of hours
20 of jumps to his credit. Jumps typically take place at an
21 altitude of 10,000 feet. Parachutes typically open at 4,000
22 to 5,000 feet and a half a mile upwind of the landing zone.
23 The parachutes then float back to the landing spot and are
24 generally directed directly above the landing area at the time
25 they have descended to about 2,000 feet. The parachutes then

1 fly a small landing pattern that can be adjusted based on
2 locations of any houses in the area. At no time will a tandem
3 jumper have control of the parachute controls. Skydive
4 Arizona has been landing these jumpers at this location for
5 the past seven years, totaling approximately 15,000 jumps,
6 about 2,000 jumps per year, four days a week. None of these
7 jumps landed outside the property boundaries. 98 percent of
8 them landed within the 100 foot diameter circle that they have
9 on the property. Mr. Kurtz has a skydiving - has six
10 skydiving operations across the United States, three of which
11 operate outside of airports in settings similar to this
12 setting. There are approximately 250,000 skydiving operations
13 across the United States with approximately half of those
14 operating outside of airports and settings similar of those
15 being proposed. Phoenix Area Skydive is affiliated with five
16 other skydiving centers and all five skydiving centers take
17 privacy and noise mitigation very seriously. The affiliated
18 skydiving centers have had great success, even with locations
19 near main houses. For instance at the Ventura County
20 location, the landing area is just less than two acres in
21 size, and has five houses and a church within 100 feet area of
22 it. The Ventura location has never had a complaint in five
23 years of operation, primarily because of proactive door
24 knocking and offering to change the landing zone. At the Dade
25 County, Miami location we have five - we have a subdivision

1 more similar to the one here in Pinal County, mostly five acre
2 lots. The Dade County landing area is six acres in size, and
3 very few people even know that the jumping - about the
4 jumping, except for the few lots adjoining the landing area
5 (inaudible). With a few knocks on the doors we will be able to
6 create a landing pattern that made everyone happy and we were
7 not - we have not had any complaints at all in the four years
8 of this landing area. The 4.7 acre - the 4.27 acre lot is
9 large enough to fit into both the United States Parachute
10 Association - USPA - landing area requirements and the FAA
11 administration draft Parachute Landing Area - PLA -
12 requirements for airports. The FAA currently has no minimum
13 size for on-airport or off-airport PLAs, but the size
14 requirements for the draft regulation is helpful and the
15 Phoenix Area Skydiving Parachute Landing Area will comply if
16 the draft becomes law. Additionally, USPA landing area size
17 requirement is not law, however the Phoenix Area Skydiving is
18 a volunteer member of the USPA and the Phoenix Area Skydiving
19 Parachute Landing Area will comply with the USPA's landing
20 area requirements. The proposed lot is large enough to
21 already - be - and already obstacle free. It is far from any
22 other large obstacles like power lines and etc. It's
23 rectangular in shape and a long part of the rectangle is
24 parallel to the normal wind direction. It is perfect.
25 Phoenix Area Skydiving and its owners have 15 years experience

1 operating small to medium-sized skydiving schools. PAS is a
2 volunteer member of the United States Parachute Association
3 and has been for seven years. Currently the land around the
4 proposed landing area is vacant, but even if properties fill
5 up with houses, the skydiving and the residential homes can
6 exist very easily together with just a small amount of effort
7 on the part of PAS. Most notably, even if PSA - PAS doubles
8 its capacity from what it had done in the past seven years,
9 parachutes will only be in truth (inaudible) for an average of
10 12 minutes per day. PAS and its affiliates have shown that
11 they are willing to make that effort at other locations.
12 Skydiving brings dollars into the community directly from
13 Phoenix and Tucson. As a company, Phoenix Area Skydiving
14 contributes to the community, has a great safety record and
15 has shown success and safety and an effort to work with its
16 neighbors in other locations, and has a great relationship
17 with the Casa Grande Airport and Phoenix Air Traffic Control.
18 So, I also have a letter of support from Mr. Kevin Lewis who
19 was the airport manager, who's now the Director of Public
20 Works in Casa Grande, and this is significant because of his,
21 of his airport manager operation. And this was written, this
22 was written for Luther Kurtz as he made an application for a
23 facility in Washington D.C. and in (inaudible) County, and it
24 says Dear (inaudible) County, Luther Kurtz has been skydiving
25 at the Casa Grande Airport for close to eight years. At first

1 my view of his operation was poor, and we did not appreciate
2 his skydiving business at the airport. However, our views
3 have gone from disappointment to appreciation over the last
4 eight years. Luther's business was - not only adds value to
5 our community, but Luther makes personal contributions as
6 well. Luther has proven himself over and over again to be
7 professional, honest, caring and understanding of efforts of
8 his operation in our community. I can truthfully say that
9 Phoenix Area Skydiving has become a very positive asset for
10 our airport and our community. In addition, Luther is active
11 in our community, personally volunteered for the Cactus Fly-
12 In, the Copper State Fly-In, and participating local
13 fundraisers and events for local activities. I do not
14 hesitate to recommend Luther Kurtz as a professional, safe and
15 positive skydiving operator. He was also - Mr. Kurtz was also
16 written up in a large article recently in Harbor Springs
17 called My North, and I won't read, read it, but it just talks
18 about his business relationships over the past 15 years. Some
19 issues have been brought up about traffic on the road, and I
20 would like to introduce Phoenix Area Skydive's co-owner and
21 manager, Mr. Randy Fortner, to talk about that. Randy, will
22 you come up, please?

23 FORTNER: Good morning, we're still morning. Good
24 morning.

25 HARTMAN: Good morning, Randy.

1 FORTNER: I look forward to an exciting conversation
2 today, huh?

3 HARTMAN: Yes.

4 FORTNER: I can give you the basic breakdown for,
5 for the traffic, just in terms of our customer base and it's -

6 HARTMAN: Randy, if I might interrupt you. What's
7 your credentials?

8 FORTNER: My name is Randall Fortner, sorry. I'm
9 the current manager of co-owner of Phoenix Area Skydiving. I
10 also own another skydiving facility in Florida. I've been
11 jumping, owning and operating skydive facilities for a long
12 time. 30, 30 years, almost. 27. So I'm currently managing
13 this facility and I'm here for sure to answer technical
14 questions, the exciting questions, the scary questions.

15 WRIGHT: Address the traffic.

16 FORTNER: The traffic. The traffic? Our simple
17 math on the traffic is we, we jump about 2,000 jumpers per
18 year. We take those jumpers two at a time in an aircraft.
19 Consequently, they show up at our facility two at a time in
20 their vehicles. So our guesstimation, which is pretty close,
21 is about 1,000 vehicles a year will be accessing the site, and
22 that's over four days a week. So I think the math comes down
23 to about four to six cars per day that would be accessing the
24 road from, from Pinal to our site, which is about 800 feet, I
25 believe. Maybe 1,000 feet from Pinal to our, to our site.

1 And that hasn't changed. That's been the same traffic pattern
2 that's been there for seven years. We've been actually
3 landing parachutes there for seven years. We're just really
4 looking to consolidate the operation in one spot instead of
5 the airport and the landing area together.

6 WRIGHT: And I might add here - the - I just, I just
7 wanted to give - have Randy give you a frame of reference for
8 traffic. The actual traffic calculation will not be known at
9 this time. We're all making guesses about this is what Mr.
10 Fortner is seeing actually out on the property as an operator
11 of Phoenix Area Skydiver. I know we've - there's been letters
12 talking about the levels of traffic far in excess of that. We
13 really won't know what those traffic levels are until, until
14 we hire a traffic impact - until we hire a traffic engineer to
15 do a traffic impact analysis, and at that time we'll know
16 accurately what, what those travels are going to be, so we, we
17 are agreeing to that point of the, of the ten conditions from
18 the staff. The other issue I want to talk about is the issue
19 of liability. There has been some concerns from, from some of
20 the, some of the respondents that, that they're scared about
21 accidents happening around the site, and like I mentioned
22 before, we have had no landings outside of our property, and
23 in ten - in eight years. We've only had two percent of those
24 landings that have been outside the 100 foot diameter landing
25 zone. But I'd like to have Randy come back and tell you about

1 his, his, his company and the US, USPA's association liability
2 insurance. Randy?

3 FORTNER: Thank you guys. As a volunteer member of
4 the United States Parachute Association, we, we have a policy
5 or a provision by which we can offer additionally insured
6 certificates to surrounding landowners. Typically cities,
7 counties, would like to be named in those, in those
8 additionally insured certificates. We also include any
9 interested party in our waiver form. All jumpers have to
10 complete a waiver liability form that basically releases all,
11 all participants from liability. And it's not uncommon to
12 include landowners, city, county, commissions personally and
13 professionally in those, in those waivers. That's common
14 practice that's practiced in almost every skydive facility in
15 the country. And I do want to make one correction for the
16 record, there's about 250 skydiving locations in the country.
17 I think, I think Chuck said 250,000. So I want to correct the
18 record, there's about 250 skydiving locations in the country,
19 and about a half of them enjoy airport - or off-airport
20 landing similar to what we're asking here today. So about a
21 half, about 125 actually land off the airport, the other, the
22 other half actually land, land on the airport, depending on
23 air traffic situations, stuff like that.

24 WRIGHT: What's three zeros? But in summary, we
25 believe that Phoenix Area Skydive will be an asset to the

1 community, just as it has been the last seven years,
2 operating, operating their base operations out of the City of
3 Casa Grande's Airport, and then landing at the current zone.
4 The reason they're moving out there is because the City of
5 Casa Grande is expanding their - expanding and remodeling
6 their terminal building which was where Phoenix Area Skydive
7 was located and they don't have any room for Phoenix Area
8 Skydive anymore, and so that's where all this process started
9 and they thought it would be a nice - it would be nice to
10 have, to have all their operations at one location where they
11 could - where the prospective jumpers could come to the site,
12 they could use the, the could use the modular building for
13 their, for their one hour or so training before they jump, for
14 the jumpers and the trainers to give them, give them the
15 information on what it's like to jump and all - but all the
16 transaction will be done online, so they'll already have those
17 taken care of, and then, and then the Phoenix Area Skydive
18 will transport those people to the airport in one van and drop
19 them off, and it will be transported up into the airplane and
20 drop to 10,000 feet and land back at the zone. And then after
21 they get done there, when they land, they will come back into
22 the building and they will have a post-jump review to see what
23 they did, and then they usually sell some kind of a video that
24 most of the jumpers like to, like to buy, showing them flying
25 through the air. So we believe this, this, this project will

1 be a benefit to the community. That's all I have. Do you
2 have any questions?

3 HARTMAN: Thank you, thank you Charles for your
4 presentation. Let's, let's get on with our questions.
5 Commission Members, I will let you guys - I'll let the
6 Commission go first with their questions. If you would,
7 Commissioner Grubb.

8 GRUBB: Sure, I'll start. A couple of things that I
9 noted reading through the packet, talking about the drop zone
10 requirements on the FAA document, are you a A, B or C license
11 holder, what level is this?

12 FORTNER: Currently we don't, we don't serve as A, B
13 or C license holders, we only serve as professional jumpers,
14 which is the top, top tier. A, B, C are the beginning
15 licenses of jumpers. Our jumper, our jumpers right now are
16 strictly a tandem operation, so your first time jumpers are
17 always attached to an experienced jumper. So there is no real
18 limitations on, or restrictions, on professional or tandem
19 landing area size if that's kind of where you're going.

20 GRUBB: Well, but it does say on this in drops on
21 requirements, all tandem skydives 50 meters from any
22 obstructions.

23 FORTNER: 50 meters is a voluntary USPA
24 circumstance. I think, I think the differentiation was that
25 the FAA hasn't mandated that into law. So there's no FAA law

1 there, but that's a, that's a new agreement by the USPA and
2 since we're voluntary members, we can - we have to comply with
3 those, with those regulations.

4 GRUBB: Okay. Number two. Again, you heard me
5 earlier I'm the retired fire chief, so I think about these
6 things, and in your statement or application, it says our
7 students currently have police and fire first responders
8 available, so no additional service is necessary. What does
9 that mean? You have police and fire -

10 FORTNER: I didn't write that particular passage,
11 but I can tell you that our response team is at the airport
12 and they are - they're two miles away.

13 WRIGHT: Casa Grande Fire Department.

14 FORTNER: Casa Grande Fire Department is stationed
15 at the Casa Grande Airport.

16 GRUBB: Well let's go to the next one. It says on
17 the notice from the City of Casa Grande, the City of Casa
18 Grande's Police and Fire Department will not be responsible to
19 answer emergency calls from this proposed site as this is
20 located outside the city limits, unless there's a mutual
21 agreement in place. So -

22 FORTNER: I guess part of the confusion is that we
23 never had an accident, so I don't know who would respond.
24 We've had a couple, we've had a couple of false alarms where
25 people from the highway thought that there was an issue

1 because they saw the parachute and they thought, thought
2 somebody jumped out of a malfunctioning airplane and the
3 people that did respond was - were from the airport.
4 (Inaudible).

5 GRUBB: We couldn't say never, so in my business
6 there is no never. It's just when.

7 WRIGHT: If Casa Grande Fire Department wouldn't
8 respond, probably Southwest Ambulance would.

9 GRUBB: Okay. There was these conflicts between
10 your impact statement and Casa Grande's letter that said - you
11 say they're coming and they say they're not, so -

12 FORTNER: And I didn't mean to mis, mis, misspeak.
13 We've never had a need.

14 GRUBB: Okay, that's better.

15 FORTNER: We've never had a need there, so we've
16 never had an accident for somebody to respond. The couple
17 times that there was, in my experience - I've been there two
18 years - they've responded from the airport, and I, and I
19 believe that that's city.

20 GRUBB: Okay.

21 FORTNER: I believe whoever's stationed there, the
22 city, two miles, did respond.

23 GRUBB: Okay.

24 FORTNER: So we never have had it yet.

25 GRUBB: Okay. Yeah, I'm just, you know, I'm very

1 concerned about public safety and I just wanted to address
2 those couple issues when I was reading through.

3 HARTMAN: Okay, Randy if you'll stay there. Yes,
4 Charles, he's your assistant in answering questions. Okay,
5 Commission Members? Mr. Vice Chair Riggins.

6 RIGGINS: Mr. Chairman.

7 HARTMAN: Yes.

8 RIGGINS: I note in reviewing the packet here that
9 in your application for special use permit in the center of
10 the Askins Estate residential subdivision zoned ZR - GR - that
11 your 4.27 acre lot essentially right in the center of that
12 subdivision. The ownership of approximately 100 acres
13 virtually 100 percent surrounding you, is in very, very
14 serious opposition.

15 WRIGHT: 78 percent.

16 RIGGINS: Well it's an approximately 168 acre
17 parcel, so they state it's 100 acres.

18 WRIGHT: 78 percent.

19 RIGGINS: Okay, 78 percent. Are you aware of that
20 difficulty in your presentation and your application?

21 WRIGHT: I might also point out that, that 78
22 percent did not attend the neighborhood meeting which, which
23 by requirements of the Planning and Zoning staff, and the
24 Commission, is part of the requirements to proceed here. So
25 we never -

1 RIGGINS: Well they certain, they certainly have got
2 the documentation within our packet.

3 WRIGHT: Well they - but they submitted that on July
4 the 7th. We don't discount any of that, we don't discount any
5 of their objections at all, we're just saying they had a
6 chance to come prior to that during, during the required
7 neighborhood meeting to come and talk to us about those
8 issues, and when you talk to people, sometimes you can get
9 things done.

10 RIGGINS: Are you stating that this is in your
11 packets inappropriately? They didn't meet the requirements?

12 WRIGHT: No, I'm not saying that.

13 RIGGINS: Okay.

14 WRIGHT: I'm not saying that. All I'm saying is
15 they, is they didn't come to our neighborhood meeting when
16 they received - when they received 30 letters.

17 RIGGINS: Okay. Well that, that is fine, but you
18 were aware of this existing (inaudible).

19 WRIGHT: Absolutely, sir.

20 RIGGINS: Thank you.

21 HARTMAN: Okay. I have a question. The City of
22 Casa Grande Planning & Zoning has sent a letter stating, or a
23 condition stating that if this Askins property is ever taken
24 into the city, then you will not operate any longer - actually
25 as far as - Mark, a question to you. If the city takes - if

1 the city annexes this property and they're not gonna not take
2 in this lot, I would assume, if they take in the whole sub
3 areas, tract, then, then the County's SUP is no longer valid,
4 is it not?

5 LANGLITZ: Mr. Chair, if this parcel is annexed in
6 to the City of Casa Grande? Correct?

7 HARTMAN: Right.

8 LANGLITZ: I think the special use permit would,
9 would continue. Casa Grande would probably be stuck with
10 that. Now they may take a look at whether there was
11 compliance with the conditions of the special use permit and I
12 believe would be able to revoke it the same as if it were in
13 the County. But Mr. Chair, I also want to add at this point
14 that it's the opinion of the Pinal County Attorney's Office
15 that we have serious reservations about allowing this use
16 pursuant to a special use permit. A - this more properly
17 falls within a rezoning. This is not a designated special use
18 in a GR district. I would not be confident that if we were
19 challenged in a court of law on the propriety of granting a
20 special use permit for this that we would prevail, and I just
21 want to, I just wanted to express, express those concerns to
22 you as you consider this. It would - it's the recommendation
23 of the Pinal County Attorney's Office - I don't believe this
24 matter has to be pulled, but it's our recommendation that it
25 would go to the Board of Supervisors with a recommendation of

1 denial and then perhaps we can talk to the applicant and maybe
2 redirect it into a proper rezoning application.

3 HARTMAN: In my review of this as Chairman, and as a
4 Commission Member, in my review of this I thought to myself
5 well wouldn't this be more appropriate to be a temporary use
6 permit? A temp? Okay.

7 LANGLITZ: Mr. Chair, I'm not sure. I need to take
8 a look and see what, what is permitted in a temporary use
9 permit, but this is not a use that's consistent with a GR, and
10 there's nothing in the development code that, that addresses
11 this type of use in a GR. This is in essence a - it actually
12 is a rezoning application. Rezonings can only occur in
13 accordance with a procedure set forth in state statute, so I
14 believe that if, if this SUP were granted and were challenged,
15 let's say by an adjoining property owner, the challenge by the
16 adjoining property owner would be, would be successful. The
17 only way, really, to accomplish this is through a rezoning
18 application. However, the matter is before you, it does - and
19 certainly staff was not incorrect in allowing it to proceed as
20 a special use permit, it, it could, but it's, it's in essence
21 a rezoning. And again, my recommendation would be certainly
22 continue to hear the application, hear the public input. I
23 suppose it, it doesn't - you can make a recommendation of
24 denial or approval, but I think between now and by the time it
25 goes to the Board of Supervisors, we're going to have to take

1 a look at this and see what the best way is how to handle it
2 moving forward.

3 HARTMAN: Thank you, Mark. I'm just in my mind
4 thinking well we've had - this is kind of a rash of skydiving
5 SUPs that we've had come before us. We've had the one in
6 Eloy, we've had the one west of Maricopa, and they're all
7 falling - coming in under SUPs, so in my mind I'm just
8 thinking well I realize that if the city recommends that they
9 would not prefer to have this as a skydiving site, then maybe
10 if the applicant would consider a stipulation that says if the
11 City of Casa Grande annexes this property, this, this SUP will
12 be terminated.

13 LANGLITZ: Mr. Chair, that, that could be added as a
14 stipulation.

15 HARTMAN: Okay.

16 MORITZ: Mr. Chairman?

17 HARTMAN: Charles let's talk to you. What's your
18 thoughts on that?

19 MORITZ: Mr. Chairman?

20 HARTMAN: Well let me - let's ask Charles, because
21 that - this is related to one of the stipulations that they
22 would have to follow.

23 WRIGHT: Well I think that when I, when I read the
24 letter from Leila Demaree from the City of Casa Grande I, I
25 was a little, I was a little stunned by that one, but I

1 realize that that's a standard operating procedure for, for
2 planning staff in a neighboring community to do that when
3 they, when they are in the process of, of, of annexing an
4 outside property that, that they, they would like to have the
5 ability to, to shuck so-to-speak the kind of uses that were
6 put upon them by, by previous governing authorities. So I
7 think that that's all right for, for the City of Casa Grande
8 to make that stipulation. However, as far as the property
9 owner, the business owner goes, I can't - I kind of think it,
10 it kind of ties his arms right at the beginning on, on if you
11 were to give him a favorable recommendation and it went
12 towards the Board of Supervisors and they, and they obliged by
13 giving them a favorable recommendation and my client went and
14 started business operations, improving the property and
15 putting in whatever he needed to, and he was - then he would
16 always be operating under the threat that the City of Casa
17 Grande would come in and annex them and he would have to just
18 pick up stakes and, and move away and go somewhere else. I
19 know this is a very small operation with - as far as I'm
20 concerned - minimal improvements to the site in order to do
21 what he, he is doing, but I think, I think - I think that
22 would kind of tie the hand of the operator. And as I've
23 reported in my, in my comments previously, these kind of
24 operations operate all over the country within, within
25 neighborhoods and the one I mentioned in Dade County, Miami is

1 operating in a residential neighborhood very similar to what
2 we're operating in right here. Of course, we don't have all
3 the details of that particular SUP, but, but it does, it does
4 operate, it does coexist, and the safety record, the safety
5 record of these, of these operations is, is excellent. So I
6 don't think we can, I don't think we can deny this being on
7 the lack of a safety record, because the facts don't, don't
8 point in that direction as far as being unsafe. And I also
9 think that good neighbors talk to each other and they
10 communicate just as Mr. Kurtz has done. In all six of his
11 operations he has gone around and, and went door to door and
12 become friendly with his neighbors and found out what they
13 think of his operations and how, how he might adjust his
14 flight patterns in order to, in order to satisfy the neighbors
15 that have got some concerns, which I mentioned here that he
16 did - he has done. When it gets down to 2,000, 2,000 feet the
17 jump, the jumper, the main jumper has, has, has extreme
18 control over the parachute and he can, and he can, he can take
19 it where he wants to, and they, and they have, each day they
20 have a flight pattern that they, that they use each day,
21 depending on the wind directions, that they, that they try to
22 go into.

23 HARTMAN: Okay, but Charles, but you're kind of
24 getting away from the original question.

25 WRIGHT: Yeah I know that, but what I'm saying is

1 that I think that the City of Casa Grande has every right to
2 do that, but for us or for anybody else to adhere to that,
3 they might as well not build anything. If we were going to
4 build a stick building there, I don't agree with it.

5 HARTMAN: Okay. And then if you're going to build a
6 stick building there with an SUP, that's not - you can't
7 borrow money on it and whatever, so okay. Commission Moritz
8 had a question. Commissioner Moritz, if you would.

9 MORITZ: Well I don't know if you want to go back to
10 this, but when you asked about a temporary permit, Deck was
11 shaking his head no and I wondered if he had anything to add
12 to it to explain that, or are you kind of done with that
13 topic?

14 HARTMAN: Well, I think we're kind of - personally,
15 I guess we're kind of done with that because of legal. Mark's
16 comments and I think the whole thing needs more review,
17 personally. But it's up to the Commission if you want to hear
18 further on that.

19 LANGLITZ: Mr. Chari, if - I just don't have the
20 offhand knowledge about the special use permits. It sounds
21 like Dedrick may, and I don't want to volunteer your -

22 DENTON: Well, for what the applicant is requesting,
23 a temporary use permit wouldn't be the route to go down. So
24 our temporary use permits are more for, I guess, temporary
25 type like uses. So -

1 ???: A couple years, you'll be done.

2 DENTON: Right.

3 MORITZ: Okay.

4 ABRAHAM: Right, and Commissioners - I'm sorry to
5 interrupt (inaudible)-

6 HARTMAN: Steve.

7 ABRAHAM: But for years directors have been getting
8 away from approving temporary use permits for commercial uses.
9 Ever since I started working here they, you know, Jerry,
10 David, Dennis, they've all been trying to get away from that
11 idea that you need to permanently entitle a piece of land to
12 occupy it, improve it, use it (inaudible) want to.

13 MORITZ: Okay, thank you. Are you here for a
14 citation? How did you make application for this?

15 WRIGHT: What?

16 HARTMAN: Have you been cited for this use?

17 WRIGHT: I'm sorry, I didn't hear the question.

18 HARTMAN: Have you been cited for this use is what
19 Commissioner Moritz asked you.

20 WRIGHT: No, we have not.

21 MORITZ: Okay, so you've been running this for seven
22 years and you just decided to make application because you
23 wanted to be more permanent, or what's the purpose?

24 WRIGHT: When the City of Casa Grande approached us
25 in January to (inaudible) the airport, they want to put a

1 restaurant in there and we had, we had for the last seven
2 years occupied an office inside the terminal building.

3 MORITZ: Oh, I see. Okay.

4 WRIGHT: So they asked if we could look for other
5 homes and we certainly started doing that and we thought the
6 best place would be to just consolidate where we already are.

7 MORITZ: Okay, and how far are you from the Casa
8 Grande Airport.

9 WRIGHT: 2 point (inaudible).

10 MORITZ: Thank you.

11 HARTMAN: Actually immediately north of the airport.

12 WRIGHT: Yes sir, straight north of the airport,
13 yeah 2.1 miles.

14 HARTMAN: And your north boundary is?

15 FORTNER: The Indian reservation, I believe.

16 HARTMAN: Gila River Indian Community.

17 FORTNER: Yes. That landing area's on all the
18 aeronautical charts, has been on the aeronautical charts, the
19 local pilots know we're there, all the general aviation
20 traffic know we're there, so we're fairly established in that,
21 in that particular place. Ideally we would, we would have our
22 operation consolidated like we're asking to do today. If
23 we're not successful in this location, then, then we'll
24 eventually find that place somewhere close, but it'll be,
25 it'll be a consolidated operation somewhere, somewhere close

1 to the airport.

2 HARTMAN: Randy, I have a question.

3 FORTNER: Sure.

4 HARTMAN: Commission Moritz, are you finished?

5 MORITZ: I'm done.

6 HARTMAN: Okay. I have a question that pertains to
7 the traffic to and from this site and there was a letter of
8 complaint that people drive excessively and there's a blind
9 curve and you can't see around the curve.

10 FORTNER: Correct.

11 HARTMAN: Would you talk to us about that, and as
12 manager, I would think that you could put some pressure on the
13 ingress/egress.

14 FORTNER: We can absolutely control that. As
15 little, as little as we're there, we could absolutely control
16 what happens there. My experience has been, though, with all
17 due respect for the neighborhood, is they don't plan on us
18 being there. They're the ones coming around the curve real
19 fast and we're the ones that kind of have to stop at the
20 railroad tracks and look around the corner to make sure we
21 don't get hit. But, but we're very good neighbors, we can, we
22 can control that easily enough, with just a few cars a day,
23 that's easy enough.

24 HARTMAN: Now you state railroad tracks, there's
25 actually no railroad tracks.

1 FORTNER: No, no, no. Talk about - where you enter
2 that curved road, that's kind of their main road there.

3 HARTMAN: As I've read, it's a gas line, that
4 Southwest Gas built up a berm to protect the line to make sure
5 it had ample amount of soils over it.

6 FORTNER: That's, that's correct, but we can
7 certainly control those four to six cars, for sure.

8 HARTMAN: Commissioner Salas.

9 SALAS: Does your flight pattern cross you over to
10 the reservation land?

11 FORTNER: We -

12 SALAS: Flying across reservation (inaudible).

13 FORTNER: Yes, once we take off from the airport, we
14 do a big lap around the valley. It takes about ten to, ten to
15 16 minutes to kind of fly over the top. We don't, we don't
16 drop jumpers over, the, over the reservation area, we drop our
17 jumpers pretty generally right on top of us.

18 SALAS: Yeah, but do you cross over into the
19 reservation?

20 FORTNER: In the airspace?

21 SALAS: In the airspace.

22 FORTNER: I would believe, we're at 10,000 feet, I
23 would guess we would cross over everything, I would say yes.
24 The answer to that question would be yes. As several other
25 reservations and cities and counties and -

1 HARTMAN: Exactly Ak-Chin, Tohono O'odham.

2 FORTNER: Yeah, it's a, it's a 10 or 15, 20 mile
3 circle that we do.

4 SALAS: Okay.

5 HARTMAN: Commission Gutierrez.

6 GUTIERREZ: I have a couple of questions to ask you.
7 The emergency response agreement, or the emergency response,
8 up until this point you've been situated out of the airport
9 which his city property and stuff and that's why they were
10 responding because, right, it was established -

11 FORTNER: Yeah, but let me correct that. We've
12 always been landing in the proposed SUP site. We've always
13 landed our parachutes there. We've done our business at the
14 airport, as far as meet - we met our staff there, met the
15 clients at the airport, put them on the airplane there, and
16 then we would send a van out to the landing area, which is the
17 same site we're talking about - pick them up and bring them
18 back. So now we're just really proposing we flip that around
19 and we meet at the landing area, and then we take them to the
20 airport and then they land back at the landing area. If that
21 makes sense.

22 GUTIERREZ: No, it does.

23 FORTNER: But nothing's going to change in terms of
24 the emergency response position or where we are, or where they
25 are, or who's gonna, who's gonna respond.

1 GUTIERREZ: Okay, but prior to, while you were still
2 situated at the airport, your classroom was situated at the
3 airport, correct?

4 FORTNER: Yes.

5 GUTIERREZ: And you were leasing like a spot from
6 the city airport?

7 FORTNER: Yes sir.

8 GUTIERREZ: Did that have something to do with the
9 fact that they would respond out there, the fact that you were
10 leasing -

11 FORTNER: I don't believe so, because they don't
12 differentiate who they respond to. I think if they get a call
13 for a parachute emergency, they, they just - they didn't say
14 oh, are you guys the ones at the airport, they didn't try to
15 confirm who we were, they just, they just -

16 GUTIERREZ: Respond out there?

17 FORTNER: Responded to the scene, right.

18 GUTIERREZ: Okay, have you approached the city
19 regarding emergency response agreements that might be
20 established regarding -

21 FORTNER: Not formally. Not formally, but, but
22 since we're on the airport with the emergency response team,
23 we're very close with them and we have personal relationships
24 with them, so, so, so during those discussion they know what
25 to expect, if that's what you mean. In my position, I want

1 those guys to kind of know what injuries to expect if we were
2 to have an injury, so they show up prepared to deal with those
3 injuries. But, but again I don't want to say never, but we've
4 never needed it yet.

5 GUTIERREZ: Okay. The other thing, if, if a
6 stipulation were - if this, say this were approved and there
7 was a stipulation in there going with the City of Casa
8 Grande's request and recommendation that the SUP be terminated
9 if the City of Casa Grande annexes that area, would you be
10 prepared to, you know, terminate the SUP and move somewhere
11 else?

12 FORTNER: No, what I -

13 GUTIERREZ: And the concern of mine is like, like
14 Chuck Wright brought up, the, the fact that there'd be a
15 financial economic investment by you and then have to
16 terminate, and it could be six months from now, it could be,
17 you know - you just never know.

18 FORTNER: We're willing to bet at this point that
19 the city is not going to annex that property any time soon.
20 That's just our bet. Our footprint is very light, anyway.
21 Even if we were to develop it to our maximum expectations it
22 would be, it would be a light foot print and very easy to
23 move. I would expect that the city would, when they wrote the
24 letter, they probably wanted that SUP terminated immediately,
25 but I also believe that they would entertain the formal

1 process of asking them for an SUP. I think they just didn't
2 want it forced down their throats so to speak, because we have
3 a very good relationship with the city, so I would expect that
4 there would be a process by which we could, we could get a
5 temporary use permit from the city. And I would be confident
6 that they, that they would probably work that with us somehow.

7 WRIGHT: And again, I'd like to just point out that
8 I, I think in my earlier comment, I think that would be a
9 standard procedure for the city to say I don't want to accept
10 something from somebody else, but we can, we can go ahead and
11 do that, but I would - we would rather do that on our terms,
12 so maybe that's what they're thinking, I don't know.

13 FORTNER: To answer the question, we would, we would
14 be ready to accept that stipulation to terminate immediately
15 and - but with the confidence that (A) they're probably not
16 going to do it anytime soon, and (B) if they did do it, I
17 think they would enter in good faith negotiations with us to
18 try to establish the correct procedure to keep us there. Kind
19 of like you guys are doing, temporary and -

20 HARTMAN: David are you through? Commissioner Salas
21 would like the floor.

22 SALAS: If your request fails, do you have a Plan B?

23 FORTNER: Yes we do. Good skydivers always have a
24 Plan B.

25 SALAS: You know, would you be moving some place

1 else in the area?

2 FORTNER: Yes sir, we've, we began kind of Plan B
3 negotiations with the city and the airport and the FAA, but
4 that's, that's even a longer process than, than the Planning,
5 Zoning in Pinal County process, but we have begun the process
6 to actually have permission to land on the airport, but that's
7 a big FAA - that's a bigger ball of wax. But we have, but we
8 have initiated that as a Plan B, but I would guess that that
9 would probably be a year away before there was a final
10 determination on - from them.

11 HARTMAN: All right can - Commission Members?
12 Commissioner Grubb?

13 GRUBB: I'm back. You know, I'm re-reading this
14 letter from DBRD and, and they really don't like this plan,
15 and, and I think the, the thing that solidifies it for me is
16 the fact that towards the end of the letter they say most
17 importantly with DBRD owning 75 percent of the lots with
18 Askins Estates - and don't have to read on beyond that - they
19 could annex into the City of Phoenix tomorrow - or in the City
20 of Casa Grande tomorrow with their control, and if they're
21 this opposed to that, you know, I would hate to see this go
22 through and get approved by the Supervisors and then these
23 attorneys immediately file for annexation, and we've spun our
24 wheels for something that never occurred.

25 FORTNER: My hope would be that, my hope would be

1 that the reality and the perception would kind of merge during
2 that time. We've been there for eight years and we've never
3 had an accident, so the, so the, the premise that there's all
4 of a sudden a new danger is really not there. The only thing
5 we're asking differently than we've been doing is that we meet
6 our customers at the location and process them from there.

7 GRUBB: And I understand that.

8 FORTNER: That's the only difference, the only
9 difference - there would be no operational difference, so, so
10 they've had the same liability for eight years.

11 GRUBB: But did they know that?

12 FORTNER: I would have no reason to believe that
13 they didn't. I don't - I can't speak to what -

14 GRUBB: I'm just saying this letter's pretty
15 strongly worded from the attorneys.

16 WRIGHT: I, I read the letter and I understand all
17 of their points that DBRD has made, and I believe that, that
18 we have answered all those questions as far as liability and
19 injury and degradation of neighborhoods, I think we've
20 answered those and said that we, we can coexist with, within a
21 neighborhood like that. I'd also like to state that, that yes
22 they could file for annexation by the city. Whether the city
23 wants to do that or not, when you file for annexation there is
24 costs to both sides and the city, the city obviously knows
25 that if, if, if that piece of property - area of property was

1 so attractive to them, they would have already annexed them, I
2 believe. But they're also, they're also at additional cost to
3 DBRD to do that if there is a, a big flux of - I'm a designer,
4 I'm a residential and commercial designer, I see a lot what's
5 going on. If there was a big influx of a development going
6 out that way, and I know there was some Copper Mountain Ranch
7 and that whole, that whole thing out there to the west of
8 there, that was at one point in time. But the recession is -
9 the recession, we're still trying to get out of it and the,
10 the migration of development is not anywhere near going out
11 that direction at this time. But again, it, it still -
12 annexation still comes with a cost to do that. There's all
13 kinds of services that the city would have to provide and it's
14 up to him to whether he wants to do that or not.

15 GRUBB: And I know, but they, they - I mean they
16 surrounded on three sides.

17 WRIGHT: Sure, I understand that, but I'm also
18 saying we've already - we answered the questions that he has
19 posed in his letter, in addition to him surrounding us, that
20 we've answered those, those neighborhood questions on how we
21 can coexist, and Mr., Mr. Kurtz has also answered those
22 questions on how he, on how he does this in other parts of the
23 country where he coexists with residential communities. So to
24 single out DBRD as not being a willing, a willing participant
25 when, when it's all vacant land right at this point, there's,

1 there's nobody really affected by anything going on right now.
2 I think, I think you may be grabbing for straws here. I know
3 it's a valid point with DBRD, I understand, I'm not poo-pooing
4 that at all, but, but the fact that the property is vacant,
5 unimproved property with, with very minimal roads, the impact
6 on that property right at this moment and for the foreseeable
7 future is, is minimal. I know that he - he had mentioned that
8 they - he has some development works in the process coming on,
9 but we've heard those kind of stories a lot, and there may be
10 something. I don't know Mr. DRB - DRBD's business, so I don't
11 know what's going on out there, but even at that, we can, we
12 can find a way to coexist with these people.

13 FORTNER: If I might add, most - I would say all the
14 communities that do end up having a skydive landing area close
15 to them, really appreciate it. It's a pretty passive use of
16 the land, it's nice, it's a park environment. Most of the
17 neighbors, after their initial shock, because, because
18 obviously you have streams of people coming through your roofs
19 and bounding on the grounds and after that kind of goes away
20 and the reality sets in, most neighborhoods are very happy to
21 have us there.

22 HARTMAN: I think (inaudible) we're going to hear
23 from the surrounding - the landowner DRB that we're talking
24 about, and I, in my mind I'm wondering as a landowner myself,
25 I'm wondering why they did not initiate originally to be in

1 the city limits, they chose to stay out of them. If the city
2 took all the property around them, except the reservation
3 which they can't take, the city can't take, then there must be
4 a reason and so I don't - I just, in my mind, question, and
5 we'll find out in further testimony, I'm sure, why this piece
6 of property Askins property -

7 WRIGHT: Mr. Chairman?

8 HARTMAN: Yes, go ahead.

9 WRIGHT: If you're going to end my session here and
10 begin the public comments, I would like to introduce one of
11 the landowners out there by the name of Richard Halliburton.
12 I'd like for him to speak first. Is that appropriate?

13 HARTMAN: All right. If that's, if that's all right
14 with you.

15 WRIGHT: (Inaudible) with us.

16 HARTMAN: Commissioner Members, any more questions
17 of Charles?

18 WRIGHT: Okay, I would like to introduce Richard
19 Halliburton.

20 HARTMAN: Okay, let me, let me then open it to the
21 public and then you can introduce him.

22 WRIGHT: Okay.

23 HARTMAN: Because he is the public.

24 WRIGHT: He is the public, that's right.

25 HARTMAN: All right, if you would Charles, go ahead

1 and make your introduction. I'd appreciate it.

2 WRIGHT: I would like to introduce Richard
3 Halliburton who is the owner of the property in question that
4 Mr. Luther Kurtz is trying to purchase and he is, he has
5 worked diligently with, with Mr. Kurtz on this project and
6 myself. Mr. Halliburton owns real estate - Sun West - Sun
7 Valley, come on up.

8 HALLIBURTON: Sun Valley.

9 WRIGHT: Sun Valley. Come on up. Okay, go ahead.

10 HALLIBURTON: A phone number is that what you want
11 on here additional?

12 HARTMAN: No, just your name and address.

13 HALLIBURTON: Oh, address. Okay. My name is
14 Richard Halliburton, I'm from Casa Grande. I've been in real
15 estate there for 60 years. Not that that's any great thing,
16 but it is time consuming on my part. I've been very
17 experienced in real estate. When I got acquainted with Mr.
18 Kurtz who was the developer of this idea of putting a landing
19 here, he said we would like to have something north of town
20 that is fairly close to the reservation, north of the airport
21 and accessible to the airport with, with roads or whatever it
22 is. This, the description that we had on here of this, where
23 this piece of property is was a little bit vague. As you're
24 going out of Casa Grande and just before you get onto the
25 freeway, Interstate 10 from the 387 highway, that would be

1 just off to the left of that area where you intersect with
2 Interstate 10, and it's right close - if you're, if you're
3 familiar with that area, there's a big tele - I'm sorry a
4 telephone communication antenna there, right just before you
5 get onto the freeway, and this property, that subject
6 property, is just immediately to the west of that, so that you
7 have a better idea as to where it's located. Now in my
8 familiarity with Mr. Kurtz, I, I did find that he was a very
9 influential type of person that seemed to know his business
10 extremely well. I met him eight years ago and he said I, I
11 want, I want something north of town that's accessible to the
12 airport. I said well I have a five acre tract, and I said
13 it's the only five acre tract that I'm aware of that isn't
14 owned by the same people, at that time was Delia Harris. And
15 Delia Harris obviously has sold the property to other persons.
16 But anyway, I said this is the only five acre tract in there
17 that I'm aware of that isn't owned by the same group of
18 people. So he said well let's go take a look at it, so I
19 showed it to him and he said that's very, very good location.
20 It's good access. It has the qualities that we need in a
21 piece of property, and if it were any place other than on the
22 reservation itself, I don't know how it could be any better
23 situated for our needs. Now, I said okay, now I will, I will
24 lease the property to you. Obviously it's beneficial to me to
25 have a lease, but this isn't a very big dang lease, so I have

1 to tell you, I'm not getting rich off this lease and I don't
2 mean to imply that in any way. But I was wanting to be
3 helpful to these folks, and I looked around as a matter of
4 fact for other properties in that same general area that where
5 they need this airport landing area, and I couldn't find
6 anything. So we made a deal and he has been there and has
7 been an excellent, excellent tenant all the time that they've
8 been there, eight, in eight years. I thought it was seven
9 years, but they reminded me it was eight years. And yes, so
10 what, what - I told him at the point in time where we made a
11 deal, I says I'm telling you, I cannot give you permission to
12 put your landing, your airport landing in on my property
13 because I don't have the permission to do that. Only the
14 county or the city can do that, and I said it's, in my best
15 recollection this is not in the city at all, so you will have
16 to go to the county. So he came over here and tried to set up
17 a meeting for a conditional use permit. And they told him
18 very clearly, Mr. Kurtz, you do not have to have any, anything
19 to be able to do what you want to do on that piece of land.
20 You can go right ahead and make your deal and go right ahead
21 and move on in. And that's exactly what he did. He did - he
22 did - they did not advertise it, they didn't say anything to
23 him except that there's no reason that you can't operate that
24 business or whatever you want to call it, a business or that
25 use. There's (inaudible) that you can't put that right there

1 on that property, and from that point on he's been there eight
2 years and doing a very successful business. Now, his reason
3 for coming around now is because of the changing of the
4 airport facility that they've been using at the same time.
5 Now may I ask - answer any other questions that you might
6 have?

7 HARTMAN: All right, I - here, Chairman. I have a
8 question. Is there a well on this particular site and is
9 there wells on those - on the other lots that surround you?
10 Or do you have the only -

11 HALLIBURTON: I have my own well. I had it drilled
12 myself, and I had it drilled after this, Mr. Kurtz had made a
13 deal because I wanted to get the man that drills my well, he
14 was here for a certain amount of time, and he came in from
15 another state, so he drilled some very reasonably priced
16 wells, and I had him drill two for me. One there and I have
17 another piece of property immediately north of that, of this
18 piece of property, and he drilled a well there. They're 700
19 feet deep. It was excruciatingly painful for me to have to
20 pay that kind of cost. But anyway, that is a high cost area
21 and it went all the way from the first 100 feet down, it was
22 in granite rock all the way to the bottom to where we hit
23 water. A plentiful supply of water. Yes, there is a well.

24 HARTMAN: Okay. And which, which is important. It
25 gives them access to well water and whatever.

1 HALLIBURTON: Correct.

2 HARTMAN: For whatever reason you need water. Okay.

3 HALLIBURTON: (Inaudible) power in that area that
4 supplies for they well too.

5 HARTMAN: All right, that's my next question because
6 this Commission (inaudible) well what about power lines? Is
7 there power lines that could be dangerous to, to the income of
8 parachutists?

9 HALLIBURTON: These would be, these would be - could
10 be put in two different ways. They could be put in
11 underground, because it goes to that particular big standard
12 that's up there where the telephone system works off of,
13 that's about - my guess is about 1,000 feet away, and from
14 that point where the power runs to that, you could run it down
15 to where this site is.

16 HARTMAN: Is that well in operation now?

17 HALLIBURTON: No, it is not. We drilled it and
18 capped it and that was the end of it.

19 HARTMAN: All right. Okay, Commission Members?
20 Questions? No question? Thank you for your information.
21 Appreciate it very much. And then with overall you are in
22 favor of this site, is what -

23 HALLIBURTON: Absolutely.

24 HARTMAN: All right. All right.

25 HALLIBURTON: (Inaudible) my pocket. I tried to

1 mellow that a little bit (inaudible), but anyway I worked out
2 a deal that was favorable to me.

3 MORITZ: Mr. Chairman?

4 HARTMAN: Yes.

5 MORITZ: I do have one question. This parcel is the
6 only piece of land you own within that Askins Estate area.

7 HALLIBURTON: I have another two and a half acres.

8 MORITZ: Two and half. Okay, thanks.

9 HARTMAN: And I have one question. Why, why when
10 the city annexed that property did not this Atkins subdivision
11 or parcels become city - in the city limits?

12 HALLIBURTON: Well because the city took note of the
13 fact that there was a great amount of land around this Askins
14 Estates that was state land, and so they probably did not find
15 it favorable because nobody in that ownership ever asked for
16 it to be annexed, and neither did they ask for it have any
17 kind of zoning, other than the county had put on it in the
18 first place.

19 HARTMAN: Okay. Thank you. Thank you. All right,
20 I'll call to the public. Anyone that would like to come speak
21 for or against this case? Yes sir.

22 ACHEN: I already put my name on here. First of
23 all, thank you Commission Members. My name is Sanders Achen.
24 First of all, I want to let you know that I do not oppose
25 skydiving and I live at 19830 West Diamondback, and as the

1 crow flies, I'm probably three-quarters to a half a mile due
2 west of the landing zone. Just a little background on myself.
3 I've had my pilot's license for 40 years, I'm a fixed wing
4 multiengine rotorcraft instrument rated pilot, so I love
5 aviation, and in fact I've even jumped out of a perfectly good
6 operating airplane at times, so good thing is I wasn't driving
7 them at the time. That's a good positive deal. So - and I've
8 had a lot of experience in aviation, mostly in the North
9 American continent, to the arctic circle, down to as far as
10 Panama, and most recently into Cuba to meet with the minister
11 of aviation there for general aviation over flight permits.
12 So I understand the process. It's an extremely complicated
13 process when you deal with the aviation world. I just want
14 to, you know, I guess this is an opinion, but it's my
15 professional 40 year opinion, this is a dangerous operation at
16 this current location. Number one it's dangerous to the
17 airport, and it's dangerous to the residents. Now it's just
18 an opinion. It's legal, but it's not right. And I remember
19 seven years ago, and I was sitting on the airport advisory
20 board, and Luther came in and he said he had all the approvals
21 to do this. Now, if he had the approvals, it didn't do what
22 one of my favorite presidents said, trust (inaudible) verify.
23 Ronald Regan said that and I should have found out, but I
24 didn't, so I figured well what's the difference, he's already
25 got the approval, there's not much we can do about it. You

1 know, I've always, I've always, I've always wondered why, why
2 didn't he just drop on the airport? Well it's too dangerous
3 to drop on the airport, and it's almost too dangerous two
4 miles north. It's a major traffic pattern. I know this
5 Commission isn't involved in the FAA and their decisions, but
6 in general, it's not a well liked operation for many of the
7 pilots. But they had the approval and it's in a gray zone.
8 They're probably not going to agree with me, but that's okay.
9 You know, I question if it's so good, drop on the airport.
10 Just drop right there and get it over with. Well, I think the
11 manager even told you, that it's a very big challenge with the
12 FAA and the city to do this operation. Casa Grande has one of
13 the ILS - I don't know if you understand this system, the
14 instrument landing system there, heavy training facility.
15 There's nowhere really near the airport that can get - you can
16 probably find a small spot, but it'd interrupt the process.
17 And in the end, they found this spot and started dropping.
18 Now, it's really pretty to watch the parachutes drop down from
19 the sky and everybody likes them and it's really neat, but I
20 heard testimony that he said we never have been off the site.
21 I have personally picked up parachutists near the reservation.
22 If you could pull up the zone map that has the reservation on
23 it. Next size up. Back, back, back. Back. Well maybe go
24 forward then. Okay, see where the brown area is there? I
25 think there's a larger, more detail scale. There we go.

1 Where it's the yellow area there, and you see the red square,
2 I picked them up walking down the gas line road carrying their
3 parachute because they landed on the reservation. And I said
4 how about a ride back to your zone so they can find you,
5 because they couldn't find them. Okay. So this is not true.
6 You know, they do not exactly drop on their sites. I don't
7 know, I don't know if you were part of the operation when that
8 happened, were you there?

9 FORTNER: We've never landed off the site in the two
10 years that I've (inaudible).

11 HARTMAN: Okay now, don't ask questions.

12 AKIN: Oh, okay, sorry about that. Okay, I won't
13 ask him the question, you can.

14 HARTMAN: Right.

15 ACHEN: But anyway, I picked up a couple guys
16 carrying a parachute. It may not have been part of their
17 operation, it might have been somebody else's. So that has
18 happened. I just, you know, this is, this is a residential
19 area. How it happened, I don't know. But does that mean it
20 can just continue? I don't know, that's up for you to decide.
21 I just don't think it's a good idea. We didn't catch it
22 before. Should have done some more investigation, didn't
23 happen. And I just - I can conclude with that, and maybe let
24 me check my little notes. Oh, nobody ever knocked on my door.
25 We're in the - we're not in the - within 300 feet, but they

1 drop over our house. There is a windage, and I've been flying
2 back from Phoenix and I've seen them drop on the other side of
3 the freeway because the wind's blowing with enough angle that
4 they have to blow that far. I don't know if that means
5 anything. And I, you know, why aren't they in the airport?
6 Is it really because it's - they're remodeling? If they're
7 remodeling just stay there. I don't know. Why do we have to
8 move out and put up a circus tent and a trailer in the middle
9 of a residential area, because I drive home, I get to see that
10 everyday. I don't know about you guys, but I don't think it's
11 really the right place to be. And that's really all I have to
12 say. Any questions?

13 HARTMAN: Commission Members, questions? Yes?
14 Commissioner Gutierrez.

15 GUTIERREZ: Yes sir. As a pilot work - flying that
16 area and stuff, and I know there is some training that takes
17 place, you know, the - out at the airport there, in that area,
18 is there, is there a substantial amount of air traffic that
19 circles that, that specific area? You know, coming from
20 Phoenix or coming from -

21 ACHEN: They fly right threw that area until these
22 guys call and say we're jumping two miles from the area. Now
23 it is on the sectional chart, but it's, it's not that
24 identified as the jump zone. Besides being - it has a little
25 parachute on the sectional chart and you know, I think people

1 are trying more to miss the cell towers if they're that low,
2 but they're usually, unless they're helicopters they're not,
3 but anyway, that - I mean I'll watch ten airplanes a day fly
4 through that jump zone because they're just not looking at
5 their charts. It's just too much information to try to figure
6 out where everything is. Now these guys will call up, jumping
7 in ten minutes, jumping in five minutes, two miles north of
8 the airport, and the pilots start looking. So it's, it's not
9 like they haven't identified it, but it's still, it's not
10 something that is identifiable, even on a GPS thing at this
11 point.

12 GUTIERREZ: Okay. Okay. Thank you.

13 AKIN: You don't have to have a radio to be a pilot,
14 by the way. Not an uncontrolled airport.

15 HARTMAN: All right, thank you. Anyone else would
16 like to come and speak to the Commission? Yes ma'am, if you
17 would. If you'll state your name and address for the record,
18 and also write it down.

19 PLEVICH: I've already done that.

20 HARTMAN: All right, good.

21 PLEVICH: My name is Diane Plevich. I live - I live
22 at 12355 North Faldale Road.

23 HARTMAN: Your first, excuse me, your first name?

24 PLEVICH: Diane.

25 HARTMAN: Diane, gotcha.

1 PLEVICH: Diane Plevich.

2 HARTMAN: Thank you.

3 PLEVICH: I am north, in close proximity to where
4 our neighbor just reported living, about a mile away, three-
5 quarters of a mile away. I'm opposed to the skydiving. I'm
6 not opposed to skydiving in general, as a sport. It's very
7 beautiful, we do see the skydivers approaching the land and
8 falling, it's a nice site. I did always wonder how they got
9 on property, commercial, since we are GR. But I've never
10 questioned that. I married my husband, he already had the
11 property, so we've been on property - I've been on property
12 with him for 13 years. The, the drawback that I - we've been
13 seeing, or I've been seeing, I don't know how they don't
14 report any accidents but at one time you could see when the
15 vehicles have their lights on so you just pretty much stay
16 home, you don't get on the road. We do access off of the
17 reservation sideline to Minapore and so we just kind of wait
18 until things slow down. One time I was approaching and the
19 respondents - it's not one respondent, it's several. The
20 police cars, there's a - you know, the fire truck, there's the
21 ambulance, and they don't come onto the property. The
22 property is not big enough to house all these vehicles.
23 They're lined up on Minapore. That's our access. So we come
24 - approach it with caution. We are delayed for accessing to
25 get onto the road. The other safety hazard that I see, and

1 I'm witness to this because I come home on the weekend, during
2 the week, when we're exiting off of I-10, the speed limit's 55
3 miles per hour, very close proximity to the 387 South and the
4 access from I-10, people are braking just to look at these
5 skydivers. Well, that's a big safety hazard. I'm braking
6 because my exit is coming up, but I'm braking behind them and
7 I could see what they're watching. The speed limit there is
8 very high, there is no traffic light to control the stoppage
9 of these cars approaching Minapore, and again, I'm concerned
10 about the traffic that comes on for the four to six cars, I
11 think is what he had, he had mentioned. He's not accounting
12 for the onlookers, the family members that come to cheer on
13 their parachute - chuters or skydivers, so there are more,
14 there are a lot more vehicles on that property, and my concern
15 with them bringing on the business is it's even going to
16 double or triple. So - the road is not maintained by the
17 county. We maintain that, our neighbor's do. When there's
18 flooding, we, we control that, we, we have - we've been doing
19 that on our own as neighbors in that area. So we do maintain
20 that Minapore Road. And I think that's all I have to say.
21 Any questions?

22 HARTMAN: Commissioner Members? Thank you, Diane.

23 PLEVICH: Great, thank you.

24 HARTMAN: All right. I call to the public. Anyone
25 else want to come before us?

1 ALLEMAN: Almost good afternoon. I have a couple
2 exhibits. Can I pass those out? Is that okay? Chairman?

3 HARTMAN: Could you not just hold them up and show
4 us, rather than us having to study through them and
5 everything?

6 ALLEMAN: Okay.

7 HARTMAN: It makes it kind of tough.

8 ALLEMAN: And my the way, my name -

9 HARTMAN: Unless the Commission wants to take a five
10 minute recess and review these parcels?

11 ALLEMAN: No, I can hold them up. It's just for
12 reference.

13 HARTMAN: Yes, if you would.

14 ALLEMAN: My name's Shaine Alleman. I'm with
15 Ridenour Hienton, representing DRBD, who is the owner of this
16 property. I have this map here, and it's Askins Estates. You
17 can see this area here. Here's the Indian reservation, state
18 land, here's where the proposed permit property is in the
19 middle. All of the red properties are those owned by DRBD.
20 They own about 75 percent of the, of the properties within
21 there. They've owned the properties since about the 60s and
22 it started with the Harris family back in the 60s and that's
23 passed through the family, and it's still owned by, by the
24 Harris family now under DRBD Limited Partnership. They are
25 adamantly opposed to this use permit. I was actually the one

1 that wrote that strongly worded letter to you and I disagree
2 with the applicant that I was just grabbing straws in there.
3 After sitting with my client, there are some real concerns
4 with this property and with this proposed use permit; not the
5 least of which is that DRBD owns most of the properties here
6 and we're - if the use permit were to go forward, that's just
7 four percent of the land basically controlling or determining
8 the future of Askins Estates. It was subdivided many years
9 ago to be a residential subdivision. The zoning contemplates
10 that, the comprehensive plan contemplates that, the
11 residential use, and that's always been the, the, the proposed
12 use that the - my client has wanted to do on this property.
13 There have been discussions with a couple individuals, a
14 couple groups, one of those was the Hogan Group which put this
15 map together, who has been interested in developing this
16 property and has discussions - has had discussions with DRBD
17 with developing as residential. So a lot of, a lot of the
18 things that the applicant said was yeah, it's not going to
19 affect what's going on out there right now. It's vacant
20 property. Yes, that's true, but if my client wanted to
21 develop this in the near future, it would definitely be
22 something that would be detrimental and severely affect the
23 future use of this property, having residential use. And as
24 you can see the skydiving would be right in the middle of, of
25 the subdivision. Not on the edge or next to it, but right in

1 the center. I know the applicant said that in Dade city they
2 had a facility that was right in the middle of a, of a
3 residential subdivision. I actually just pulled it up on my
4 phone. On an aerial of four skydiving facilities in Dade
5 City, I didn't see one in the middle of a, of a residential
6 subdivision. Yes, they're next to them, by airports, but not
7 right in the middle of a residential subdivision so I would, I
8 would like to see those if, if they're available, see those
9 skydiving facilities in the middle of residential, because I
10 just don't think that they exist like what's being proposed
11 here. Now the applicant has said that yeah they'll be, as far
12 as the safety's concerned, they will be tandem skydivers.
13 Well the use permit does not contemplate that they'll just be
14 tandem skydivers. The use permit allows for skydiving drops
15 to occur here, so whether they got - when these got these
16 permits, if they wanted to do that beginner or if they sold it
17 to a different skydiving facility and they allowed beginners
18 or whatever, that could increase the safety factors here of
19 the property. The letter from City of Casa Grande, I know
20 that there's been a lot of focus on the stipulation, but I
21 wanted to read what, really what they were saying in this
22 letter. It says the City's vision for this area is to
23 maintain a very low density residential type of development,
24 as evident on the existing land use of the west of the site.
25 Based on the rural land use description, the skydiving

1 operation is not an ideal use for this site. So I know the
2 applicant was saying well this is just standard procedure,
3 this is just the verbiage that they put together, but Casa
4 Grande is definitely opposed to the skydiving facility here in
5 this use. They wouldn't have said those, those strong - that
6 strong language if they hadn't opposed, weren't opposed to the
7 skydiving use here. I wanted to address the traffic, because
8 the applicant - well at first he said that there were four to
9 six cars and then I heard later, well there's just going to be
10 a few cars. One of the things you would have to take into
11 account is that in the use permit they proposed 100 customers
12 per week. So I'm assuming that they're operating Monday
13 through Saturday. That would be 16 customers per day. Now
14 it's just not four to six cars per day. You've got to
15 multiply that by four. They come to the site, they get
16 oriented, they leave the site, trip two - to go down to the
17 airport. They go up in the, in the airplane, they get
18 dropped, trip three comes back, and then they leave the site,
19 that's trip four. So all of the trips have to be quadrupled
20 here, and as I did some quick calculations on that, looking at
21 how many trips would be generated from the site, it's almost
22 equal to what would be generated from the whole 30-some odd
23 lots that are in here, from a normal low density residential
24 subdivision. So the traffic is definitely going to be a
25 factor. The road that they're using, Minapore Street, comes

1 right off the north of their property, it goes right out to
2 the State route, out there, that is - that would be the main
3 road that would come into this subdivision into (inaudible).
4 So if (inaudible) allowed to operate and to have traffic going
5 in or - in and out on Minapore Road, that would, that would
6 severely limit the traffic circulation of the residential
7 subdivision. So we're, we're definitely opposed to that.
8 When I looked at the use permit, all of these concerns that
9 come up, I did not see any improvement standards that were to
10 address some of these concerns of traffic, of noise, of dust,
11 of different things. I just - the use permit was extremely
12 scarce of any site development standards that would, that
13 would mitigate some of these off site impacts. So, definitely
14 opposed to, opposed to that as well. One of the factors that
15 you, that you have of consideration of a use permit is that is
16 - if - is there a need for this, and there's definitely not a
17 need for a skydiving facility in the middle of a residential
18 subdivision. In Pinal county there is plenty of vacant land,
19 and even the applicant said well Plan B would be we'd go look
20 for a different property that we could use for this. So
21 there's lots of land that can, that can be utilized for this
22 type of use, we don't have to, have to have this, and there's
23 definitely not a need for this to occur within a residential
24 subdivision. One of the other considerations is the public
25 opposition, and I haven't heard one, one person support this.

1 I know there was a support letter. As I heard that support
2 letter, it sounded like they were supporting - or the letter
3 of support was for a facility in Washington D.C. next to an
4 airport. Well that's completely different than what's going
5 on here. So haven't heard any support from any of the
6 neighbors. There's been more opposition to this, and DRBD is
7 definitely opposed to this, and we hope that the Planning
8 Commission will, will take that into consideration. And also
9 we - I agree with what the attorney said regarding use permit,
10 it's just not appropriate for this type of, of thing. If
11 anything, it should be considered as a rezoning application.
12 So with that, I'd be happy to answer any questions for DRBD,
13 or any questions that you have.

14 HARTMAN: All right. Thank you for abiding by my
15 ruling that you don't pass out material. I, I want the
16 Commission to know that when we have the opportunity to get
17 information, it normally comes in our packet and that way we
18 can study what it is, and I'm trying to run this meeting as
19 fast as we can, and as informative as we can without us, each
20 one of us studying back through new materials and trying to
21 figure out what the new materials are, and it's much better if
22 the applicant or the person at the podium presents it to all
23 of us at the same time is my point.

24 ALLEMAN: Perfect. Thank you.

25 HARTMAN: Thank you. Okay. Yes. We do?

1 MORITZ: Mr. Chairman, I have a question.

2 HARTMAN: All right.

3 MORITZ: Perhaps this could be resolved if DBRD,
4 under the Harris family, made Mr. Halliburton an offer for his
5 seven and a half acres, to include in the residential -

6 ALLEMAN: That's been a topic of discussion.

7 MORITZ: Okay, thank you.

8 ALLEMAN: But if I can, if I can add to that.
9 Regardless of that, if this use permit goes forward, it
10 doesn't, it doesn't matter, you know, who it goes to, who it's
11 sold to, whether it's sold to DRBD or sold to another
12 facility, the use is still going to go forward, so we would
13 like to totally have that (inaudible).

14 MORITZ: I know that. But I thought well that would
15 be simple, keep it the GR and be done with it.

16 ALLEMAN: Yep, thank you.

17 HARTMAN: Commissioner Grubb.

18 GRUBB: Thank you, Mr. Chairman. Is there an intent
19 to annex this area into the City of Casa Grande?

20 ALLEMAN: Regarding the annexation question, when I
21 looked at the, at the map, you see Copper Ranch and it goes
22 around to the south and to the west, I think that's what
23 happened - addressing the annexation questions that were here
24 before - I think that's what happened is when Copper Mountain
25 Ranch came in with a PAD, they, you know, that was the

1 property that they had and that's what was annexed, but at
2 this point there's no proposed plans to annex that into the,
3 into the City of Grande.

4 GRUBB: Thank you.

5 HARTMAN: Okay, Commission Members? No further
6 questions? Thank you.

7 ALLEMAN: All right, thank you.

8 HARTMAN: Okay. Ms. Guthrie.

9 GUTHRIE: Mr. Chairman, Chairman Hartman, Commission
10 Members, for the record my name is Jackie Guthrie, 19710 West
11 Black Knob, Casa Grande. I have a couple of pictures I'd like
12 to show you if you'll indulge me. I'm here today with my
13 husband, Tom (inaudible) who's in the audience and we are in
14 opposition to this special use permit request. Do I need to
15 do - oh, it's working on it, okay. So while the, while the
16 pictures are loading, I've reviewed this case. I've been
17 before you many times before. You know that I'm a land
18 planner, I've looked at this from a planning standpoint. I
19 looked at the Casa Grande general plan, which designates this
20 land as rural. That is for low density residential, and the
21 City has already stated in their letter of record that they
22 are opposed because they're trying to preserve rural
23 character. I looked at the Pinal County Comprehensive Plan.
24 Again, this is not consistent with the rural character in the
25 comprehensive plan. The Comprehensive Plan does say that you

1 could have up to 20 acres of neighborhood commercial in that
2 category, but if you look at the definition of neighborhood
3 commercial, this doesn't meet neighborhood commercial.
4 Neighborhood commercial services one, one to two miles
5 immediate residents, a convenience store, a daycare, a
6 laundry, a drycleaners, this does not serve the local
7 residents as a neighborhood commercial, this is a regional use
8 that draws in people from a large, very large area. Looked at
9 the Pinal County zoning code, general rural zones for
10 residential. Again, looked at the definition of neighborhood
11 commercial, and also the commercial planning guidelines that
12 are also in your comprehensive plan, this does not follow any
13 of those guidelines. The City of Casa Grande's letter of
14 record clearly states that they do not support the use. I
15 know the gentleman before me read a couple statements out of
16 the city's letter, I would also like to read out of the
17 letter. According to the airport staff, the lease at the
18 airport for the use of skydiving was not renewed due to the
19 needed renovations to the terminal building. Airport staff
20 also added that some pilots using the Casa Grande Airport have
21 concerns about the skydiving operations and have led to
22 complaints related to improper communication practices and
23 proximity to aircraft in the pattern. That is one of the main
24 reasons I believe that the City is opposed to this use, in
25 addition to the fact that it does not meet the City's general

1 plan or their zoning category. So here is an aerial photo and
2 I - Pinal County is a big county. I know you guys do not get
3 to go out and see every site that you have to look at, so I
4 thought if I could bring a couple of pictures today to sort of
5 paint that picture in your mind, you'll have a better idea.
6 Although it doesn't seem to want to load, does it Dedrick?
7 Doesn't like you? Okay, so while it's loading, I'd also like
8 to address the emergency respondent issues. This is a county
9 island. I live to the west of this site on a county island.
10 The city police, the city fire, will not respond to a 911 call
11 out there. I have for 12 years lived out there and I'm a
12 member of the fire department, general rural fire department
13 that's over by Central Arizona College. It is exactly ten
14 miles away. It's ten miles to get to us to respond to an
15 emergency. Also, Southwest Ambulance responds to us, not the
16 City of Casa Grande. About eight weeks ago we had an
17 incident, my husband had an incident in the middle of the
18 night, I had to call 911. It took 35 minutes for that
19 ambulance to get to our house that night. So - and they will
20 - no one else will respond, and I have not seen any indication
21 in their application that they do have a contract with the
22 local fire service, which again is still ten miles away if
23 there's an emergency. Okay, so the aerial photo - here is
24 Pinal Avenue, which is 387. Comes off of I-10 heading south.
25 It's the most northern exit that goes into Casa Grande. This

1 is the Indian reservation up here. This is Millrise, we call
2 this the fence line road, because there's a fence line between
3 the Indian reservation and the private properties. This is
4 Minapore that comes into the site. Here is a cell tower, and
5 here is their site. And you can see that they have graded
6 that. So we come in off of Pinal, we come down Millrise, we
7 go up the Gas Line Road and across Millrise - or across - we
8 come to Minapore, go up the Gas Line Road across Millrise to
9 come into our home. So this is about 160 acre development
10 with 16 custom homes built out here. This photo was taken
11 from Pinal Avenue, just as you exit I-10. You can see that
12 it's the entry to City of Casa Grande. Here is the cell tower
13 that some of you on this Commission approved about nine years
14 ago, right here at the entrance. You come down the road here.
15 This is their trailer out on the site right here. When the
16 yellow and white tent was up last week, you could actually see
17 their tent from the free - from Pinal as soon as you exit the
18 highway. This is the Gas Line Road as you're approaching
19 their site. Their site is here. This is where the Gas Line
20 Road has been built up, so as, as I approach this corner and
21 stop and look to the right to see if there's anybody on their
22 property, you actually have to inch your way up to see if
23 anybody's coming because there is no visibility there. This
24 again, this is looking out from their site toward Pinal. This
25 is the little mound, or berm they have to go over. This is

1 some of the improvements, the drainage that my neighbors have
2 invested in on Minapore Street, which again we all maintain
3 those roads, the County does not. This is our neighborhood,
4 the yellow represents the four letters that were in your
5 packet, the four of us that sent in letters of opposition.
6 Our whole subdivision is custom homes, it's not mobiles, it's
7 not trailers. We do have CC&Rs that were put in place back in
8 1957 that dictate stick built homes, dictates the square
9 footage and limits less to single story. This is their
10 operation last Saturday. Just in this photo there are five
11 vehicles on the site. The people waiting for their friends
12 and family to come in are sitting under the tent. This is
13 their temporary storage building that the County granted them
14 about a month ago. You can again see the cell tower in the
15 background. This is the second cell tower in the area, on the
16 north side of the freeway. This is the generator that they're
17 using on site. So again, to summarize, this use is not in
18 conformance with the County's comprehensive plan, it's not in
19 conformance with general rural zoning. The general rural
20 zoning does not even allow under a special use permit a drop
21 zone. It's not in conformance to neighborhood commercial
22 guidelines. The - you've already heard the comments about the
23 increase in traffic, the lack of emergency access, so
24 respectfully with my neighbors we would ask you to please send
25 a recommendation of denial to the Board of Supervisors. And I

1 will be happy to answer any questions.

2 HARTMAN: Commissioner Members, question of Jackie?

3 If not, thank you Jackie.

4 GUTHRIE: Thank you.

5 HARTMAN: All right. I'll call to the public.

6 Anybody else would like to come forward and speak either for
7 or against this SUP? If not, then Charles, I'm going to call
8 you and Randy, if you want to have Randy come back up and, and
9 make any comments that you would like to make on what you've
10 heard, testimony against this SUP.

11 FORTNER: I understand. Thank you for your time,
12 guys. It looks like I'm on an uphill battle here, and this is
13 really a difficult forum to try to exchange ideas with a
14 pretty complicated set of situa - circumstances. I do
15 appreciate the pilot's input. That's kind of been a longtime
16 rivalry between skydivers and aircraft operators. That's not
17 anything new that we haven't dealt with. What I can say is
18 it's not surprising to hear the opposition, that's pretty
19 common in these, in these situations. And again, I just want
20 to say that we've been here for eight years, we haven't had an
21 accident. We've been good neighbors and we've been responsive
22 to, to the concerns, and now we obviously have some more
23 concerns that we would be happy to respond to. Given the
24 opportunity, I'm sure we can, we can satisfy almost
25 everybody's concerns. Liability is very minimal. Our impact

1 on the property's very minimal. The picture they showed, kind
2 of, kind of put us in a bad light, but we did set up like that
3 for one weekend. We asked for a temporary use permit for the
4 - for an office building, a storage office facility there, and
5 when Mr. Dedrick came out to the facility and said this
6 doesn't look exactly right, we immediately tore everything
7 down and I think the residents will tell you that that stuff
8 was there for a couple days. Until we're for sure that we
9 have our ducks in a row, we certainly don't proceed forward.
10 Like I said, this is a complicated situation. I hope, I hope
11 you give us a favorable recommendation in the fact that we
12 haven't had an incident for all these years. We have been
13 responsible, we will continue to be responsible, and we'll
14 continue to address the concerns of whoever's out there.
15 Unless you have some questions for me, I think I'll just leave
16 it at that. Like I said, our record's pretty solid. We, we
17 do a good job and -

18 HARTMAN: Randy, I have one question I'd like to
19 ask. One of the individuals said that there's been
20 parachutists that have dropped off of the site and were
21 transported back to the general area.

22 FORTNER: You know, I can't speak exactly to the
23 situation. That hasn't happened in the two years that I've
24 been there. What I can say is that there is a possibility
25 that what - and I don't remember the gentleman's name - but

1 there is a possibility that if there's an emergency with a
2 parachute and the parachutist in command is required to
3 jettison his main parachute, what happens is he jettisons his
4 main parachute and his emergency parachute comes out, he goes
5 over to the landing area and lands at the normal landing area
6 under his emergency parachute, and then we have to go back
7 out, you know, to the desert to retrieve the, the jettisoned
8 main parachute. So what he may have encountered is we had two
9 or three of those malfunctions last year, out of 2,000 jumps,
10 I think we had three. You have to go out to the, to the
11 desert and retrieve that parachute. So he may have
12 encountered people walking back with a handful of parachute
13 from a, from a, what they call a cutaway. It's pretty normal
14 procedure if the parachute doesn't open correct, we have a
15 second one just for that reason. So that's maybe what it
16 encountered if it, if it happened in the last two years. We
17 haven't put anybody anywhere off the property in the last two
18 years that I've been managing the facility for sure. So that
19 may have been, that may have been an answer to what he saw or
20 what he encountered.

21 HARTMAN: That's my question. Okay, Commission
22 Members?

23 FORTNER: But out of 2,000, out of 2,000 jumps a
24 year, I mean we just, we just don't miss. They're very
25 professional. We have very low, low impact on the property.

1 All we really do is just walk on it. We land there, we're
2 proposing to put a small office there, not, not like you saw
3 there. That was a temporary storage facility just for a
4 couple of weeks. We would put grass, we would have a very
5 nice, a very nice aesthetically pleasing facility. And like I
6 said, almost in every situation the neighbors are pretty happy
7 once, once we get there. And we've been there. So there's
8 really no change in the operation, there's no additional
9 traffic. I'm going to have to contend a little bit with the
10 traffic numbers, I'll say it again, we do 2,000 customers a
11 year, they generally come two at a time. They come in pairs,
12 they jump in pairs, so they come in one car. So 2,000 people,
13 (inaudible) 1,000 cars, divided by a year is still, you know,
14 my five or six a day is pretty accurate. So there's no
15 increase in traffic, there's no increase in danger, there's no
16 increase in jumping, there's no increase in anything that's
17 been going on since, since the beginning. We're just simply
18 asking that we meet our passengers at the landing area, as
19 opposed to meet our passengers in a - at the airport or a
20 third party commercial location.

21 HARTMAN: In the, in the comments that I heard there
22 was some comment that in this SUP there's no limitation on
23 single or double parachutists, is that, is that something
24 that's relevant?

25 FORTNER: We didn't feel it was relevant at the

1 time, but if that's a concern, if that's a concern then we'd
2 certainly be willing to discuss anything that's a concern to
3 either the Commission or the neighbors. If it's a concern, if
4 we can sit down and have kind of a across the table discussion
5 before it's a formal situation. This is very difficult to
6 kind of have that discussion, but yes.

7 HARTMAN: Okay, I will state that this
8 recommendation will go to the Supervisors, and this is
9 basically a dress rehearsal, so you're still going to have
10 time to talk to the neighbors and -

11 FORTNER: And we'd love to do that.

12 HARTMAN: And work out what your final presentation
13 will be like when you go the Board of Supervisors for the
14 final decision.

15 FORTNER: Right. And you do have to forgive my lack
16 of knowledge on these proceedings. I - I - we certainly could
17 have paraded in hundreds of people that - in support of us.
18 And we've actually had many people from the neighborhood come
19 down to the facility, shake our hand, tell us we're doing a
20 good job, they love having us there. So we've had as many
21 people come in support to us personally, than showed up in
22 meetings. So maybe we should ask them to come to the meeting
23 next time.

24 HARTMAN: Now you were here earlier in the day when
25 you had the horse -

1 FORTNER: Yes sir.

2 HARTMAN: The SUP.

3 FORTNER: Yes sir.

4 HARTMAN: You saw all those people that came.

5 FORTNER: I did, yeah I did. I don't know if that
6 was the greatest use of time, but I saw it yeah.

7 WRIGHT: I would also like to -

8 HARTMAN: Okay, Charles.

9 WRIGHT: Take a chance to, to address a couple of
10 issues issued by the, the attorney for DBRD. He mentioned on
11 the site, the submitted site plan that some of the details
12 were kind of vague on how, on how the site improvements were
13 going to be made, and it, it's typical in these situations
14 that, that - we had a verbal conversation with the planning
15 staff that a lot of this, a lot of these actions are in flux
16 as far as the kind of improvements that Public Works wants us
17 to do. You got into a discussion with the horse people about,
18 about the issue of paving, paving that access road and exactly
19 what types of paving that's going to be. And, and so that
20 issue of paving the road was brought up by, by Dedrick and his
21 staff and after much discussion it was, it was understood that
22 those issues would be, would be solved in our post, in our
23 post-PnZ moment after it's approved and we go on to, to
24 detailed, detailed forms of what the Public Works is going to
25 require. As far as the site improvements itself, we're just,

1 we're just proposing to improve that little corner and
2 basically the rest of the site is going to remain, is going to
3 remain normal except for whatever, whatever grading and
4 drainage issues that we're going to have to address as far as,
5 as far as maintaining the correct runoff from the property.
6 But again, that's all issues that one - that we've agreed to
7 in the ten stipulations that we're going to sit down and talk
8 with, with the planning staff and Public Works, so - and then
9 the issues of the, of the cell towers. I brought up, I
10 brought up earlier about, about the patterns that the, that the
11 parachutists jump and they get to 2,000, 2,000 feet and they
12 start, they start to manually control and tighten, and
13 tightening their, their flight pattern to be onto the
14 property. So to a layman those towers look, look very, very
15 dangerous, but to these guys, they do this everyday and it's a
16 piece of cake. So that's all I have, unless you have any
17 questions for me.

18 HARTMAN: One more question on the powers lines.
19 You - it was mentioned that you have a generator there, are
20 you planning on using that well, the generator, or are you
21 going to put in power to the property?

22 WRIGHT: We, we haven't totally addressed the issue
23 of power yet. We don't know what our power requirements are
24 going to be. We noticed that, that some of the members had
25 requested to bring in power from, from wherever it is on the

1 east of the property and bring it in underground, that's one
2 solution. The owners have also suggested using a solar array
3 to power those kind of a things on the property if that's
4 approved by, by the planning staff, Commission. So those are
5 two possibilities. But we will need water. We will need
6 septic of some kind. That - those are, those are issues that
7 can be worked out. But the type of power, how we're going to
8 bring it in or what we're going to do for that, for that
9 facility, we won't need much. Just to run the pump and to
10 provide, provide lighting for the, for the trailer, the
11 mobile, and then whatever, whatever site lighting's required
12 by, by planning staff.

13 HARTMAN: All right, Commission Members. Yes? Mr.
14 Salas.

15 SALAS: The development there use underground power
16 source or is it - you have power lines?

17 WRIGHT: From the trailer?

18 SALAS: No, the surrounding neighborhood, where
19 development is.

20 WRIGHT: I don't know what the surrounding
21 neighborhood has as far as power.

22 SALAS: (Inaudible). What is it?

23 HARTMAN: Ms. Guthrie's property, in that area, does
24 it, it has power.

25 WRIGHT: It has power, yeah.

1 GUTHRIE: Underground.

2 WRIGHT: It's underground.

3 HARTMAN: Underground.

4 WRIGHT: Yeah.

5 HARTMAN: That's the question. All right,
6 Commission Members? Fine. Charles, thank you for your
7 presence.

8 WRIGHT: Thank you. Thank you for your time.

9 HARTMAN: Okay. Commission Members, at this time
10 we'll turn it back for further discussion and a motion.

11 MORITZ: Mr. Chairman?

12 HARTMAN: Ms. Moritz.

13 MORITZ: These are difficult because we so often look
14 at them from a personal standpoint, obviously, and the motion
15 of decisions can get muddled in that, and of course it's just
16 our position to be a referral guide to the Board of
17 Supervisors, but we look at zoning and the request that's
18 being asked of, and make decisions based on that in most
19 cases. In this case, I still think it's a, a contradiction to
20 have a commercial application in the middle of a general rural
21 arrangement. So if there's no more discussion and you want a
22 motion, I'm willing to do that.

23 HARTMAN: All right, we're open for a motion.

24 RIGGINS: I would like some more discussion.

25 HARTMAN: All right, go ahead.

1 RIGGINS: I believe I know which direction that
2 motion is going to go, but I do believe it's important to
3 state that as the staff analysis points out, that planning
4 guidelines for neighborhood commercial include adequate
5 access, buffers and compatibility with surrounding land uses,
6 location in close proximity to residential, and location on
7 collector and arterial streets. I believe that this
8 application has failed to address all of those issues, and I
9 believe that actually it's failed to do so blatantly. And I
10 believe I understand what direction the motion will go and I'm
11 certainly looking, looking to hear the motion be made.

12 HARTMAN: All right, with that, we're ready for a
13 motion. Commissioner Moritz.

14 MORITZ: I make a motion that we forward - the
15 Commission forward SUP-006-14 to the Board of Supervisors with
16 a recommendation of denial.

17 RIGGINS: I will second the motion.

18 HARTMAN: Okay, Vice Chair Riggins seconds the
19 motion. With that, if there's no further discussion, I will
20 call for a roll call vote.

21 ABRAHAM: Mr. Chairman, there is a motion to deny
22 case SUP-006-14. Commission Grubb.

23 GRUBB: I'm in favor of the motion.

24 ABRAHAM: Okay, so a yes vote would mean that you
25 are in favor of denying the proposal.

1 GRUBB: I got that backwards, I apologize.

2 HARTMAN: Steve, explain that too, again, if you
3 will.

4 ABRAHAM: Sure, if you vote yes, then you are in
5 favor of the denial recommendation.

6 HARTMAN: Exactly.

7 GRUBB: I'll state my vote as yes.

8 ABRAHAM: Commissioner Del Cotto.

9 DEL COTTO: Yes.

10 ABRAHAM: Commissioner Moritz.

11 MORITZ: Yes.

12 ABRAHAM: Commissioner Smyres.

13 SMYRES: Yes.

14 ABRAHAM: Commissioner Gutierrez.

15 GUTIERREZ: Yes.

16 ABRAHAM: Commissioner Salas.

17 SALAS: Yes.

18 ABRAHAM: Commissioner Aguirre-Vogler.

19 AGUIRRE-VOGLER: Yes.

20 ABRAHAM: Vice Chair Riggins.

21 RIGGINS: Yes.

22 ABRAHAM: And Chairman Hartman.

23 HARTMAN: Yes.

24 ABRAHAM: Motion passes unanimously for denial.

25 HARTMAN: All right. Charles, you heard the

1 Commission and you will go before the supervisors for the
2 final vote and - but there was also some question with our
3 legal as to the appropriateness, I believe, Mark is that
4 right, the appropriateness of this SUP? Is that what -

5 LANGLITZ: Yes, Mr. Chairman. The County Attorney's
6 Office will be speaking with staff and making a recommendation
7 as to how this should proceed, but at this point it's - having
8 a, a skydiving landing site in the middle of a platted
9 residential subdivision certainly doesn't seem to make much
10 sense. It's legally, I don't believe it's subject - properly
11 subject to a special use permit and I also don't believe it
12 would be the proper subject of the rezoning to put a
13 commercial activity in the middle. I think that would
14 constitute unlawful spot zoning, it would likely be our
15 recommendation if this goes forward to the Board of
16 Supervisors to deny it for those reasons.

17 HARTMAN: Thank you Mark. So Charles you've heard
18 the Commission with their vote and wish you good luck. They -
19 staff will notify you of the date that you're to appear before
20 the Supervisors. Thank you. All right, thank you. At this
21 time we're going to recess for one hour and we'll be back, at
22 1:30, 1:30-1:20, sometime in there. [Break.] All right.
23 We're ready to start our afternoon session with case SUP-007-
24 14. Ashlee.

25 MACDONALD: Thank you Chairman Hartman, Commission

1 Members. Case SUP-007-14, it's located on the northeast
2 corner of Westray Way and Gurness Way in San Tan Valley. The
3 request is for approval to operate a swim and fitness - to
4 operate swim and fitness classes out of an existing single
5 family residence on a .16 acre parcel in the CR-3/PAD zone.
6 The applicant is Suzy and Sean Irwin. Again, the subject
7 property is in the San Tan Valley area as indicated on the red
8 star. On the map it's within the Castlegate Community. On
9 this map you can see it's in the, kind of the center of that
10 green area of the map. That entire area is the Castlegate
11 Community. The Comprehensive Plan designates the site as
12 moderate/low density residential. As you know, and as was
13 discussed with the last case, neighborhood commercial up to 20
14 acres is allowed within this designation. Existing zoning on
15 site and surrounding is CR-3/PAD. Again, part of the
16 Castlegate planned area development. An aerial map of the
17 property shows it's an existing single family residence
18 surrounding the property is the same. The applicant uses the
19 backyard pool that you can see in this photo for the swimming
20 classes and the fitness classes are held out of the garage.
21 This is the applicant's site. They do have a three car
22 garage, so within the driveway three cars can fit, and then
23 there are pavers and a double gate on the northern portion of
24 the site where a fourth car will park. That is sufficient
25 parking according to the zoning regulations for the fitness

1 classes. Out visiting the site, I took photos from the front
2 of the property, the western boundary. This is looking east
3 at the subject site. So you can see the three car garage in
4 the driveway, and then again there are pavers off to the side
5 where parking can also be. This is a photo looking east
6 around the corner of the house along Gurness Way. You can see
7 there's a number of cars parked here and you can see there's a
8 couple of - I tried to avoid the children as I took my
9 pictures, but you can see there's a couple. I happened to get
10 there while classes were starting and ending. Looking south,
11 and then looking north, so it - I mean it's a residential
12 community. There are 13 stipulations associated with this
13 case, as you have read in the staff report. Staff does have
14 some concerns with the amount of traffic that this use
15 generates, as well as the parking, but with that I'd be happy
16 to answer any questions that you have.

17 HARTMAN: Ashlee, under staff recommendations,
18 what's number two recommendation? Mine says it's blank.
19 Maybe there's only 12 recommendations.

20 MACDONALD: I think you are right. There are only
21 12 stipulations.

22 HARTMAN: Okay.

23 MACDONALD: Actually I do have one other, one other
24 thing I wanted to bring up. Since the time that your packets
25 have gone out, I have received three additional letters. One

1 property owner, a Victor Rodriguez who is within 300 feet of
2 the site is in support of the property, and then - of the
3 project - and then two additional letters in support, one from
4 a Laura Mabey and one from an Anya Allen, talking about the
5 benefits of the swim classes in the community and how they've
6 benefited their families, so three additional letters that
7 aren't in your packet in support.

8 HARTMAN: What - how many - let's go by numbers.
9 How many in support and how many in opposition?

10 MACDONALD: There are a total of three letters in
11 opposition, and those are all in your staff report. 43
12 letters in your staff report in support, plus the three that
13 aren't on your packet, for a total of 46 in support.

14 HARTMAN: Okay, thank you. With that, let me call
15 the applicant to come forward.

16 RIGGINS: Before we call the applicant.

17 HARTMAN: Yes, Vice Chair.

18 RIGGINS: Is there any way I can have a question of
19 staff?

20 HARTMAN: Yes, go ahead Vice Chair.

21 RIGGINS: I'd like to address this to legal. The
22 general plan, comprehensive plan, allows in a general rural
23 zone for the location of a neighborhood commercial facility
24 under 20 acres, specifically from the regulations. That
25 neighborhood commercial being allowed by the comprehensive

1 plan, if it's going to be commercial, doesn't it have to be
2 zoned to be commercial?

3 LANGLITZ: Yes, I believe that is correct. I share
4 the same concerns with this application as I did with the
5 earlier one. This is a, using a special use permit as a
6 vehicle to really create a situation of spot zoning.
7 Commercial is - and plus there's a PAD here, so the zoning
8 would have to be consistent with the PAD, and if this area is
9 not designated as a commercial area, then commercial
10 activities are precluded and I don't believe the County has
11 the authority to permit a commercial activity on this site.

12 RIGGINS: So we've, we've - this case really puts
13 the cart in front of the horse, does it not?

14 LANGLITZ: Yeah, it asks for a use that simply is
15 not, is not permitted and the County cannot permit this use.
16 Now, an applicant can always ask, it - I don't know that the
17 County can ever in a situation refuse to accept an
18 application, but in this case it's, it's something that is
19 really difficult and I think it's not authorized. I think
20 it's illegal.

21 RIGGINS: I had just - that was my opinion reading
22 this also, and I just wanted to make sure that that's what the
23 opinion of the County was.

24 SALAS: No sense in going through it.

25 HARTMAN: Okay, with that, I'll call the applicant

1 to come forward and if you'll state your name and write down
2 your address and everything.

3 MR. IRWIN: Yeah, we've already written down our
4 names.

5 HARTMAN: All right.

6 MR. IRWIN: My name's Sean Irwin, and this is my
7 wife Suzy. I have a cold, and so I'll let my wife do most of
8 the talking, but I did want to thank you board members for
9 taking the time to hear, hear. I did have one question. What
10 constitutes commercial use? Is it the size, the amount of
11 people we have. So that's my question. What constitute a
12 commercial use, because this is -

13 HARTMAN: Vice Chair, would you care to answer?

14 RIGGINS: I think that that's -

15 HARTMAN: Mark?

16 RIGGINS: Back to legal.

17 LANGLITZ: Mr. Chair, Mr. Vice Chair, commercial use
18 is an activity done for profit for a business, and (inaudible)
19 were going to be teaching swimming or fitness and gaining
20 revenue, that's a commercial business.

21 HARTMAN: Commercial business.

22 MR. IRWIN: Okay. I do need to say we did our
23 concept review and we sat with the County to see if this was
24 something that we needed to do, and they, they said yes, that
25 this was something we're guided to apply for this, this

1 permit. If that was the case, we wouldn't have spent the
2 money and the time and the effort to do this. And just so you
3 know, we've been doing this for almost 11 years, and the
4 reason why we learned about this, this permit that we needed
5 from one of the County permit enforcers, and she said you'll
6 need to have a permit, and so that's, that's why we had gone
7 through the process. But we, we do have a written statement
8 we'd like to present to you if we could.

9 HARTMAN: All right, you're the ones that are
10 applying, so let's proceed.

11 MRS. IRWIN: All right, I'm Suzy Irwin, thanks for
12 you guys all being here. I'm really nervous, I've never done
13 anything like this before. I just want to start by saying
14 that we provide a valuable and much needed service to our
15 community in San Tan Valley. Teaching children self
16 confidence and how to swim and be safe around saves lives and
17 preserves families. We've received about 46 letters now, and
18 probably could have gotten more from our community. Out of
19 those, I did a little star of the neighbors that have sent us
20 direct letters that you guys have received already. So the
21 map that you guys already have, I just kind of drew stars. So
22 you can pretty much see every single neighbor surrounding us,
23 unless they've moved out or that house is sitting empty, has
24 written us letters for and on behalf of supporting us, and
25 many of these neighbors have lived here eight or nine years

1 and have never had a complaint or an issue with what we've
2 done. So I could say that basically within 300 feet we've got
3 13 letters, within 600 feet we have six neighbors, and within
4 1200 feet we have 12, and then a lot of others are just from
5 outside, people outside the neighborhood that use our
6 services. When we moved 12 years ago to San Tan Valley, there
7 was nothing out here for people to do with swimming lessons,
8 no public pool, everyone had to drive 20, 25, 30 minutes to go
9 elsewhere, and I had already taught for 22 years lessons in
10 other backyard pools, private lessons. I've taught for Aqua
11 Tots and numerous other corporations, and I always found the
12 best situation for a child to learn swimming lessons was in
13 the backyard pool, since one in four drownings occur in the
14 backyard pool, ages one to four. We've - the last five years,
15 we've had inspections from County, from you guys. Health and
16 fire come out every single year to make sure everything looks
17 good, and we've just done that willingly on our part because
18 we like to have a legitimate business that people know they
19 are safe and they're protected. We carry our liability, we
20 carry our certifications, you know, everything we do is a
21 business. I don't like to say it's necessarily a commercial,
22 even though it's for profit, it's because there's nothing
23 else out here for us to do with swimming lessons. The closest
24 thing now is Aqua Tots which opened up about two years ago,
25 but from where we live, that's still a good 15-20 minute drive

1 for some people. Since moving out to San Tan Valley this has
2 really been my only source of income. We built the pool, my
3 husband was working for a pool company. We built it knowing
4 this business can grow and we could fulfill the need of many
5 residents out here in San Tan Valley because there was no
6 pools to be used. Ironwood Crossings, that's new. It's about
7 five minutes from our neighborhood. They do have a community
8 pool and we have taught lessons there, but it's not conducive
9 to that learning environment, because you've got a big pool
10 and you've got 150 other people there swimming and playing,
11 and kids can't learn as well because it's too noisy, there's
12 too many kids, you can't block it off. And Fulton Homes has
13 asked us to go to other communities that they own, and it's
14 just - it's too hard to teach in that kind of setting, it
15 really needs to be a private setting. And let's see. So in
16 regard to the swimming lessons, you could say the most
17 commercialized part of it is in the summer when we teach the
18 swimming lessons, which are typically run from May through
19 about August, depending on the session and the time of year,
20 and holidays, etc. And so those are usually Monday through
21 Thursday. The noise from our pool is no more than kids
22 playing in their own backyard. It's a structured lesson.
23 Kids have to be respectful. It's not like a bunch of kids are
24 coming, playing, and goofing off and throwing beach balls and
25 stuff, I mean it's very - they're in and out of there, they do

1 the lesson. The parents know, the kids know it's, it's very
2 respectful. It's taught like any other lesson would be
3 anywhere else. And the fitness classes are only held pretty
4 much August through May during the school year, fall and
5 spring when kids are in school, and those are usually in the
6 evening, maybe in the morning, depending if there's enough
7 interest. So it might vary one to two hours a day at most,
8 and even then, we have the walls and garage doors insulated
9 and once again most of those kids are walking, riding their
10 bikes, or they're being dropped off for the hour class. Let's
11 see. As you can see on the map, our house is on a corner and
12 divides. So our house is called Vantage and the houses right
13 behind us, to the east of us, are called K.B. Homes. That
14 street right there is kind of a divider between the east and
15 the west of that side. So anyone living in the Vantage Homes,
16 has two exits to the west to leave. Anyone on the east side
17 has two more exits to leave. So that little street there is
18 kind of like a by street, like you don't really need to go
19 there unless you're staying to go visit a friend. It's a
20 short cut, you could say it's a short cut, but traffic-wise
21 it's not really an issue. Most people go the other way to get
22 out on the main street, which is Castlegate Boulevard, which
23 takes you to the exterior of the neighborhood. Does that make
24 sense? Okay. Let's see. Okay. During the eight months of
25 fall and spring, no cars are parking since they're all

1 dropping off and picking up kids, or riding bikes and walking.
2 During the swim season, we have the four spots allotted in our
3 driveway. And if necessary to alleviate any traffic concerns,
4 which there haven't been any up until this point from one
5 letter that we received and that you guys have a copy of, but
6 there's a park, there's two community parks just down the
7 street, and a school. They could literally just park there
8 and use the community areas and just walk to our house with
9 their kids. And since it's summer, most kids aren't even
10 outside playing because it's so hot in Arizona, and a lot of
11 people are out of town, and so it's - traffic I don't feel is
12 too much of an issue. I know that will get brought up later
13 on. And once again, there's a high demand for in-home
14 swimming lessons due to the amount of Arizona pools, drownings
15 and near drownings. The closest pool, once again, is about 20
16 minutes away, with all other homes - or home lessons being
17 taught in the Valley, and I probably know about eight people
18 in Pinal County right now that teach out of their home for the
19 same reason I do, because they've taught for years, they've
20 been taught by instructors that teach lessons in their
21 backyard, Mesa, Gilbert, growing up. I grew up in Mesa, the
22 lady that taught me to teach lived five houses down from me
23 and she's taught 37, almost - probably 40 years now. She's
24 been teaching in her own backyard pool, savings thousands of
25 lives. I feel that, along with many others, that I benefit

1 our community with the convenience of in-home lessons for all
2 levels and ages, teaching them a lifelong saving skill, and as
3 you read our neighborhood letters, the three new ones that we
4 have, the new letter's directly from our neighbor that moved
5 in back in April with a pool, so he's the one that's directly
6 north of us, he wrote us a letter. And then the other two
7 letters are - I'd like to read if we can. They're just really
8 short. Regarding drowning incidents that happened with these
9 two families in our neighborhood. And let me just read those
10 really quick. Is that okay?

11 HARTMAN: Yes, go ahead. We've read - hopefully my
12 Commission has read all the letters -

13 MRS. IRWIN: Yeah, well these are the two new ones
14 that Ashlee received just the other day. They wrote in. I
15 know, we had a lot of letters.

16 MR. IRWIN: Can we ask if everybody had a chance to
17 read those 43 letters I know it's a lot of letters, but -

18 HARTMAN: Yeah.

19 MR. IRWIN: So two have read all of them and some
20 have read none of - some of them, okay. We really - they show
21 a - it shows - their letters show our passion for it. Now let
22 me just interject and say we don't make a lot of money doing
23 this. It's really a passion of ours and so much so, that it's
24 caused me to go back to school and I started a masters degree
25 in occupational therapy. And really the plan is, we're hoping

1 just to be able to do this for two and half more years, really
2 two more summers, because once I'm done with that, we won't
3 depend on this and so anyway.

4 MRS. IRWIN: His goal is to be OT for youth and work
5 in a school district, and then probably teach swimming lessons
6 for development and delayed autistic children, etc., for
7 special needs children, private lessons one-on-one. That's -

8 MR. IRWIN: And that would be at a separate
9 location.

10 MRS. IRWIN: Yeah.

11 MR. IRWIN: Because my goal is to work within - for
12 a place - there's a couple of different places, but that's not
13 to discuss here. So -

14 MRS. IRWIN: So this incident happened about five
15 years ago, and these were friends of ours we had literally
16 just met prior to this event happening and so they're saying
17 I'm writing to you today because of a life and death
18 situation. Almost five years ago in August my five year old
19 daughter and three year old son drowned in a tragic pool
20 accident in the Castlegate neighborhood in San Tan Valley.
21 The news station Channel 10, Ron Hoon, covered our occasion
22 several times of what happened. Our son revived and our
23 daughter did not. She had just learned to swim and she saved
24 her brother, but drowned in the process. Afterwards for his
25 safety, we enrolled him in the swimming lessons with our good

1 friends we just met, the Irwins, who ran a home-based business
2 and who were there for us at the time of the accident, even
3 drove us to the hospital in Phoenix that are children were
4 life-flighted to. Now I hear that our neighborhood HOA is
5 preventing them from running their lifesaving business of
6 swimming lessons, which is also their livelihood. I must
7 protest and reach out to you and those that can help them
8 along the way, and I need to share this story. And that was
9 Anya Allen. She's since moved and we taught her son two years
10 of lessons before they moved up to Utah. And then this recent
11 one just happened with a neighbor a couple doors down. Her
12 son was freaked out about the water, she can't even swim
13 herself, and she's 30 years old and can't even swim, so she
14 didn't even want to bring her kids to swimming lessons. But
15 she remembered when her son started swimming lessons and she
16 told Sean I don't know if he's ever going to learn because
17 he's a scaredy cat. And I remember Sean telling Kim we don't
18 say you can't, we say you can. You do this for Sherman. The
19 tests come, not in the best way, but Sherman is not a scaredy
20 cat anymore, let me tell you why. In the beginning of June
21 this year he was playing at his friend's house down the street
22 and they have a pool in the backyard with no fence. They were
23 playing in the backyard and unfortunately Sherman fell in.
24 When my neighbor called me to say what happened I was so
25 worried about Sherman because I knew how he was with water,

1 even though he had lessons, he was still freaked out. I was
2 so nervous and a lot of things came through my mind, but when
3 I heard Sherman's response, it changed everything. To my
4 surprise, he wasn't even crying or freaked out, he said - and
5 he was so proud of himself because he remembered what Mr. Sean
6 had taught him earlier that year. Sherman said mom, I did
7 what Sean taught me. I turned around and when I fell in I
8 grabbed the edge and he didn't drown. Drowning accidents can
9 happen in five seconds and I'm sure Mr. Grubb here knows that
10 being a fireman. We've changed so many lives of these
11 children and prevented thousands of drownings and it's our
12 passion that we can, you know, continue to do this. I'm
13 sorry. But (inaudible) these people think we're the best part
14 of this neighborhood, knowing they can come to us, kids have a
15 safe home to come to. We know so many kids in this
16 neighborhood and they call Sean, you know, Mr. Super Sean and
17 - but they always depend on us for this service that we can
18 provide, and they all know they've done numerous lessons with
19 the City or somewhere else, and then they come to us and they
20 see these kids within two weeks learning to swim and they're
21 just amazed. Like I wish I would have brought him, you know,
22 two years ago. I wish I wouldn't have done this, so I just
23 want you guys to know how we feel about that. Let's see.
24 Like I said, I've taught for 22 years now and I know the place
25 for any child to learn swimming is really in the backyard

1 setting of a real pool, where the majority of drownings occur
2 ages one through four. So we just want to continue what we've
3 been doing all these years and prevent future drownings. When
4 we were outside waiting we saw - I need the phone please -
5 sorry. We were reading your guys' core values and vision
6 statement, and I'd just like to reiterate that really quick.
7 No, it's right here. Sorry. I had it pulled up. So outside
8 on the board you guys have state your vision, provides
9 progressive and proactive leadership in the areas of economic
10 development, state of the art technologies, (inaudible)
11 management, public services to form healthy and safe
12 communities. I believe we provide that safe community for
13 anyone in San Tan Valley. And our values are the same as
14 yours. Commitment. We provide consistent high quality
15 services and we have partnered with other individuals and
16 organizations, it's just not feasible when you're partnering
17 with someone like Fulton Homes and the community lessons just
18 don't do it justice. Diversity. Obviously we respect variety
19 of all different cultures and all different ages, six months
20 to adults. Integrity. We serve the public and one another
21 with pride, honesty, dedication and accountability in a
22 responsive and (inaudible) manner. Anyone that knows us has
23 known us for 11 years or longer, knows that about us and our
24 business and we treat the public and each other with
25 consideration and dignity. We take ownership of our actions

1 and result, which is why we're here today. We were told by
2 County to get this permit last year and we're going through
3 with the process to try and comply with your guys'
4 regulations, which we have no issues, I think it's a great
5 thing. And service. We proudly serve our customers with
6 courtesy and excellence. And so as you can see from all those
7 letters, I hope you guys understand where we're coming from
8 and if you have any questions, please let us know.

9 HARTMAN: All right, I'll start out with a question.
10 On this number ten it says swim and fitness classes shall be
11 limited to six students at a time. Is, is that the number
12 that you participate with, six students at a time?

13 MRS. IRWIN: We do up to six kids in each class.
14 Some of them are private lessons, so that's one-on-one. Like
15 infants, they're going to be a one-on-one class, so it's me
16 and a, you know, one year old child. It's the older kids
17 that, because they can all swim, or they're learning to swim,
18 they can sit there with our pool the way we designed it and
19 have up to six in a class.

20 HARTMAN: So, so you actually have assistants that
21 help teach the lessons?

22 MRS. IRWIN: Yes, my husband.

23 HARTMAN: Your husband.

24 HARTMAN: All right.

25 MRS. IRWIN: Yes, but no employees or anything.

1 HARTMAN: Then can you -

2 MR. IRWIN: No other employees.

3 MRS. IRWIN: It's just us.

4 HARTMAN: No other emp - oh that - okay. What
5 credentials do you have in the skills of physical fitness and
6 swimming?

7 MRS. IRWIN: I got my degree in exercise science, he
8 got his degree in exercise and wellness. And then I've got
9 the 22 years, I used to be a lifeguard for four years,
10 (inaudible) certified, first aid, all of the certifications I
11 gave you, so I've, I've tried to keep up on everything,
12 whether it's my business or I'm working for somebody, I want
13 to say I cover all aspects.

14 HARTMAN: Okay.

15 MRS. IRWIN: We have the insurance, liability, we
16 carry everything.

17 HARTMAN: Let me turn it to the Commission then.
18 They'll ask you some questions.

19 MRS. IRWIN: Okay.

20 HARTMAN: Commissioner Grubb, would you start out as
21 a fire, ex-fire chief.

22 GRUBB: I will, because I did serve the Castlegate
23 Community for many, many years actually since it was dirt.
24 And I'm aware of the work that you guys have done, I've known
25 about you for years. The drowning that you spoke of this

1 morning, I was there, along with two others that occurred in
2 that community over the last 14 years. And I think that, that
3 what you're doing is honorable and a great service. The
4 challenge that we're faced with is, is CC&Rs. When you - do
5 you own the home?

6 MR. IRWIN: Yes.

7 GRUBB: When you bought that home you signed that
8 you would adhere.

9 MRS. IRWIN: Correct.

10 GRUBB: To the CC&Rs. And, you know, we have a
11 letter here from the association that says that you're not and
12 I know that's very difficult. I don't think anybody really
13 likes dealing with CC&Rs because they were written by people
14 that don't live there.

15 MRS. IRWIN: Right.

16 GRUBB: And, and you know, I love what you're doing,
17 I think, again, it's a very honorable thing that you're doing
18 for the community, and, and, you know, having been on the
19 drowning prevention coalition for so many years, and working
20 with Fulton Homes on their pool safety projects, it's very
21 difficult to move forward with this case, when there are
22 opportunities. And I know it's difficult to work out of
23 Fulton's pools, but you have a developer that has dedicated
24 their company to pool safety. I mean they give away hundreds
25 of fences every year and so many things. I'm just, I'm

1 struggling with this. I read all the letters and I appreciate
2 everything that the neighborhood has said in support of this,
3 but it takes them to change the CC&Rs to allow this to happen.

4 MR. IRWIN: I do, I need (inaudible) to mention it
5 that, for your comment, we have been here going on 11 years.
6 We never received any violations about those CC&Rs. Can you
7 hear me okay?

8 GRUBB: Yes I can.

9 MR. IRWIN: It didn't start to become a problem
10 until we needed to apply to this County for this permit.

11 GRUBB: And understood, and I don't mean to be rude,
12 but you know, the counselor will tell you over there ignorance
13 of the law is no reason to break the law.

14 MR. IRWIN: The CC&Rs do state you can have a home-
15 based business as long it can't be seen from the front of the
16 residence. My stating that is if, if we have newsletters here
17 that our HOA actually sponsored us, or advertised for us in
18 their newsletter. We've taught numerous board members'
19 children - past board members. What my question is, if it was
20 such an issue like you're bringing, why wasn't it addressed in
21 the last 10-11 years.

22 GRUBB: And the answer to that is a discussion that
23 we had over lunch. When you have a change in administration,
24 rules change and so as new members came onto that board, maybe
25 some of -

1 MR. IRWIN: We have three current members -

2 GRUBB: And I, and I understand that, I'm sure we'll
3 hear from them. But the reality is, is that you had a set of
4 CC&Rs that says you can't do this and just because somebody
5 didn't come along and violate you, doesn't mean that you
6 weren't still in violation.

7 MRS. IRWIN: We, we have talked with the developer
8 that owns the property and before it became, I don't know,
9 when they fell out -

10 MR. IRWIN: When the developer -

11 MRS. IRWIN: Owns all the property, we had approval
12 from them to run our business.

13 GRUBB: Do you have that in writing?

14 MRS. IRWIN: Not today, he's out of town.

15 MR. IRWIN: He's of town.

16 MRS. IRWIN: Until the 21st.

17 GRUBB: Well, I mean it's - that - if he - well, I
18 won't do the Chair's job, but in my opinion, in my opinion -

19 MRS. IRWIN: I got an email from him (inaudible).

20 GRUBB: If, if the - if you were granted an
21 exception to the CC&Rs -

22 MRS. IRWIN: Yes.

23 GRUBB: In writing, then that should have been part
24 of this package.

25 MR. IRWIN: He's being out of town.

1 MRS. IRWIN: Yes.

2 GRUBB: Not for 11 years.

3 MR. IRWIN: Oh, no, no, no.

4 MRS. IRWIN: No, no, no.

5 MR. IRWIN: Ever since we started doing this, this -

6 GRUBB: So I don't know, Mr. Chair. I'm going to
7 yield back to you because I've said what I needed to say and,
8 you know, I'm just - I'm having a hard time with this because
9 the incidents they spoke of I was, I was present at and did
10 CPR on one of those children, and I think that they're just
11 doing a wonderful thing, but -

12 MR. IRWIN: I'm - I would like to say I was there
13 too, I got there right after the fire trucks got there, and -
14 because the family had talked to me about a pool fence because
15 they knew that - what we did in the neighborhood and about
16 pools, because they knew I had built pools. There wasn't a
17 pool pump on their pool - anyways, when the fire trucks drove
18 by, I just had the worse gut feeling that it happened, it was
19 going to be them. I actually personally drove that family to
20 the hospital.

21 GRUBB: All right, so, so when you do go to the
22 supervisors, if you have an exemption from the - in the CCRs,
23 be sure and take those with, with you. Okay.

24 HARTMAN: Commission Moritz, did you have something?
25 Frank? Commissioner Salas.

1 SALAS: Mr. Chairman, I have a hard time reconciling
2 that we're going to vote yay or nay on something that is
3 illegal, according to what we have in our plan. So maybe the
4 staff can tell us if we can go ahead with this. You know,
5 we're told that, that an SUP is not the right thing in this
6 case, and we're discussing it, you know, what's the point?
7 We're going against what was already allotted as - in the
8 plan.

9 LANGLITZ: Mr. Chair, Commissioner, at this point as
10 I've mentioned in the earlier case, you can go ahead and
11 receive the public comment, because it's been noticed and you
12 can forward a recommendation to the Board. The legal effect
13 of that recommendation is something that would be addressed at
14 a later time. It just seems - at this point it's probably the
15 best thing to do is to proceed and eventually make a
16 recommendation to the Board.

17 SALAS: I don't believe anybody on this Commission
18 is against what they're doing. They're doing an honorable
19 thing. But to ask the Commission to go against what's already
20 been out there, we might as well say go ahead and make your
21 application to the Board of Supervisors, because you're not
22 going to get any satisfaction from us, because I don't think
23 that gives us the right to, to do what we're supposed to do.
24 That's my opinion.

25 LANGLITZ: Mr. Chair, Commissioner Salas, it's -

1 there's - I don't think there's any dispute that what the
2 Irwins do is admirable and valuable. Swimming lessons for
3 children is, you know, crucial. The problem is they can't do
4 it from their home, and there's a little - really nothing the
5 County can do at this point to allow that. I think as one of
6 the other Commissioners mentioned, if they want to continue to
7 conduct these activities, they're going to have to go to a
8 site where it's, were it's permitted.

9 MR. IRWIN: May I speak?

10 HARTMAN: All right, yes go ahead.

11 MR. IRWIN: We would be willing to - I - we had
12 stated earlier, I asked what, what commercial meant and it was
13 to make a profit. Obviously we help pay for our, our
14 livelihood with this. As I mentioned, I'm going back to
15 school. We will be living on student loans. We are willing
16 to do this for not for profit so we can continue to do this.
17 I'll be able to live off of student loans, I was planning on
18 doing that anyways. If I am no longer making a profit and
19 that money is going to drowning preventions, or actually we
20 just don't charge our people that are coming for the swim
21 lessons - and of course we would have to go through and try to
22 figure out how we can pick those certain who, who is able to
23 get it for free, because we - because of the passion we have
24 for it, we would be willing to do it for no money. Now would
25 that be no longer commercial, if we're not making a profit?

1 That's just a thought.

2 HARTMAN: Okay, then, then that puts another slant
3 on it. Mark, go ahead and explain that to us. If they're
4 just having a family gathering or community gathering at their
5 pool.

6 LANGLITZ: If they're not going to be conducting
7 commercial activities, then they don't need an SUP. That's
8 not to say that in the future if complaints are received by
9 the County about activities that are going on there might
10 violate some other code provision. That's not say it may not
11 be enforced. The homeowners association may step in and
12 decide whether the activities are permitted or not, but at
13 this point what the applicants are asking for is a special use
14 permit to conduct a commercial activity. They can always
15 withdraw their application and don't conduct commercial
16 activities.

17 MR. IRWIN: That would have been nice to hear at our
18 first very meeting that we had. I - it really - that concerns
19 me that I would come to the County, my wife and I and have to
20 pay - how much did we pay - \$245 to have a 45 minute - what
21 was the meeting called? Concept review to see if we could or
22 could not move forward with this. When they said oh yeah, you
23 can move forward with this we - if they said we couldn't move
24 forward with this, we wouldn't have. So.

25 HARTMAN: Okay, and I'm only one member of this

1 Commission, but my, my thoughts are you've made an application
2 for an SUP, you've got people here that have given up their
3 time today to come before us, so I would recommend that you
4 continue the hearing today, and remember, we're, we're
5 basically a dress rehearsal and that's why we're here is to
6 work out problems like this before you go to the supervisors
7 and take up your time, your neighbor's time, your friend's
8 time and whatever, so I would just consider - I think you
9 should consider just going ahead and making an application and
10 presenting your case like you're doing to us today.

11 MRS. IRWIN: Okay.

12 HARTMAN: Because we're volunteers and we're giving
13 of our time to share with you.

14 MR. IRWIN: We appreciate that you're volunteers. I
15 think it's a wonderful thing you're doing.

16 HARTMAN: Okay. Commission Members, further
17 questions? Yes, Commissioner Moritz.

18 MORITZ: Yes, Mr. Chairman. How is it you came to
19 apply to the County?

20 MRS. IRWIN: Terrilyn Klucar showed up at our house.

21 MORITZ: Okay, it was a citation?

22 MRS. IRWIN: No.

23 MORITZ: It was just a visit.

24 MR. IRWIN: I'll talk, because she came to the door.

25 She - we had thought maybe we could put out an advertisement

1 in a newspaper.

2 MORITZ: Oh, okay.

3 MRS. IRWIN: It was Queen Creek.

4 MORITZ: Very visible.

5 MR. IRWIN: Yeah, sure.

6 MRS. IRWIN: Yeah, we weren't trying to hide
7 anything at all.

8 MORITZ: Right.

9 MRS. IRWIN: Their summer program for programs for
10 kids and she saw the swimming lessons and was interested for
11 her granddaughter.

12 MR. IRWIN: But called us and said oh this is a
13 home-based business.

14 MRS. IRWIN: And I happen to be the enforcer for Pinal
15 County.

16 MR. IRWIN: So she came to our house.

17 MORITZ: Oh. Okay.

18 MR. IRWIN: I asked her were there any complaints
19 for the County, she said no.

20 MORITZ: No.

21 MR. IRWIN: I said okay. And she showed us the
22 little clipping that we put in for the activities for the
23 kids, and she said well then you're going to need a permit.
24 And I said okay. And I said well I don't have one, I wasn't
25 aware of one and she says well we'll have to shut you down.

1 And I said well could I at least fill out the permit and she
2 said well sure, I don't have those with me, though. I will
3 get them to you. She sent us the home occupation permit
4 first, which did not - because we had more than five kids.
5 And then we learned it was a special use permit, so that's,
6 that's how -

7 MRS. IRWIN: Then we met with the concept view and
8 we've been doing that since.

9 MORITZ: Okay. And then when you said you had a
10 letter from the - and was it the management company for your
11 HOA, or was it the HOA board.

12 MR. IRWIN: It was the developer.

13 MRS. IRWIN: The developer.

14 MORITZ: Okay.

15 MR. IRWIN: Before there was an actual -

16 MORITZ: HOA board. Okay. What timeframe was that?

17 MR. IRWIN: Well we, we - he had moved out. They
18 had lived in the neighborhood. We taught his kids swim
19 lessons. And to be honest, it's been almost 11 years, and we
20 had really forgotten about that. Now, through Facebook and
21 communicating with friends and we don't know what we're going
22 to do because we're upside down in both houses, we have
23 another rental house that we're trying to sell right now in
24 that neighborhood -

25 MRS. IRWIN: It's our first house we lived in, then

1 we moved to this house for the pool.

2 MR. IRWIN: So we've - anyway, he's like hey, you
3 know, you taught my kid lessons. I work for the developer,
4 he's the vice president of Providence Homes. He goes I
5 remember talking to you and tell you you could do this. I
6 said well verbal - I'm going to need a letter. And so he
7 hasn't, he just hasn't been able to get that. That wasn't too
8 long ago, that was within - that was after we sent in the
9 application.

10 MORITZ: Okay. So he technically doesn't have any
11 say in that anymore because he was just the developer, your
12 HOA board and your - they are given a task of enforcing your
13 CC&Rs with the assistance and overview of the management
14 company who manages your community. They're the ones who
15 really determine what the CC&Rs say, how they're interpreted,
16 and how they're enforced. Part of the difficulty here is I,
17 I'm a little disappointed that you went through this process
18 when it probably shouldn't have been done. I can only assume
19 that I'm saying that in the right terms. I'm not employed by
20 the County, I talk about zoning. Everybody who wrote those
21 38, and now 41 letters thinks you walk on water. There's not
22 one question about your abilities or passion, your whatever,
23 but if the County approves the set of CC&Rs to go with the
24 community, how can we back off and say okay now we don't agree
25 with this one piece of those CC&Rs, after the County's already

1 approved those. That's the finite difficulty, and
2 unfortunately that caught in a very unusual circumstance. And
3 I understand, I was a fully employed student for 29 years and
4 it is hard to work, get those degrees so you can advance and
5 particularly with your housing situation, but again we have to
6 look at it from the logical standpoint of what do the CC&Rs
7 require and are you in agreement with it. Whether that be a
8 nonprofit, which then you'd have to file for a 501(c)(3), or
9 whatever applicable Arizona Corporation Commission
10 requirement, so it's a very hard piece to be put into, into
11 place to make a decision on.

12 LANGLITZ: Mr. Chair - Mr. Chairman, it's Mark
13 Langlitz.

14 HARTMAN: Okay Mark, excuse me.

15 LANGLITZ: May I make one point of clarification?

16 HARTMAN: Yes.

17 LANGLITZ: I think I did mention that one of the
18 factors in looking at if it's a commercial activity is whether
19 it's a profit. Nonprofits would also conducting commercial
20 businesses, so it's - the key is not whether or not it's for a
21 profit, I just wanted to clarify that.

22 HARTMAN: Okay, thank you, because that, that makes
23 a difference. My, my concern is the County does not enforce
24 CC&R rules. But yet do we have the right to override CC&R
25 rules?

1 LANGLITZ: The County does not enforce CC&Rs and to
2 phrase it the right - override CC&Rs, the answer is no, it's
3 two totally separate, two totally separate things. There's
4 our zoning code which has certain requirements, and then
5 there's the CC&Rs. Either one can be more restrictive than
6 the other. Typically the CC&Rs are the ones that are more
7 restrictive. The County cannot - if there are CC&Rs in
8 effect, the County cannot take an affirmative action and say
9 this provision of CC&Rs won't apply, or this provision will
10 apply. They do. It's just a separate - they're two separate
11 regulations, body of regulations. We enforce ours, the
12 homeowners association enforces the CC&Rs, and they remain
13 separate, kind of running a parallel path.

14 MRS. IRWIN: Can I speak?

15 HARTMAN: All right, I understand what you're
16 saying, and I'm thinking in my mind, in many cases there's
17 homeowners associations that aren't active and they have not
18 been active and the County never really brings up the rules
19 and regulations of those inactive CC&Rs. Now this is probably
20 an active, active homeowners association, I'm sure, and, and
21 so we should show some respect to it I would assume, is what
22 you're telling us.

23 LANGLITZ: Yeah, Mr. Chair. The, the homeowner's
24 association is writing to us, telling us that apparently the
25 applicants need to get approval or meet certain requirements

1 before they can ask for, it looks like a home business. The -
2 in this context, the County, the County doesn't allow a home
3 business.

4 MR. IRWIN: Did I heard that right, you said the
5 County doesn't allow home-based business?

6 LANGLITZ: Mr. Chair, all questions really need to
7 be directly - directed directly through the, through the
8 Chair. Yeah, in this instance, the County has no authority to
9 allow a home business in this development. There's a PAD, the
10 use in the PAD is designated as residential. A special use
11 permit cannot be used to change that use. I think - I'm
12 trying to think of a way they might be able to give swim
13 lessons from their house. It's tough. I can't think of any,
14 of any way for that to be accomplished.

15 MR. IRWIN: Chairman Hartman.

16 HARTMAN: Mark, I think that maybe one of the things
17 we, we ought to consider, with the situation as it is, is
18 maybe a motion for continuance, because there's a lot of
19 things that we're not understanding, and legally we, we
20 shouldn't do, and I don't know, I -

21 MORITZ: Mr. Chairman?

22 HARTMAN: Yes, Commissioner Moritz.

23 MORITZ: My opinion, given the circumstances, is
24 that is there such a thing as a dismissal, because really this
25 decision should not be made by Pinal County, and it shouldn't

1 be made by us and it really shouldn't be made by the Board of
2 Supervisors. This is an internal issue between Sean and Suzy
3 and their HOA and management company.

4 MR. IRWIN: I can say - that's probably a good
5 point. I can say that we held that meeting that we were
6 supposed to hold and neighbors came. We got verbal permission
7 from the HOA president. Five days after that I had a letter,
8 a violation saying I didn't get written approval; and I called
9 him and I said hey what's going on, you gave me verbal
10 approval. Oh, I was only there as a homeowner, not as an HOA
11 representative. However in that meeting, and in the minutes
12 of my meeting I have that he, he said that he talked to some
13 other people on the board and they said someone should be
14 there to represent the board. So I don't know how he could be
15 both, give me verbal, then, then not tell me. Because
16 honestly I had not read all of the CC&Rs up - I mean yes, I
17 bought the house, I didn't - yes. So I said well I wasn't
18 aware I needed written approval. When I asked you what else
19 we needed to do, you said nothing. You know - he said well
20 let, let Oasis know. We had already let Oasis know.
21 Everybody was familiar with us being there. It - we were just
22 dumbfounded that we're now being told well you need written
23 approval. So we asked for that written approval, and -
24 because we hadn't applied yet. So I go through the
25 application process and I get a denial letter. However, it

1 was actually approved two votes to one through the
2 architectural committee. When I, when I requested those
3 minutes to that meeting I was told that I'm - we'll see about
4 it. And I - said why do you need them, and I said well it's
5 because I want to see the vote, I don't want to just be told
6 it's denied. And they said well it was denied. Anyway we
7 had, we had an appeal, and then we had the architectural
8 committee come and they said yeah it was two to one. So then
9 I was like, well then so you're sending me denial letters when
10 they're actually approved. Their comment was well it was a
11 misunderstanding. I, I can't see the misunderstanding. But,
12 but what's really confusing to me, is this seems to be turning
13 into an HOA meeting when we're here specifically because we
14 paid money to find out if we could do this. We were told yes.
15 Now we're being told maybe you shouldn't have done this.
16 That's really a waste of our time, our money, your time,
17 everybody - if they had told me in that concept review hey,
18 what this good lawyer here just said, Mr. Langlitz, we would
19 have not gone to all this trouble, and so really I guess we're
20 at your mercy and we would like the supervisors to at least
21 hear our side. If we already spent the money -

22 HARTMAN: Okay, but Sean -

23 MR. IRWIN: Yes.

24 HARTMAN: Shane - Sean, excuse me, thank you. Sean,
25 but you're not coming with the kind of letters that we need in

1 support.

2 MR. IRWIN: We found out about that, he got to us
3 after - what other letters? Are you referring to from the
4 builder? Oh from - oh yeah. So we need, you're saying even
5 though we tried doing the right steps and - to me, and this is
6 my own opinion, it feels like I was tricked into letting me
7 know you have approval, and then hey you need written
8 approval. And then they - we tried to get that, and they
9 tried denying us even though it was approved. And then it was
10 the board ultimately that overlooked that.

11 HARTMAN: All right, but there's no guarantee that
12 you would get approval. And the thing what I'm thinking is
13 that, that you don't have the, the paperwork, the credentials
14 that you need to, to proceed and get a proper ruling, and we
15 can't give you one today, as you've heard from our legal
16 staff.

17 MRS. IRWIN: Chairman.

18 HARTMAN: Yes sir, you're going to get a chance in a
19 minute. You've got two people that have paid money to be up
20 here and we're discussing with them.

21 MRS. IRWIN: Chairman Hartman, regardless of the
22 letter that we have not received yet, he said he'd get to us
23 the 21st, we do have some of the board members here that were
24 on the board that we taught numerous kids from them,
25 grandchildren, other kids, we've used their services. They've

1 used numerous home-based services. I've got a list of like 30
2 people in our neighborhood that do home-based businesses, that
3 they, on the board, HOA board, personally use and encourage
4 people to use. I'm all for home-based businesses. However,
5 spring 2011, some of these board members are present with us
6 today and still on the board today, advertise for us. Is that
7 not consent? They've known about us, never had a violation.
8 And now that we finally want to comply with County rules and
9 regulations, all of sudden they're coming down on us. And I
10 get that CC&Rs, but don't you think that's some kind of
11 written consent prior before that?

12 MR. IRWIN: We've consulted a lawyer and he said
13 that's consent.

14 GRUBB: Mr. Chairman?

15 HARTMAN: Yeah. Commissioner Grubb.

16 GRUBB: I think, I think this is delving into an HOA
17 issue and you're asking us to render legal opinions, and that
18 is not what we do.

19 MRS. IRWIN: Right.

20 GRUBB: We can't - I can't look at that document and
21 tell you that that's a legal document.

22 MRS. IRWIN: Okay.

23 GRUBB: You have to have an attorney that interprets
24 that for you and argues your case and this is not the forum
25 for that. My recommendation to you is that you would either

1 withdraw your application at this point, or ask for a
2 continuance until some of these issues can be resolved because
3 if you don't, we will continue with the public hearing, but
4 you're forcing us to vote on something today.

5 MR. IRWIN: Can you explain the continuance. We
6 weren't sure what that -

7 GRUBB: I'll ask the attorney to do it, because then
8 I don't interpret those things, I just know they exist. But -

9 MR. IRWIN: I thought our option would be we
10 withdraw it or that's it.

11 GRUBB: No, and I'm -

12 HARTMAN: It is an option you could do is
13 withdrawal, but I wouldn't. You've gone this far.

14 MRS. IRWIN: Yes.

15 HARTMAN: You've got the support.

16 MR. IRWIN: We would like the contin -

17 SALAS: Mr. Chair.

18 HARTMAN: All right, Commissioner Salas.

19 SALAS: Sean and Suzy, I think you're failing to
20 understand that this Commission cannot resolve what you want.

21 MR. IRWIN: That's why we would like -

22 SALAS: And so, you know, I would - the best thing
23 for you to do would be to go to the Board of Supervisors, and
24 even, even the attorney said that they couldn't pass that
25 because of what rules that exist. You know, this is new to us

1 too. You know, that we have this case and with the advice or
2 an attorney, we can't give you the resolution that you need.
3 So we're beating a dead horse right now.

4 MR. IRWIN: So if we could have the continuance
5 explained, because it sounds like that's our best option. No?

6 HARTMAN: I would say, and come, and come with the
7 facts that you need in supporting it and get the homeowners
8 association to, to put something in writing and make it so
9 that it's legal with them.

10 MORITZ: Mr. Chairman, Steve wants to talk.

11 HARTMAN: Steve.

12 ABRAHAM: Mr. Chairman, staff, staff recommends a
13 continuance as well. I think internally we gotta figure out
14 what hallway do we send the Irwins down to get, at least a
15 chomp at the bit here to get something approved. We recommend
16 a 30 day continuance. I would consider definitely keep the
17 public hearing open because we've got folks who have shown up
18 and they probably want to weigh in on this issue, but we've
19 got to, we've got to take some time - take a timeout on this
20 one and figure out which way we should go.

21 HARTMAN: Thank you. That's our assistant director
22 stating that he recommends a continuance.

23 LANGLITZ: Mr. Chair.

24 HARTMAN: Let me, let me say, what I'm going to do
25 is I'm going to call to the public because these people have

1 given their time to come and we'll ask for those in favor and
2 those in opposition. Not in that order, but to come before us
3 and speak. Now -

4 GUTIERREZ: Mr. Chairman, pardon me.

5 HARTMAN: Yes, David Gutierrez.

6 GUTIERREZ: Prior to opening it up for the public,
7 would, would Steve be able to explain the continuance to them
8 and for the public's benefit?

9 ABRAHAM: Sure. Basically a continuance is just a
10 delay of the public hearing that is occurring today. We'll
11 take a few weeks off, we'll come back and begin the
12 conversation where we left off after this meeting is
13 concluded. There is no application for a continuance. The
14 question was, for the record, is there an application for a
15 continuance and there is none. It's a motion of the
16 Commission, they delay the case, there's no action, there's no
17 additional notice, and then we come back and start over where
18 we left off today, in a month.

19 HARTMAN: And then what this Commission will do, is
20 we'll have a motion for continuance and we'll vote on it, yes,
21 yay/nay, and then you will give us a date that the next
22 hearing will be set at, so that the public's that's here knows
23 exactly what's happening, when it happens. Okay?

24 ABRAHAM: August 21st is the next available date, at
25 9 a.m.

1 MORITZ: Mr. Chairman?

2 HARTMAN: Yes. Commissioner Moritz. No, we're
3 still discussing with the Commission.

4 MORITZ: As it relates to the continuance, does that
5 mean that Suzy and Sean can continue their business, even with
6 the uncertainty of who has control over their activities, the
7 HOA or the County?

8 HARTMAN: Mark, I could answer that one, but you
9 legally answer that.

10 LANGLITZ: No.

11 HARTMAN: Well maybe you shouldn't, I don't know.

12 LANGLITZ: No, they don't - they have no authority
13 from the County to continue what they're doing. In addition,
14 it never was and it is not the County's responsibility to
15 represent an applicant or to give legal advice to an
16 applicant. What the applicants need to do is - what it sounds
17 like they did do - is consult an attorney and have the
18 attorney give them legal advice and legal representation as to
19 how best to proceed, and in the future, they themselves have
20 to decide what they want to do and the County will not be
21 advising them what their best course of action is.

22 HARTMAN: And then Mark, tell me if I'm wrong, then
23 if they, if they just continued on their own and there was a
24 complaint and the County went out, then they, then they could
25 be cited, is that not right?

1 LANGLITZ: Yes, that's correct. I'm not sure, it
2 doesn't sound like they did cite it. I think Terrilyn, it
3 sounds like Terrilyn just went out and said, you know you have
4 to stop doing this, you're going to be cited. If, if it's
5 done without -

6 MRS. IRWIN: Permit.

7 LANGLITZ: Approval, yeah, they run that risk.

8 SALAS: Mr. Chair?

9 HARTMAN: All right. Commissioner Salas.

10 SALAS: So let's say we have a continuance, then
11 they come out the 21st, what authority does this Commission
12 have to, to tell these guys yeah, we accept what you want? I
13 don't see any purpose of meeting them if we don't have any
14 authority to tell them okay, we grant what you wanted. I
15 think that they should (inaudible) to our staff, that the
16 staff go through whatever legalese they can attain, and then
17 answer to your attorney. But to come back over here, I think
18 is a, an effort in futility because we don't have any
19 authority to grant that.

20 SMYRES: Mr. Chairman?

21 HARTMAN: Commissioner Smyres.

22 SMYRES: If I'm understanding it correctly, and
23 we've been back and forth - even if the HOA management company
24 blesses this and says go do it, they're still in violation of
25 their zoning, is that correct? And an SUP cannot change that

1 zoning, it has to be a zoning change, not an SUP. So we still
2 got the same problem.

3 LANGLITZ: Yeah, at this point I don't think it
4 would be entirely appropriate to answer that, in that it's not
5 the position of the County Attorney's Office to give
6 applicants legal advice. My recommendation is that the matter
7 be continued, that they consult with an attorney and decide
8 how next they want to proceed.

9 MORITZ: Mr. Chairman.

10 HARTMAN: Very good.

11 MORITZ: Let me just say one more thing.

12 HARTMAN: Just one more, okay.

13 MORITZ: I keep hearing that them, they can choose
14 how they should proceed. I'm - this isn't making sense to me
15 because we keep saying as Commissioner (inaudible) just said,
16 if Pinal County doesn't have control over telling them whether
17 they can proceed to do business during the interim, all the
18 continuance - and again agreeing with Commissioner Salas - a
19 continuance merely continues this same discussion. It's not a
20 matter of whether they secure an attorney, it's still not an
21 admissible item in our jurisdiction to make that decision or
22 even to - the continuance to me seems like just a waste of
23 time. These people have already paid their money, taken their
24 time, you're asking to take them more time, more money to
25 delay this another month, when we're going to be sitting here

1 having the same discussion and still getting the comment that
2 well they can choose how to proceed. My question would be -
3 and I'm not asking for an answer here, because I think that's
4 inappropriate - my question is, and this is what needs to be
5 decided, was the requirement or suggestion, or in this case I
6 would take it as a business owner, that it was - I don't want
7 to say demand, but that legally I have to agree to do
8 something, or I couldn't continue doing my business. Was the
9 person who said you need to get an SUP for this in correct
10 mode or incorrect mode? And if that person was not correct in
11 saying they need permission from Pinal County to continue
12 doing their business at their home, then this should be
13 dismissed and a refund should be given. I just the whole
14 thing seems to be a bit odd to me.

15 MR. IRWIN: That's exactly what happened, what you
16 described, we were told. We were -

17 MRS. IRWIN: You'll be shut down if you don't get
18 this permit.

19 MR. IRWIN: If you don't get this, you need to get
20 this.

21 MRS. IRWIN: So we thought we need to comply - oh
22 yeah. Yeah.

23 HARTMAN: Okay. Acting director. What, what is
24 your opinion on that ? Can you and your staff do that?
25 Refund?

1 LANGLITZ: No, that's not an issue that's going to
2 be discussed. There's legal factors involved.

3 MR. IRWIN: We were told we will be shut down if we
4 do not get this SUP.

5 MRS. IRWIN: And I have emails from that too.

6 MR. IRWIN: I can't believe that - but anyways, I
7 don't know. We're, we're beat.

8 MRS. IRWIN: Sorry Mr. Chairman, it's just been very
9 stressful with people we've had for years up in arms kind of
10 going well do we have lessons, do we have lessons. Are you
11 going to be able to teach, are you not? You know, every
12 single session we're like oh I don't know, it's up in the air,
13 but we'll know July 17th if we're going to continue on or not,
14 so -

15 MR. IRWIN: Because when we did apply we asked while
16 we're in the application process, do we have permission to
17 continue and we got written approval that we did until it was
18 decided. So we have been running the swim lessons. At the
19 end of this next two weeks, they're done for the season and it
20 won't be happening. But we did have written approval from the
21 County to continue while we're going through the application.

22 HARTMAN: Okay, let's, let's go on and continue with
23 the comments from the public. You guys - we've hashed this
24 over, and be prepared after the public gives their
25 information, I'll call you back and then we'll discuss where

1 we're going from here.

2 MR. IRWIN: Thank you for your time.

3 HARTMAN: You bet. Okay, let's - let's go to the
4 public. I'd love to have somebody come forward and talk to
5 us. All right, yes ma'am.

6 LAVONIER: Thank you, Mr. Chairman. My name's
7 Melissa Lavonier.

8 HARTMAN: Okay, Melissa. Write your, write your
9 name down there please.

10 LAVONIER: I have at the beginning, a couple hours
11 ago.

12 HARTMAN: All right. A couple hours.

13 LAVONIER: I represent the homeowners association
14 and I've heard a lot of discussion about the HOA today and
15 their requirements. There is a requirement in there before
16 the applicants were even allowed to come to this process, that
17 they had to seek approval of both the design review committee,
18 and the board of directors. It's a double approval process.
19 They didn't get that double approval. Yes, they got approval
20 from the design review committee, but when the board reviewed
21 it, it was denied. And one of the reasons that the board felt
22 that they had to deny this request, is because it is against
23 the CC&Rs. There's very specific provisions, there's nine
24 points that have to be met in order to run a business, and
25 their business just doesn't meet those requirements. So there

1 may be other businesses that are operating within Castlegate
2 that meet those requirements, so the can operate. The Irwins'
3 business just doesn't meet those requirements, and one of
4 those requirements is if somebody's coming onto the property
5 to pay for services, and the Irwins have said that they're
6 having services at their house. I don't think that's in
7 dispute, I also don't think what they're doing is admirable.
8 That's - everybody's agrees that they're providing a great
9 service, there's just other places that they continue to
10 provide this fantastic service that they're doing. I know
11 that the staff talked about a fourth parking spot, I'm looking
12 at this map here and in talking with some management company
13 representatives, I don't see that fourth parking spot. What I
14 see is some gravel and you're not allowed to park on the
15 gravel, that's a concern. Additionally, you can see how
16 narrow the street is, and if there's cars parked on both
17 sides, they're concerned about whether emergency vehicles
18 could get through that route if they needed to. And there's
19 also a concern about children, if they're darting in and out
20 of the cars. Now that can happen anywhere, it's not just
21 here, but if you're having a group of children come out all at
22 once that are all excited about what they just learned and
23 what happened and maybe they're not quite paying attention. I
24 think that those are some very valid concerns that the
25 association has.

1 HARTMAN: Very good. Okay, Commission Members.

2 Questions?

3 MORITZ: Mr. Chairman?

4 HARTMAN: Yes.

5 MORITZ: I'm sorry, what position are you on the
6 board?

7 LAVONIER: I'm the attorney for the board.

8 MORITZ: Oh, perfect thanks.

9 LAVONIER: The board is here as well and I think
10 they want to address -

11 MORITZ: Okay, thank you.

12 HARTMAN: Commissioner Salas - you're dismissed the
13 attorney for the homeowners association speak to us. Very
14 good. Okay. Is there any other questions?

15 LAVONIER: Thank you.

16 HARTMAN: Thank you, thank you. Did you have a
17 question?

18 MORITZ: Mr. Chairman?

19 HARTMAN: Yes. Commissioner Moritz.

20 MORITZ: For Frank's benefit, maybe just recap the
21 requirement and whether that was met or not.

22 LAVONIER: Yes ma'am. Thank you.

23 MORITZ: Thank you.

24 LAVONIER: Real quick. The CC&Rs require that
25 before you apply for a special use permit, rezoning, those

1 kind of things, that you have to seek approval from the design
2 review committee and the board of directors. They did get
3 approval from the design review committee, but not from the
4 board of directors. They've chosen to go forward anyways.
5 Actually, Mr. Irwin told me on the phone that he did it on
6 purpose, he went forward anyways even though he knew he didn't
7 have approval. I don't think that should take away from the
8 work that they do, I still think they do great work, I just
9 think that's of note, to kind of know where we are from here.
10 There's also nine specific criteria in the CC&Rs to allow
11 somebody to run a business, and their business does not meet
12 those nine criteria, and one of the most concerning being
13 people coming on the property to get services.

14 HARTMAN: Gutierrez, Commissioner Gutierrez.

15 GUTIERREZ: I have one question.

16 LAVONIER: Yes sir.

17 GUTIERREZ: I have one question just for
18 clarification. Is it written in the CC&R that the - both the
19 association design review committee and the board of directors
20 give approval prior to going for an SOP - SUP, I mean.

21 LAVONIER: Yeah, the two part requirement is written
22 in the CC&Rs, yes.

23 GUTIERREZ: Okay. Thank you.

24 LAVONIER: Thank you.

25 HARTMAN: All right, thank you. Yes sir. Back in

1 the corner, if you will. You didn't think I was going to give
2 you a chance, did you?

3 LEVITT: ...wait, and everyone else, because frankly I
4 respect that everybody is here, but I'm very ashamed with what
5 I've witnessed today.

6 HARTMAN: All right.

7 LEVITT: For starters, our HOA brought an attorney
8 is to sue people who are providing a service that is required
9 by the County to run a commercial permit. Everyone in here
10 seemed to misunderstand, county ordinance over -

11 HARTMAN: Did you give your - let me interrupt.

12 LEVITT: Don Levitt, I'm sorry.

13 HARTMAN: All right Don, thank you. Now we know.

14 LEVITT: What happened is -

15 ABRAHAM: Need your address too please, sorry.

16 LEVITT: I'm sorry?

17 ABRAHAM: Your address as well, please.

18 LEVITT: Yeah, I'm putting it on there.

19 HARTMAN: Okay, thank you.

20 LEVITT: What transpired here today is a lot of
21 questions about the CC&Rs. The CC&Rs are a lawful contract
22 that were registered with our community in 2003. However, the
23 design portion was not recorded, therefore it's in debate
24 whether or not that applies. Second of all, as this attorney
25 who I did not agree to hire, although I am paying for her to

1 sit here all day to represent a board who approved Castlegate
2 Sports, largest sports thing in our community, park in all the
3 common areas. Kids galore, football, soccer, baseball, never
4 a problem. No permit from the County according to the
5 attorney because they can't permit that, a commercial use out
6 of their home. There is hairdressers, there are garage
7 salesmen's, you name it, going on in our community. No
8 violations. And I think the attorney will be aware of this,
9 there's serious due process issues. The design committee has
10 four members on it that are also on the board, therefore you
11 have no appeal rights. If the design committee denies it, it
12 just goes to the same four people. So now we have a serious
13 due process issue. Second of all, these people have what's
14 called a variance. They have been doing this for ten years.
15 As this attorney might advise you, they actually - the County
16 even has - may have waived its right to punish these people,
17 as has the HOA, because after a certain amount of time you
18 cannot go back - like I've seen someone mention that one
19 review committee can approve something and a new one can come
20 and deny it, well that's a violation of ex post facto. You
21 can't say that this was in place in 1970, but we passed a law
22 in 1990 and it's illegal now. It doesn't work that way. So
23 this is not an HOA meeting. These people came before you, and
24 the reason the attorney doesn't want to speak is because now
25 they can take legal action against the County who misguided

1 them to this process. The process being County law, County
2 ordinance overrides the CC&Rs. They were running a business
3 that they have been - I barely met these people three months
4 ago. I have a vested interest because I bought a house in the
5 community and I'm very concerned that they followed county
6 ordinance and were threatened to be sued. If you threaten to
7 sue someone in my community without first exhausting your
8 administrative remedies, (A) a judge is not going to look
9 favorable upon that. These people have been doing this for 11
10 years, no violations, not one. Not one complaint. To the
11 best of my knowledge, their home has been inspected for five
12 straight years by a County official, no violations from the
13 County. So their point that they led them here today, is -
14 has nothing to do with the homeowners association, it has to
15 do with an enforcement officer advised them that they need a
16 permit. Come to find out, that calls for rezoning. So they
17 weren't here looking for favoritism or to override CC&Rs, this
18 is not an HOA meeting. They were required, County law
19 overrides any CCRs, hence the reason you can park on the
20 street now. It's a public street, it's a green sign, it's not
21 a public drive - private drive. They can't fine you for
22 parking on the street because they don't maintain the street.
23 Similar questions you guys had about the easement in the horse
24 situation. So the reason I wanted to speak is that these
25 people have no case now because they cannot be approved for a

1 special permit. However, I think you guys got off track with
2 the CC&Rs, because it has no designation to what the County
3 requires. They were told the County requires a permit to run
4 the business out of their home. They had no appeal rights
5 because the same four people that sit on the design committee,
6 sit on the board. So if they had a vote - not only that, our
7 HOA seems to think it's okay to vote via the internet. Well
8 that's against Arizona law. All meetings and voting process
9 has to be done in person. But they think it's okay. So
10 there's a little bit of what's good for the goose is good for
11 the gander, so they said they don't meet nine stipulations,
12 well so what County official will I call when Castlegate uses
13 all our common areas - sports - so now I'm supposed to be the
14 bad guy and put a little sports business out of business? So
15 there's a really bad dilemma in our community right now. The
16 Irwins never had a problem until they had to hold the meeting
17 to invite people over so that there would be - somebody would
18 show up and that's when the problem arised [sic]. It wasn't
19 because they had violations, they had complaints, you're
20 talking about people who are employed by one of the biggest
21 homebuilders, Fulton Homes, for their expertise. But as
22 Chairman Salas so duly noted, we are beating a dead horse
23 here, because it's obvious you guys cannot grant a special
24 permit, nor apparently is one needed. So they can teach
25 whatever they would like out of their house, per se, just as

1 long as it's packaged in a neat little get-together. We're
2 having a barbecue, or you can come over and you're our friends
3 and you can teach, because what can the HOA say about that,
4 when Castlegate Sports has the whole complex when it's soccer
5 time, baseball time. So forgive me, I am a little
6 disappointed that we got on the CC&R issue. They are
7 completely irrelevant in this hearing. You guys, as
8 volunteers, are here to make a determination of whether or not
9 the permit is legal. Not whether it complies with the CC&Rs.
10 If it doesn't comply with the CC&Rs, that's the HOA's job to
11 present that to them after the fact. But like I said, they
12 have no recourse. Can't have four board members on there and
13 then four board members on - you have no recourse. Even -

14 HARTMAN??: Same four.

15 LEVITT: That's right, even the least of layman
16 understand the term due process. So I'm glad you guys went
17 forward, but unfortunately for the Irwins, they now have to
18 seek legal advice for redress on this issue. Thank you for
19 your time.

20 HARTMAN: Thank you. Now stay there, stay there a
21 second, Don.

22 LEVITT: I'm sorry, questions.

23 HARTMAN: Okay, Commission Members, any questions of
24 Don?

25 MORITZ: Mr. Chairman.

1 HARTMAN: Commissioner Moritz.

2 MORITZ: I just wanted to make mention that it isn't
3 our job to determine whether it's legal. We don't have
4 anything to do with legal. All our job is to do is to
5 determine if we believe it's in agreement with the zoning laws
6 for whose public safety, health and issues of this County and
7 that in this case which is very, very rare - I've been a
8 Commissioner for four years, these two have been here 15
9 years, 16 years, very rarely and never before this have I ever
10 seen an issue come up regarding the legality of the County
11 versus an HOA, and I think bringing up the CC&Rs was a very
12 pertinent issue.

13 LEVITT: Well I would like to counter by saying it
14 would be a pertinent issue if you had read the CC&Rs. The
15 CC&Rs clearly state that you can have a home business, if it
16 cannot be seen from the street. The CC&Rs do not override
17 County law. If Arizona law states you need a permit - now
18 that's contract law versus County. The law is the law. You
19 can argue if you'd like, but what I'm saying is - and I
20 misspoke, I don't mean you're here to determine the law,
21 you're here to move it to the next step in your best whatever,
22 advice is given to you and best based on the information
23 provided. So I apologize for misspeaking. Right. And so I
24 mean -

25 LANGLITZ: Mr. Chair, point, point of order. At a

1 public hearing, the speaker is entitled to address the
2 Commission. When he's done talking, it's completed. The - if
3 he's asked a question, a follow-up question by the Chair, or a
4 Commission Member through the Chair, fine. But it is improper
5 conduct for a speaker to engage and debate with the Commission
6 or a particular Commission Member. So unless the Commission
7 Member or the Chair has a question for the speaker, the
8 speaker should sit down.

9 HARTMAN: All right. Commissioner Members, any
10 further questions of Don?

11 SALAS: I have one question.

12 HARTMAN: Yes, Commissioner Salas.

13 SALAS: Don?

14 LEVITT: Yes sir, Mr. Salas.

15 HARTMAN: Thank you. Thank you, Don. All right,
16 with that, I'll call for anyone else that would like to speak
17 either for or against this SUP before us. Yes sir, if you
18 would, come forward. State your name and your address and
19 write it, write it down on the sheet.

20 KAITSCHUCK: Already down on the sheet.

21 HARTMAN: Howard?

22 KAITSCHUCK: Dan Kaitschuck.

23 HARTMAN: Excuse, all right Dan.

24 KAITSCHUCK: I live at 4486 East Meadow Land Drive,
25 San Tan Valley, so I'm part of the community. I have a

1 written statement I'd like to read. And I'd like to start by
2 saying that this - this is a very difficult situation for me
3 personally, and I know for other board members. The Irwins
4 are obviously fantastic people and do a service of the
5 community. First, I'm relatively new of Castlegate Homeowners
6 Association, having moved just over a year ago. I've been
7 going to the HOA meetings, been involved in organizing block
8 watch on my street, and this last election ran, and got a
9 position on the HOA board. Being on the board has caused me
10 to dig deeply into the CC&Rs of the community, and realize as
11 I have been learning my duties that I have a fiduciary
12 responsibility to enforce the CC&Rs under which our HOA and
13 its board operate. These CC&Rs are the reason the board
14 turned down the request of the Irwins, that the Irwins made,
15 to get approval for a variance, or a use permit pertaining -
16 let's see, I got lost here - to apply for a variance from the
17 County. Article IV, 11 states in part: No applicant for
18 rezoning, variance or use permits pertaining to any lot, shall
19 be filed with any government authority, by any person, unless
20 the application has been approved by the design review
21 committee and the board, and the proposed use otherwise
22 complies with this declaration. As stated in 4.1, all lots
23 and residences shall be used, improved and devoted exclusively
24 to residential use. No trade or business may be conducted on
25 any lot or parcel or in or from any residence except may

1 conduct a business activity within the residence, so long as -
2 and it lists, as the attorney said, several conditions.
3 Condition C is the business activity does not involve persons
4 coming to the lot to purchase goods or services. It further
5 states in Article 4.11, garages and carports shall be used for
6 parking vehicles and storage only, and shall not be used or
7 converted for living or recreational activities. The Irwin
8 business is not conducted within the residence, does involve
9 persons coming to receive a service, and has classes in the
10 garage area. The CC&Rs also prohibit signs like the one now
11 in their yard declaring their application to the County and
12 this hearing. Article 4.10, no signs whatsoever may be
13 erected, posted or displayed on any lot in a location that is
14 visible from the neighborhood, neighboring properties without
15 prior written approval of the design review committee, which
16 prior approval was not sought, nor given. It could not be
17 clearer, and the Irwins have now purchased two homes in the
18 community, so they have had the CC&Rs presented to them twice,
19 and via their home purchase, have agreed to live by these
20 CC&Rs. I cannot speak for what has transpired before I
21 purchased the home in Castlegate. I can say that as a member
22 of the community I'm deeply concerned when the CC&Rs are not
23 followed. I do not know the past history and why the Irwins
24 have been in business for the last ten years without the HOA
25 taking any action. They will say that there are many home

1 businesses in the community that are not being closed down.
2 That may or may not be true, but if the HOA or its management
3 firm do not see the violation and no member of the community
4 files a complaint with their name on the complaint, the HOA
5 cannot take action. I have myself turned in people for
6 investigation that I think are in violation. I cannot speak
7 for others. It would not be fair to a new resident who moves
8 in and expects their neighborhood to be run according to the
9 CC&Rs, only to learn that because of the some past action or
10 lack thereof by HO - by the HOA, some of the rules no longer
11 can be enforced. It is also very apparent from my reading of
12 the CC&Rs, that actions or non-actions in the past do not
13 prevent enforcement in the present. Article 11.1 states in
14 part the failure of the association or an owner to take
15 enforcement action with respect to a violation of the
16 community documents shall not constitute or be deemed a waiver
17 of the right of the association or any owner, to enforce the
18 community document in the future. No resident, including the
19 Irwins, can claim ignorance of these facts. They are right in
20 the CC&Rs. Now, in the Irwins' narrative provides as part of
21 their application, could state that we made sure that we met
22 with our HOA to insure our compliance with the CC&Rs. I do
23 not understand, according to the email from Melissa and has
24 already been stated, our attorney, she was told that Mr. Irwin
25 quote, I know I'm in violation. As a resident of Castlegate I

1 expect the County to deny the request for the Irwins to run a
2 business that is in opposition to the recorded declaration of
3 covenants, conditions and restrictions of the community I live
4 in. Second, when the builder proposed to the County that they
5 build this community, one of the many requirements that had to
6 be met was a filing of the CC&Rs with the County Recorder. I
7 therefore feel that this same County cannot now go against the
8 regulations they required the builder to record, and open up a
9 free for all in our community. If this special use permit is
10 granted by the County, it could very well open a legal door
11 that would require the HOA board to engage in a legal battle
12 to protect it's power to enforce the business and other
13 restrictions imposed by the CC&Rs. The actions of the Irwins
14 have already forced the HOA board to take legal action in the
15 form of a restraining order to stop their request to the
16 County. If we do not take legal action, we could very
17 possibly find our future enforcement powers to be negated.
18 All legal actions will be expensive to the HOA and therefore
19 to all in the community, including the Irwins, and could be
20 stopped by your decision to not recommend approval for this
21 special use permit. I understand that many in the community
22 are pleased with the opportunity their business provides. You
23 can see that from the letters supporting their request. I'm
24 sure these same letter writers think that because they are in
25 favor of the business, that the HOA board that they elected

1 should relent and approve their request. It should be noted
2 that there are over 1400 homes in Castlegate, so these letters
3 only represent a small percentage of the total residents, and
4 the HOA board is elected to protect all residents by enforcing
5 the CC&Rs. The HOA board does not have the power to change or
6 modify the rules in any way that would override the CC&Rs. We
7 do not, we do not make the rules, we are obliged to enforce
8 the rules, and that is the action the board's taken. The
9 Irwins state in their narrative how important what they do is
10 to the local community and how full their classes get, but yet
11 what started this whole thing, from what the Irwins have said,
12 was an ad in the paper. If the local community fills their
13 classes, why would they be placing an ad looking for more
14 customers? The ads only bring more traffic from outside of
15 the community causing congestion when parking on our streets.
16 I, myself, have seen four or five cars parked on both sides of
17 the street, to the side of their lot. The streets are very
18 narrow in this part of the community, and these cars I feel
19 could cause accidents and/or impede emergency vehicles. I
20 know the Irwins have proposed parking for four cars in their
21 driveway, but if the customer's cars are parked in these
22 locations, the Irwins will have to park their personal cars in
23 the street, adding to the congestion. And I note here that
24 pictures that you saw that your people took, show that side
25 street with about six cars parked on it. And this was after

1 their application. The staff report authorized by the County
2 states the amount of traffic and vehicles parked on streets
3 that is commercially used generate - that this commercial use
4 generates, is above that typically experienced in a
5 residential neighborhood, and also states that factors for
6 consideration during the review include access to streets that
7 are adequately designed and constructed to handle the volume
8 generated by the use. I know at least one other letter
9 included in the packet that talks about not even driving
10 through this part of the neighborhood when classes are in
11 session because of the congestion. The Irwins are nice people
12 and have obviously put a great deal into their business. But
13 that does not change the fact that they are not conforming to
14 the CC&Rs they agreed to abide by, or that to me, this
15 business does not fit into the community and the traffic it
16 brings to the neighborhood causes dangers to property, as well
17 as persons. Thank you.

18 HARTMAN: All right, I, I have never lived in a
19 community that had CC&Rs, but I have a son that purchased a
20 home in a community with CC&Rs, and I told him you be sure and
21 read those CC&Rs, because that is the laws, or the rules that
22 govern your residence. So what you have said we take to
23 heart. Okay, Commissioner Members, any, any questions?

24 GRUBB: Mr. Chairman?

25 HARTMAN: Yes, Mr. Grubb.

1 GRUBB: As a member of the board maybe you can
2 answer the question, is there a provision within the CC&Rs to
3 amend the CC&Rs and how is that accomplished?

4 KAITSCHUCK: There is. It takes a vote of two-
5 thirds - I'm sorry, three-quarters of the registered voters in
6 the community, which are property owners.

7 GRUBB: So they could pursue that angle to get the
8 CC&Rs changed to allow this activity.

9 KAITSCHUCK: Yes.

10 GRUBB: Okay, thank you.

11 HARTMAN: And there's, and there's - does that, when
12 you're saying voters, is that homes, is that residents?

13 KAITSCHUCK: That would be people - for every
14 property that's owned in the community, there's one vote.

15 HARTMAN: Okay. So 1400 is what you're saying.

16 KAITSCHUCK: Yeah, and as long as they're not in
17 violation, they have that right to vote. So there are some
18 who are in violation who lose their voting privileges.

19 HARTMAN: All right. Commission Members, further
20 questions? Thank you.

21 KAITSCHUCK: You're welcome.

22 HARTMAN: Okay, call to the public. Anyone else
23 like to come before us?

24 LANGLITZ: Mr. Chair, just one quick point of
25 clarification, and it's important, I think, for the, for the

1 Commission to know that compliance with the CC&Rs and
2 compliance with County zoning, are independent and run
3 concurrently. For the applicant to run a home business here,
4 they would have to comply with the CC&Rs, which we don't - we
5 have nothing to do with, we don't enforce, and they've got to
6 comply with County, County zoning, which we do. If, assuming
7 for argument, this was a case that was appropriate for a
8 special use permit and we granted it, that would not trump the
9 CC&Rs, they would still have to comply with the, with the
10 CC&Rs. I just - I - I heard some statements, I just wanted to
11 make that clarification. Thank you. I'm sorry.

12 HARTMAN: And Mark, I appreciate that, because that,
13 you know, clarifies it exactly. Okay, anybody else?

14 SALAS: Mr. Chairman?

15 HARTMAN: Wait a second, I've got one -

16 SALAS: I've just got a short comment. We have
17 granted SUPs to people that work in their own home, but we
18 never dealt with a CC&R situation because they weren't in
19 HOAs. But we have granted it under other circumstances.

20 HARTMAN: Okay. Yes sir, would you like to come
21 forward please? State your name and address, and also write
22 it down.

23 HIGGINBOTHAM: Address has been written down, as
24 well as my name previously. It's Kenny Higginbotham. I'm the
25 proud father of Suzy Irwin.

1 HARTMAN: Okay.

2 HIGGINBOTHAM: I have a question. One of the
3 pictures showed some cars parked out there. Do we know what
4 day that was and what time that was?

5 HARTMAN: I - Ashlee do you know - you know when
6 they were taken.

7 ASHLEE: I do. The date, I believe it was a Monday.
8 It was the same day as the site posting, so let me look at my
9 staff report because it's in there. It was June 23rd, I'm not
10 sure what day of the week that was, but it was a little after
11 5:00 in the afternoon.

12 HIGGINBOTHAM: I have a question for my daughter, if
13 I may. Suzy, when do your classes (inaudible). Okay, the
14 question I asked of my daughter was is when do her classes
15 stop. Usually around 5:00. 6:00, excuse me. So we have a
16 snapshot in time of one day out of 365. We don't know if
17 there's a birthday party going on over here. Somebody is
18 making a leap of faith that all of those four cars happen to
19 be students at their swimming class. Now I ask you, we've got
20 six students, none of them are legal age to drive. So the
21 maximum cars - if nobody walked, nobody rode their bike, would
22 be six cars. Look at that picture and see how many cars are
23 there. I guess we've got some five year olds that are driving
24 cars around Castlegate community. It's just a point sir, and
25 I think I know where all of this going, but I would like to

1 just say something. Suzy has alluded to the fact that she's a
2 trained lifeguard, which ought to make the fire chief real
3 happy. She's trained in CPR. She graduated from Arizona
4 State University magna cum laude, in exercise science and
5 physiology. She's a well known and respected trainer,
6 physical trainer. She's also noted in the diving and swimming
7 community, and was a well known gymnast in this state and went
8 to ASU on a full ride scholarship. All that being said, we do
9 have CC&Rs, as the esteemed lawyer pointed out, and the
10 gentleman who represented the board of directors, and I
11 appreciate the fact that we have laws to live by. But I also
12 appreciate the fact we have letters of the law and spirit of
13 the law. I think one of the issues that I have found from my
14 daughter and my son-in-law is the fact that there were so many
15 businesses being conducted from homes within that community.
16 It was kind of like - and forgive the word - damn the CC&Rs,
17 because nobody was enforcing anything. Board members were
18 sending - their wives were going to a lady's house that runs,
19 to this day, a beauty shop out of her house. And I would ask
20 the attorney is that not somebody coming to a house for a
21 service? There are people that run used car sales out of
22 their house. There are people that run body shop out of their
23 house. But there seems to be a very exclusive group who want
24 to prosecute, persecute and deny my daughter and her son-in-
25 law and their child of their livelihood. They don't make a

1 lot of money off of this, in fact, their real business is they
2 drag around a snow cone machine to events around our state -
3 two weeks ago they were in Flagstaff - to make money. Now, my
4 daughter's entrepreneurial. She takes after her father. I
5 own - started my first business in 1965. I just retired. She
6 takes after me. So if there's a fault, it's coming from me.
7 And she's a good girl, always been a good girl, and I know
8 that's not the issue. The issue is CC&Rs.

9 HARTMAN: And okay -

10 HIGGINBOTHAM: Go ahead sir, I'll -

11 HARTMAN: Well I don't want to cut you off but I'm
12 going to have to because you're talking - starting to talk
13 about character and other things that yes we realize that, we
14 know the credentials, we - we're actually getting into a
15 community problem and that's not what this Commission is
16 about. It's about whether we're to recommend or to deny to
17 the Supervisors our recommendation, with the input from the
18 audience. And that's where we are.

19 HIGGINBOTHAM: Mr. Hartman, I appreciate that, and I
20 appreciate you allowing me the time to stand up here and maybe
21 make a fool of myself. But I think coming out of here we seem
22 to have some issues by the County Attorney's Office about what
23 you all can do, about CC&Rs, and confusion and I hate to say
24 it because it gets expensive when you get attorneys involved,
25 but I appreciate your time. If anyone has a question of me

1 about anything, I'd be glad to ask.

2 SALAS: Mr. Chairman.

3 HARTMAN: Do you have a question?

4 SALAS: No, I just have a comment because
5 essentially all of us are in favor of that business if it were
6 legal. And it's also unfortunate that your daughter and son-
7 in-law having as much education as they have, and ranking at
8 the top of their classes, failed to read the rules. And it's
9 not the fault of this Commission to correct it. It's very
10 unfortunate because I like what they're doing. But we can sit
11 around here and beat this dead horse again that I'm talking
12 about, and there's not going to be any resolution here.

13 HIGGINBOTHAM: Mr. Salas, I appreciate your input
14 and you're exactly right. So I guess the question might be if
15 I had asked you all to do something, and that's just recommend
16 to them what might their next step be. Because there seems to
17 be some question whether you want to give them a variance to -
18 if that's the word you use to -

19 HARTMAN: Continuance.

20 HIGGINBOTHAM: Continuance, excuse me - a
21 continuance to take this up at a later date and just the only
22 thing I ask is that you make sure they understand what they
23 need to do. Members of the board, thank you very much. I
24 appreciate your time.

25 HARTMAN: Thank you. With, with those comments, I'm

1 going to close it to the public and move back to the
2 Commission. I, I would like to call the applicants back
3 forward. Well let me, let me - let's have some discussion
4 first off. Do - Commission Members, do you think that it
5 would be to our benefit to have - and to the applicant's
6 benefit - to have a continuance and let staff work with them
7 and our legal department?

8 LANGLITZ: Mr. Chair I'm going to interrupt you.
9 It's not appropriate for the Commission to make any
10 recommendation to the applicants whatsoever. It's, it's their
11 decision -

12 HARTMAN: I'm not going to make any recommendation
13 to them. They have the choice because they're the ones that
14 put the money out.

15 LANGLITZ: Yes, but I, I would let them ask you want
16 they want you to do and you just act on that, whether it's to
17 continue it or whether it's to make a motion for
18 recommendation of denial or approval, and provide no other
19 advice.

20 HARTMAN: All right. You heard what our attorney
21 has suggested. Would, would you come back to the podium?
22 Would you come back to the podium please? Did you understand
23 what our attorney just suggested to this Commission?

24 MRS. IRWIN: Yeah. Just so you guys - or Mr.
25 Chairman, I did read the CC&Rs, especially the last few months

1 over and over and the two houses we do have are from 12 years
2 ago when we first moved into Castlegate, and then a year later
3 we bought the other house. It's been 11 years since I've
4 really read those CC&Rs. Based on the board, and I understand
5 CC&Rs and respectfully respect what they're doing. We had
6 written approval and we were told by County that we could go
7 ahead with this permit. I have an email - I'm not throwing
8 Steve under the bus, but I had to read it. Steve Abraham
9 thanks for the update. To answer your question directly, no
10 you do not need HOA approval to submit for an SUP. So once
11 again there's confusion.

12 HARTMAN: Okay, you're evading the question, though.
13 We're, we're asking you what you would like to do. A
14 continuance or for us to vote, a recommendation to the Board
15 of Supervisors?

16 MRS. IRWIN: Vote and do recommendation to the Board
17 of Supervisors maybe, because we've spent the money and
18 invested time and effort in this. I, I don't know. I mean
19 I'm at a loss like you guys. They may not give it to us, they
20 may if we have more evidence. I don't know. I'm really just
21 at a loss on what to do here. If I had a lawyer to represent
22 me -

23 HARTMAN: Mark if we can't give a recommendation and
24 they don't know, what do we do?

25 LANGLITZ: Proceed with the application. If they're

1 not asking for a continuance, then a motion should be made to
2 either recommend approval or a denial of the application.

3 HARTMAN: Okay. All right. Thank you, Suzy. At
4 this time, I will call for a motion. Mary Aguirre-Vogler.

5 AGUIRRE-VOGLER: I make a motion to have the
6 Commission forward SUP-007-14 to the Board of Supervisors with
7 a favorable recommendation, with the attached 13 stipulations.
8 (Inaudible).

9 ABRAHAM: It's going to be 12 stips. That was a
10 blank number 2.

11 AGUIRRE-VOGLER: 12 stips, and there will be
12 continued guidance from staff into how possibly to continue.

13 HARTMAN: All right, is there a second to that
14 motion?

15 DEL COTTO: I'll second it.

16 HARTMAN: We have a second. All right.

17 RIGGINS: Mr. Chairman, I did not hear the whole
18 motion. Was this a favorable or -

19 HARTMAN: Favorable with 12 -

20 RIGGINS: Favorable with 12 stipulations.

21 HARTMAN: Yes.

22 ABRAHAM: Who made the second?

23 HARTMAN: Commissioner Rand Del Cotto. Okay, with
24 that Commission Members, is there any further discussion? If
25 not, I'll call for a voice vote. All those in favor of the

1 motion, in favor meaning in favor of sending on with a
2 favorable recommendation. All right, all those in favor say
3 aye.

4 Aye.

5 Aye.

6 HARTMAN: All those opposed, so signify no.

7 No.

8 HARTMAN: Okay, we have two, two in favor and then
9 the balance is opposed.

10 RIGGINS: Motion dies.

11 HARTMAN: Motion died, exactly right. Okay. New
12 motion.

13 MORITZ: And one abstain.

14 HARTMAN: And one abstention.

15 ??: She abstained from the previous motion.

16 HARTMAN: From the previous motion. Okay, do I have
17 another motion?

18 GRUBB: Mr. Chairman.

19 HARTMAN: Yes.

20 GRUBB: I'll make a motion that we forward SUP-007-
21 14 to the Board of Supervisors with a non-favorable
22 recommendation and that it be denied.

23 HARTMAN: All right. Commissioner Grubb makes a
24 motion. Do I have a second of that motion?

25 SALAS: I'll second that motion.

1 HARTMAN: Commissioner Salas seconds the motion. Is
2 there any discussion on that motion? If not, I call for a
3 voice vote. All those in favor say aye.

4 Aye.

5 HARTMAN: Opposed, so signify.

6 Nay.

7 HARTMAN: What do we have? Two nays and one
8 abstention. All right, you go onto the Board of Supervisors.
9 Remember, this is a rehearsal and you've been prepared for the
10 problems that you, you're going to run into further on down,
11 but the supervisors are the ones that make the final decision
12 and we're just are recommending body. With that, thank you.
13 Appreciate your being here. Okay. Ashlee, are you going to
14 take another case? All right, with that, we'll close the
15 public hearing and we'll move onto tentative plats. The next
16 case is S-005-6. And here comes Willow Springs. Okay, we'll
17 call the applicant to come forward. State your name and
18 address.

19 DENTON: Hello, Mr. Chairman.

20 HARTMAN: Yes.

21 DENTON: You're quick.

22 HARTMAN: Oh, excuse me. I'm ready to move on. I
23 asked Ashlee if she wanted to take your case and she said no.

24 DENTON: That's okay, I see how (inaudible) I am
25 over here.

1 HARTMAN: All right. All right.

2 DENTON: But if you want to, you can go ahead and
3 move on right (inaudible).

4 HARTMAN: Well you've already written down
5 everything and we've read it three times. No, go ahead if you
6 will. Enough playing around.

7 DENTON: Well hopefully we got a simpler matter in
8 front of you today. But this is Willow Springs South Village
9 Parcel 2, neighborhood one, Village one through 4. The
10 subject property is located approximately 12 miles northwest
11 of Oracle. They are requesting approval of a tentative plat
12 extension for that subdivision. It's 545 lots, on a 447 acre
13 parcel in the CR3/PAD zone. The landowner is Willow Springs
14 Property, the agent is Norris Design. The subject property is
15 located in the southeastern portion of the County, just north
16 of Saddle Brook. The subject property is outlined in red on
17 the map. You have Willow Springs Road that leads into the
18 proposed subdivision, and staff is recommending to modify
19 stipulation 53 to allow an additional two years for 54
20 stipulation and that will conclude my presentation. And the
21 applicant is here. If you have any questions, feel free to
22 ask.

23 HARTMAN: Commission Members, any questions of
24 Planner Denton. Nope? All right. Come forward.

25 WEAKS: Thank you, Mr. Chairman. Appreciate it.

1 Stacey Weeks with Norris Design. I'm really hear to answer
2 questions if you have them. The Willow Springs Properties
3 team remains committed to the project. We continued to
4 actively maintain entitlements for the project. Just recently
5 we've extended the ACC from - the approval to construct from
6 the Arizona Corporation Commission for another three years, so
7 part of the process right now of keeping the project
8 entitlements active and looking forward to the economy to
9 improve so that there will be some activity out there in the
10 future. So if you have any specific question, I'd be happy -

11 SALAS: I have a question. When are you going to
12 pave that road going in there?

13 WEAKS: Well that would be part of the -

14 SALAS: From Highway (inaudible).

15 WEAKS: That's part of this - well that connects to
16 this plat, and that would be part of the initial improvements.

17 SALAS: That road turns into a mud pit when it
18 rains.

19 WEAKS: Well it's not - it's actually not a real
20 road at this point, so it's only - that was only an access
21 road at that point, so.

22 SALAS: The one from off Highway 77, we're talking
23 about the same road?

24 WEAKS: Oh, the one from 77.

25 SALAS: Yes.

1 WEAKS: Oh, Willow Springs Road.

2 SALAS: Yes.

3 WEAKS: Correct. That would not be part of the
4 access road into the project. That's, that's just still a
5 county-maintained road, so that was not the official access
6 into the project.

7 HARTMAN: And that Willow Springs is a ranch road,
8 is it not?

9 WEAKS: It is a ranch road.

10 HARTMAN: A rural trail.

11 WEAKS: Correct, yeah. It is.

12 DENTON: Stacey, and I believe you guys (inaudible)
13 have right of way from State land, right?

14 WEAKS: Correct. Yeah, the - so your question
15 chairman - or board member Salas - our access into Willow
16 Springs, into this portion of the property is a five mile
17 access that's County right-of-way that'll eventually - would
18 eventually be the main access road into the project.

19 HARTMAN: Would it be the same Willow Springs Road?

20 WEAKS: No. That one, the access takes - the main
21 access road would take entry from 79. Yeah. Yeah. So the
22 project is wide enough that it is close to 79, but also close
23 to Willow Springs Road, so they're - it covers quite a bit of
24 area.

25 SALAS: The access would be off of the Willow Spring

1 Road?

2 WEAKS: No, no, it'd be off -

3 SALAS: It'd be off of 79?

4 WEAKS: Correct.

5 SALAS: Okay.

6 HARTMAN: Okay, Commission Members. Any other
7 questions of Stacey?

8 GRUBB: Mr. Chairman?

9 HARTMAN: Who - Mark? Oh, Mr. - Commissioner Grubb.

10 GRUBB: Has any of this project started yet? Is
11 there any infrastructure at all on this project yet?

12 WEAKS: There's no physical activity that's been
13 commenced at this point. There's been - there was a well dug
14 and tested that would provide water for - that would be the
15 original source of water for the project, and also
16 construction water, so I guess that would be the only physical
17 improvement at this point that was done as part of the
18 original, I guess, preconstruction work out on site.

19 GRUBB: Okay. I've been hearing about this project
20 for 20 years and it's like the freeways in Tucson, someday
21 they're going to build the (inaudible) Parkway too, you know?
22 35 years they've been talking about that.

23 HARTMAN: Commissioner Salas.

24 SALAS: What about that cement plant, do you guys
25 have anything to do with that one?

1 WEAKS: We do not.

2 SALAS: Is it completely shut off or what? Shut
3 down?

4 WEAKS: I don't know.

5 SALAS: Oh, okay, because you know, it became before
6 our board one time and we had several questions about it being
7 built where it was, you know, to destroy the desert a little
8 more and I guess it was open for about a month and then shut
9 down and I don't know why that went in.

10 WEAKS: Yeah, that's not related to this property
11 group at all.

12 HARTMAN: Stacey, where are you with the Department
13 of Water Rights, your water rights.

14 WEAKS: Water rights were part of, part of a
15 question that board member Grubb asked, is part of what we had
16 to do was prove the ability to have the water, in terms of its
17 well capacity, and that was one of the tests when building the
18 well, so those entitlements have been in place in terms of
19 water availability and those needs to serve the project in the
20 future.

21 HARTMAN: And that's always been one of the things
22 that this Commission is stressed is - and we weren't required
23 to for years, now we - now I think there is a requirement that
24 you tell us how much water you have.

25 WEAKS: There was a lot of scrutiny through the

1 process to, to make sure that we have the resources necessary.

2 HARTMAN: Exactly.

3 SALAS: 100 years.

4 AGUIRRE-VOGLER: Are you ready for a motion?

5 HARTMAN: Ready for a motion.

6 AGUIRRE-VOGLER: I move to approve the following
7 stipulations for the tentative plat of Willow Springs South
8 Village Parcel 2, Neighborhood 1, Villages 1 through 4,
9 stipulations 1 through 54, modifying stipulation 53 to extend
10 the tentative plat to August 19, 2016 and set forth in the
11 staff report.

12 MORITZ: I second it.

13 HARTMAN: All right. Commissioner Moritz seconds
14 it. If there's no discussion on the motion, I'll call for a
15 voice vote. All those in favor say aye.

16 Aye.

17 HARTMAN: Opposed. Hearing none. Stacey, two more
18 years. All right.

19 WEAKS: Thank you.

20 HARTMAN: Thank you. Okay, let's, let's move on to
21 work session. Steve, are you going to take the work session?

22 ABRAHAM: I am, and I'm going to give Evan a chance
23 to weigh in on his case too, but I'm going to handle this
24 first one. This is our annual major comp plan amendment. A
25 cycle has begun. This year there's only going to be two.

1 Both of them are from external applicants, none of them are
2 staff-generated, and they're kind of in the generally the same
3 area, but I'll let, you know let the presentations speak for
4 themselves. The first one is -

5 HARTMAN: Before you get started, Steve, I was kind
6 of reading through this and I know some people who are on the
7 Citizen Advisory Committee and they - and I mentioned it to
8 them, and they said well this hasn't even been before us. I
9 talked to planner Denton prior - this morning - about this, so
10 I really know (inaudible). But maybe some of this Commission
11 doesn't know that we have a Citizens Advisory Commission and
12 they - I'll just kind of review that real quick. What they
13 review comprehensive plan amendments or any other pertinent
14 items, and then they give us a recommendation. Well, this is
15 just a work session.

16 ABRAHAM: That is correct. We just want to -
17 basically today - when we had a work session with the Board of
18 Supervisors yesterday on it, so it's just kind of going over
19 the comp plan amendments as, largely as we receive them. So
20 the 60 day review period isn't over, we're still receiving
21 comments from other county departments, other jurisdictions in
22 the area, so we just wanted to get your thoughts on some of
23 the proposals before they move any further. And also it gives
24 the applicants time to change anything, in case any immediate
25 concerns pop up.

1 HARTMAN: And then before we get - we will have a -
2 what am I trying to say - we'll have advice from the taskforce
3 (inaudible) on their thoughts before we make a motion.

4 ABRAHAM: Right, right. And the CAC is going to be
5 on September 2nd - is that right?

6 DENTON: You are correct, Steve, at 6 p.m.

7 ABRAHAM: Thank you planner Denton. And then you -
8 the Commission will be reviewing those shortly thereafter
9 that, at your September meeting. A little bit accelerated
10 this year because we wanted to leave the period open a little
11 longer than normal because that was just the direction we got
12 from our process, so I'm going to just dive into the two cases
13 here. But yeah, you'll get a, you'll get a recommendation
14 from the Citizens Advisory Committee before you're asked to
15 take a look at it, and that would be in September. The first
16 case is PZ-PA-004-14. It's 475 acres approximately, and the
17 request is by Sun Power on behalf of MLC Farms and (inaudible)
18 Family Trust. The request is for very low density
19 residential, which is zero to 1 dwelling units per acre to
20 general public services and facilities. Located here in the
21 middle part of our county. And basically the location of the
22 project is if you're heading out of town here out of Florence,
23 that street that goes by the McDonalds is Diversion Dam Road,
24 if you took a right on that and you're heading north, then
25 you'd be heading out of town about four or five miles, you'd

1 run right into this property. So it's about four and a half
2 miles outside the town of Florence proper, as we call it, even
3 though their town limit goes way out there nowadays. So
4 there's some of the - the ranch views and alignment, Diversion
5 Dam Road is the primary way to get out there, and then the
6 north/side roads are Padilla and Quail Run. It's on the north
7 side of the cap canal and the Diversion Dam that kind of runs
8 through the site this way. That - the yellow boxes are our
9 subject site. Around the proposal there's a variety of uses
10 and designations including employment, general public
11 facilities and services, very low density residential,
12 moderate low density residential, so it's kind of a mixed bag
13 of designations in that particular area. Zooming in on the
14 subject site, the light purple on this map is the Town of
15 Florence city limits, so it's right next door to the Town of
16 Florence, and the primary use of the land around it is
17 agricultural. And just to get a sense of scale of how big the
18 property is, that building down there in the far right-hand
19 corner is the Eyman Security Facility there. Now this map
20 shows what our comp plan looks like now and what would - what
21 it would like when - if the proposal was approved. This
22 purple is employment on our comprehensive plan, the blue is
23 public services and facilities. The reason why that's there,
24 and if we had a bigger view of the comp plan, there's this
25 several square miles of employment and public services and

1 facilities that represent what I call the correctional campus
2 out there. There's about four or five different prisons that
3 are inside the town city limits. We put that in our comp plan
4 to sort of foster that prison infrastructure, for lack of a
5 better of a better term, and potential businesses that would
6 work with the prisons and help maintain the prisons there. So
7 this proposal for - would basically - as I look at it, is an
8 extension of sort of that similar designation. That being the
9 fact that there's very little development at the area as well.
10 Now, the reason why we're doing this amendment is that the
11 applicants are proposing up to a 50 megawatt solar (inaudible)
12 power plant, and the desig - the only two designations that
13 those can go in are employment and public services and
14 facilities. As stated earlier, it's north of that corrections
15 campus, with the employment and public and facilities
16 designations. Chapter 7 in particular in our comp plan
17 supports both utility grade and single user systems and in the
18 past the Commission and the Board have given some guidance
19 about - and I'm kind of jumping ahead here - about where to
20 locate these facilities, that they're kind of out there, but
21 not too far out there, and also next to existing
22 infrastructure, and this proposal in their book that they
23 supplied, talks about how there is an existing line that can
24 carry the load north of the subject property. Also in our
25 comp plan we have the bold and, you know, really what I

1 consider a pretty neat statement that solar and wind energy
2 generation and other renewable energy productions are
3 compatible with the farming heritage, and also the applicants
4 have made it semi-clear that they want to preserve possibly
5 some of the land in there for grazing purposes while the
6 plant's in operation, so generally (inaudible) solar plans are
7 - don't have a lot of traffic associated with them. Sometimes
8 they're not too fun to look at, but otherwise, this case is
9 kind of in that - what staff would consider like that green
10 zone of where to locate some of these things. So we've
11 already received comments from the Town of Florence and the
12 Town of Eloy, they both have - are in support of the case, and
13 those are basically some of the immediate discussion points we
14 could come up with, but I'd be happy to answer any questions
15 you have about the proposal or any of the combinations of land
16 uses out - that are out there right now. Evan is up next.

17 GUTIERREZ: Steve before you -

18 ABRAHAM: Yes sir

19 GUTIERREZ: I've got one little thing. Is there any
20 issues with the reflection - reflective factors on these
21 panels. You know, the aircraft and -

22 ABRAHAM: Well in my experience the owners of air
23 strips and places where aircraft frequent, they are - they
24 generally want to stay away from these. There aren't, there
25 aren't any airstrips in the immediate vicinity of this

1 proposal.

2 ???: Nothing military of anything? I know in the
3 past there was like drone practice fields or something out
4 there, military maneuvers, helicopters.

5 ABRAHAM: I don't necessarily have a good map, but I
6 can definitely put that into the next go-round of materials.
7 That's - where the star is located, if you go north of the
8 subject site about six or seven miles, that green, light green
9 hashed area is the military reservation up there. Not 100
10 percent sure if they land aircraft there. There was a
11 proposal to test drones in that area. We can certainly look
12 into that for you as part of, part of the discussion as well.

13 ???: Yeah, and then I was just wondering about
14 notifi - not stopping this or anything, but notification of
15 those people that this does exist out there, you know, where
16 it's -

17 ABRAHAM: The Arizona National Guard's on our
18 standard mailing list, so they were sent a copy of the
19 proposal.

20 SALAS: Steve, is that by that mining activity that
21 we heard about several years ago because the Guard supposedly
22 was afraid to be shooting into that particular area? Remember
23 that one?

24 ABRAHAM: I do, I do. No, this proposal's 20, maybe
25 15 to 20 miles away from that. That - the mine that ended up

1 being approved, which hasn't actually been constructed yet -
2 is about there. But yeah, the Guard was concerned about
3 through-traffic through the military reservation.

4 SALAS: Thank you.

5 ABRAHAM: Sure.

6 MORITZ: Are we done?

7 BALMER: The second major comp plan amendment is PZ-
8 PA-005-14. It's on 330 acres. The applicant is Integrity
9 Land and Cattle. The agent is Rose Law Group, and they're
10 looking to go from a moderate low density to employment
11 designation. This proposal is just north of the Town of
12 Florence. There - it is on the north side of Skyline Drive
13 and it would be just east of Adaway. You can see it
14 highlighted here. Half of the parcel is actually already
15 designated employment. The amendment would be to change the
16 other half of the parcel to the employment designation. This
17 is zooming in a little bit. There are actually two parcels.
18 There's the large parcel on the top, there's also just south
19 of the railroad tracks, there's another small parcel also.
20 This is the comp plan existing on the left, and what the
21 proposal would change on the right to the entire parcel being
22 the employment designation. So the, the project is for
23 Resolution Copper. They are looking to put in a transfer
24 facility at that location that - there's copper concentrate
25 that comes through a pipeline along the railroad tracks to

1 that facility where it's separated, loaded into a rail car and
2 transferred to an offsite smelter. So some discussion points
3 fit within the employment designation. Obviously it's a good
4 fit for that, as half of the property's already designated an
5 employment. Impact on surrounding development would be
6 minimal as all the essential functions of this operation are
7 conducted indoors. There's also employment designation
8 farther to the, to the west of that site. Supports the
9 economic sustainability vision, obviously by bringing new jobs
10 to the County, which is important. The location adjacent to
11 the rail lines is really important for this specific project,
12 because they are using the right-of-way from the Magma Rail
13 Line to build the underground pipeline. And this particular
14 project is kind of part of a larger project that Resolution
15 Copper is working on. I'd be happy to answer any, any
16 questions that you might have.

17 SALAS: How far are they from the river, Steve?

18 ABRAHAM: 15.

19 BALMER: Yeah, 15 miles.

20 SALAS: Oh, okay. I was concerned, you know,
21 because sometimes they have derailments occur and that
22 concentrate that has arsenic solutions or whatever they put in
23 there, and I'd hate to see a spill go into the river.

24 BALMER: The concentrate, it's actually at that
25 facility. It's broken down. So copper, they separate the

1 liquid from the copper and load the copper into the rail car
2 at that point and send that down -

3 SALAS: I'm talking about the leaky process.

4 BALMER: Yeah, and then that goes back up the
5 pipeline to Superior.

6 HARTMAN: You state in your narrative that that's
7 just immediately north of Florence, but it's not really. It's
8 like you said, 15 miles and it's about a mile and a half from
9 the US60 junction there.

10 BALMER: You're correct. It's north of Florence,
11 not necessarily adjacent.

12 HARTMAN: Yeah. It's way north of Florence.

13 ??: Not for long.

14 HARTMAN: All right. Commission Members, further
15 questions?

16 ??: (Inaudible).

17 HARTMAN: Yes. Other items. Commissioner Moritz.

18 MORITZ: Last month's meeting there was something
19 mentioned by Jerry that some community something or other
20 would be held on August 28th or somewhere thereabouts?

21 ABRAHAM: You must have been reading my mind because
22 I was going to talk about that after I got done talking about
23 that last discussion item. But was there anything else on the
24 comp plan amendments? Any - no? Okay. Well let me get back
25 to that one bullet point at the beginning of the planning

1 directors discussion items, which was to talk about code
2 compliance and zoning cases, and with the case that we heard
3 today with the horse boarder, officially half of our zoning
4 cases are now as a result of code compliance action. Which is
5 a good thing and kind of a bad thing at the same time, but
6 that means that basically I want to prep the Commission and
7 let you know that sometimes folks who are in the code
8 compliance process they don't, don't necessarily want to be
9 there, but staff has an obligation to move those cases
10 forward. We have, we ask planning staff to get them a quick
11 and speedy hearing. So what that might mean is that there may
12 be opportunities or situations where staff has made contact
13 with an applicant, told them how we expect applications to
14 look, how the Commission expects applications to look, and
15 they may choose not to do that. So in an effort to sort of,
16 you know, bridge the gap between us and the Commission, we
17 were going to let you know that you may see some cases from
18 people who are in code compliance actions where it's not up to
19 the level of quality that you're used to. But what I will do
20 is put in our comments of what we told the applicant they need
21 to do so you can see that we tried as best fast as we - as
22 best as we could, because there could be - and I'm not saying
23 this is happening now - folks who will use the hearing, the
24 fact that they're in a staff review to sort of prolong the -
25 by months - before they actually get a, their day in front of

1 the Commission. So I've got - like right now I've got one,
2 two - I've got two more cases that are on my desk right now
3 that are a result of code compliance actions. I'm sure there
4 are some others that are probably just waiting in the wings,
5 but I thought it would be good for the Commission to know
6 that, that really most of our work nowadays is dealing with
7 folks who are in a hearing process, and we will put in the
8 packet that it is part of the hearing process, because we
9 actually advise you that if you can, please make a vote that
10 day rather than continue. If it needs - and we'll take the
11 extra step, but if you need extra information, we'll go so far
12 as to pause the hearing, we'll run back to our offices and get
13 you whatever you need so you can make a decision, just to try
14 to avoid the extra month.

15 MORITZ: You don't want us to send you an email in
16 advance do you?

17 ABRAHAM: No, no. No, that's quite all right.
18 Okay, so that was, that was it for that item, and then with
19 the community plan, Dedrick and I actually talked with Kristen
20 yesterday and that's going to go live, so it seems like we're
21 going to have - it's going to go, start at 9:00, and it's
22 going to be August 28th. What the plan would be is that we'd
23 have - we'd go to lunch, have a working lunch and get out of
24 here before two. It would be here, yeah. And our members of
25 our board of adjustment will be there as well, and - I just,

1 if you, if you immediate travel plans or when you go home
2 today and you see you just can't make it, let us know because
3 we'll be buying you lunch and getting the room set up and
4 everything. And we'll put an agenda together and get it to
5 you in a timely manner. That's right, of August. Right here.

6 HARTMAN: Mary, we haven't adjourned yet. I was
7 waiting for a motion to adjourn.

8 GUTIERREZ: Wait, before Mary takes off, can we all
9 go to this thing?

10 ABRAHAM: You'll have to ask the interim director
11 about that.

12 HARTMAN: All right. Steve, does that conclude?

13 ABRAHAM: That concludes today's -

14 HARTMAN: Okay. Commissioner Moritz can I have a
15 motion?

16 MORITZ: I make a motion we adjourn.

17 HARTMAN: All right. Chairman accepts the motion.
18 We are adjourned.

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Julie A. Fish