

FILED
AMANDA STANFORD
CLERK OF SUPERIOR COURT
2017 JUN 26 PM 1:48

BY RP
DEPUTY

1 Timothy A. La Sota, SBN 020539
2 **TIMOTHY A. LA SOTA, PLC**
3 2198 East Camelback Road, Suite 305
4 Phoenix, Arizona 85016
5 Telephone: (602) 515-2649
6 Email: tim@timlasota.com
7 *Attorney for Plaintiffs*

8 **SUPERIOR COURT OF ARIZONA**
9 **PINAL COUNTY**

10 MARICOPA CITIZENS PROTECTING
11 TAXPAYERS, a political action committee formed
12 and registered pursuant to A.R.S. § 16-905,
13 ROBERT REBICH, individually and as Chairman of
14 Maricopa Citizens Protecting Taxpayers; DAVID
15 PROM, individually and as Treasurer of Maricopa
16 Citizens Protecting Taxpayers,

17 Plaintiffs,

18 vs.

19 CHRISTIAN PRICE, in his official capacity as
20 Maricopa Mayor; MARVIN L. BROWN, in his
21 official capacity as Maricopa Councilman; PEGGY
22 CHAPADOS, in her official capacity as Maricopa
23 Councilwoman; VINCENT MANFREDI, in his
24 official capacity as Maricopa Councilman; NANCY
25 SMITH in her official capacity as Maricopa
Councilman; JULIA R. GUSSE, in her official
capacity as Maricopa Councilwoman; HENRY
WADE, in his official capacity as Maricopa
Councilman; VANESSA BUERAS, in her official
capacity as Maricopa City Clerk; CITY OF
MARICOPA, ARIZONA, a public entity, and
PRIVATE MOTORSPORTS GROUP, LLC, an
Arizona limited liability company,

Defendants.

No. CV201701220

**VERIFIED
COMPLAINT FOR
SPECIAL
ACTION/INJUNCTIVE
RELIEF**

(challenge under A.R.S. §
19-122 to City Clerk's
refusal to submit
referendum petition sheets
to the County Recorder)

STEPHEN F. MCCARVILLE

1 MARICOPA CITIZENS PROTECTING TAXPAYERS, ROBERT REBICH,
2 DAVID PROM (“Plaintiffs”), by and through attorney undersigned, for their Verified
3 Complaint for Special Action state and allege as follows:

4 **PARTIES, JURISDICTION, AND VENUE**

5
6 1. Plaintiff MARICOPA CITIZENS PROTECTING TAXPAYERS
7 (“Maricopa Citizens”) is a political action committee properly formed and registered with
8 the City of Maricopa pursuant to Arizona Revised Statutes § 16-905. Maricopa Citizens
9 sponsored a referendum to refer an effective act of rezoning by the Maricopa City Council
10 for a public vote by the electorate of the City of Maricopa.
11

12 2. Plaintiff ROBERT REBICH is a citizen of the State of Arizona and
13 Chairman of Maricopa Citizens.

14 3. Plaintiff DAVID PROM is a citizen of the State of Arizona and Treasurer
15 of Maricopa Citizens.
16

17 4. Defendants CHRISTIAN PRICE is the Mayor of Maricopa and a member
18 of its City Council, and MARVIN L. BROWN, PEGGY CHAPADOS, VINCENT
19 MANFREDI, NANCY SMITH, JULIA R. GUSSE, and HENRY WADE are members
20 of the Maricopa City Council, which is the governing body for the City of Maricopa,
21 Arizona, and are being sued in their official capacity. The City Council is responsible,
22 in a supervisory capacity over the City Clerk, for administering City of Maricopa
23
24
25

1 elections, receiving and processing petition sheets, and forwarding petition sheets to the
2 Pinal County Recorder for verification pursuant to A.R.S. § 19-122.

3 5. Defendant VANESSA BUERAS (“the Clerk”) is the City Clerk for the City
4 of Maricopa. She is responsible for administering City of Maricopa elections, receiving
5 and processing petition sheets, and forwarding petition sheets to the Pinal County
6 Recorder for verification pursuant to A.R.S. § 19-122. The Clerk is being sued in her
7 official capacity.
8

9 6. Defendant CITY OF MARICOPA, ARIZONA (“City”) is a municipal
10 corporation in the State of Arizona with ultimate responsibility for administering City of
11 Maricopa elections, receiving and processing petition sheets, and forwarding petition
12 sheets to the Pinal County Recorder for verification pursuant to A.R.S. § 19-122.
13 Collectively, the Mayor and City Council, the Clerk, and the City of Maricopa are
14 referred to as the “City Defendants.”
15
16

17 7. Defendant PRIVATE MOTORSPORTS GROUP, LLC (“PMG”) is an
18 Arizona limited liability company headquartered in Scottsdale, Arizona and is currently
19 planning and developing a motorsports facility at the northwest corner of Ralston Road
20 and State Route 238 in Pinal County, Arizona (the “Property”). To do so, PMG submitted
21 an application bearing number 17-01 for a Conditional Use Permit (the “Application”) to
22 build a racetrack on the Property.
23
24
25

1 8. This Court has jurisdiction over this action under A.R.S. § 19-122 and
2 A.R.S. § 12-123, the Arizona Constitution, Article VI, § 14, and Rule 3 of the Arizona
3 Rules of Procedure for Special Actions.

4 9. Defendants have caused events to occur in Pinal County, Arizona out of
5 which Plaintiff's claims arise.

6 10. Venue is proper in this Court under A.R.S. §§ 12-401 and 19-122(D).

7 **THE CITY'S ACT OF REFUSING TO TRANSMIT THE PETITION SHEETS**

8
9 11. Plaintiff Maricopa Citizens applied for a serial number to circulate a
10 referendum petition on or about May 11, 2017.

11
12 12. The purpose of the referendum petition was to refer the City Council's
13 effective rezoning of the Property, pursuant to PMG's application bearing number 17-01
14 for a Conditional Use Permit (the "Application") to build a racetrack on the Property.

15
16 13. On or about June 2, 2017, Maricopa Citizens submitted 86 petition sheets
17 bearing 1133 signatures in an attempt to have a referendum placed on the ballot.

18 14. For a city ballot measure, by law the City Clerk performs the duties that are
19 assigned to the Secretary of State for statewide ballot measures under Title 19 generally
20 and under A.R.S. §§ 19-121, 19-121.01 and 19-122.

21
22 15. Under A.R.S. § 19-121.01, after receiving ballot measure petition sheets,
23 the City Clerk performs certain functions to verify the validity of petition sheets and
24
25

1 signatures. These duties include the requirement that the Clerk disqualify petition sheets
2 and signatures for reasons enumerated in the statute.

3 16. After performing the duties under A.R.S. § 19-121.01, the City Clerk
4 determines the total number of petition sheets and/or signatures that are eligible to be sent
5 to the County Recorder for certification of the signatures. The City Clerk is required by
6 A.R.S. § 19-122 to select a random sample of 5% of the eligible signatures and sends those
7 to the County Recorder for certification.
8

9 17. The Clerk informed Maricopa Citizens on June 20, 2017 that she was
10 refusing to transmit the petition sheets to the Pinal County Recorder for verification.
11

12 Exhibit A.

13 18. The Clerk's reason was that the challenged act was and administrative rather
14 than a legislative act and was not referable.
15

16 19. Though the City characterizes its action as the granting of a Conditional Use
17 Permit, the only way the challenged action could possibly be legal is if it were a rezoning
18 of the Property.

19 20. The Clerk also improperly disqualified 12 signatures, as described in detail
20 below.
21
22
23
24
25

1 uses as spelled out in the New Code, and the allowed land uses permitted in the Old
2 Code zoning districts were retained.

3 34. With respect to the preservation of all zoning designations, and the “by-
4 right” uses thereunder, Section 101.04(K) of the New Code states that “[z]oning district
5 designations ... established prior to the adoption of this Code and delineated on the
6 Official Zoning Map remain in place unless specifically rezoned under the provisions of
7 this Code”

8
9 **THE CITY’S ACTION, IF LEGAL, IS A REZONING, NOT A GRANT OF A**
10 **NONDISCRETIONARY USE PERMIT, AND AS SUCH IT IS A REFERRABLE**
11 **LEGISLATIVE ACT**

12
13 35. A “motorsports facility” is not a “by-right” land use and is not a permitted
14 use in a CI-2 – Industrial Zone. Rather, it is a discretionary land use that was not
15 permitted unless special authorization had been granted by the City Council via an
16 Industrial Use Permit.

17 36. The New Code prohibits PMG from filing and processing an Industrial
18 Use Permit because the New Code does not provide for an Industrial Use Permit, nor a
19 corresponding process for the review and approval of such a permit.

20 37. Section 101.06(E) of the New Code, entitled “Planning Applications Filed
21 After the Effective Date of the Zoning Code and Not Covered by Pre-Existing Zoning
22 and PAD Overlay or Development Agreement,” provides that “[a]ll **new**
23 **applications** for Rezoning, Development Review Permits, **Use Permits** ... and
24 Preliminary Subdivision Plats filed after the effective date of the Zoning Code ... **shall**
25 **conform to the provisions of this Zoning Code.**” (emphasis added).

1 38. Pursuant to the New Code, a “racetrack” is listed in the definitions as a
2 “Large-Scale Facility” under the “Commercial Entertainment and Recreation” use
3 classification. These types of facilities are only permitted in the GC – General
4 Commercial, GO – General Office, and SC – Shopping Center (all Commercial
5 Districts) with the subsequent approval of a Conditional Use Permit as described in
6 Table 203.02 of the New Code.

7 39. To establish a new racetrack under the New Code, a site must be zoned
8 GC – General Commercial, GO – General Office, or SC – Shopping Center, and the
9 Planning and Zoning Commission must subsequently approve a Conditional Use Permit
10 per Section 504.05 of the New Code.

11 40. To approve a Conditional Use Permit, pursuant to Section 504.06(A) of
12 the New Code, the City must make an affirmative finding that the “proposed use is
13 allowed within the applicable Zoning District and complies with all other applicable
14 provisions of this Code and the Maricopa City Code.”

15 41. Pursuant to Section 504.06 of the New Code, use permits, including a
16 Conditional Use Permit, shall be granted “if the decision making body determines that
17 the project, as submitted or, as modified, conforms to all of the following criteria [but]
18 ... **if it is determined that it is not possible to make all of the required**
19 **findings ... the application shall be denied.**” (emphasis added).

20 42. In order for PMG to obtain a Conditional Use Permit for the construction
21 of a racetrack on the Property, the Property must be properly zoned.

22 43. To comply with the New Code, and properly apply for a Conditional Use
23 Permit for the Property, PMG would need to have the Property rezoned to a Commercial
24 District (either a GC – General Commercial, GO – General Office, and SC – Shopping
25 Center), and concurrently apply for a Conditional Use Permit for a racetrack.

1 44. Instead, PMG and the City are attempting to bypass and subvert the
2 necessary process for doing so under the New Code by requesting approval of a
3 Conditional Use Permit for property zoned as CI-2 – Industrial Zone.

4 45. Plaintiffs ultimately contend that PMG has not legally been granted the
5 rights purportedly conferred by the challenged City actions.

6 46. To the extent the challenged action was a lawful action, it is the substance
7 of the action that is controlling, not the label that the City gives to it.

8 47. The challenged action was a rezoning that is a referable legislative act, it
9 was not an administrative act.

10 **THE CITY COUNCIL MET ON APRIL 18, 2017 TO CONSIDER AND**
11 **APPROVE PMG'S APPLICATION**

12 48. The City of Maricopa Planning Commission met on April 10, 2017 to
13 address PMG's Application.

14 49. On April 10, 2017, the Commission received a Staff Report from City
15 staff, which was later given to the City Council. Exhibit B.

16 50. The Staff Report states that the motorsport facility "will include a 4.20-
17 mile race track course, clubhouse facility, storage garages for rent, garage
18 condominiums, and go-kart racing track."

19 51. Even though the Staff Report acknowledges that "property owners are
20 encouraged to rezone their properties to the applicable zoning district within the [N]ew
21 Zoning Code[,]” contrary to the terms of the New Code, the Staff Report incorrectly
22 states that the "only instance where the applicant will be required to rezone is when the
23 proposed use is not a permitted use listed under the [Old] Code, and the applicant is
24 forced to rezone to an applicable zoning district that will allow such a use."
25

1 52. Nowhere in the Staff Report is there any reference to or discussion of
2 Sections 101.06(E) or 504.06 of the New Code.

3 53. In recommending approval of the Conditional Use Permit, the Staff
4 Report ignores the requirements of Sections 101.06(E) and 504.06 of the New
5 Code. Instead, the Staff Report conflates the requirements of the Old Code and the New
6 Code by tacitly acknowledging that the “request is being processed through a
7 Conditional Use Permit ... which is the most compatible zoning application for the City
8 of Maricopa, however being reviewed with a level of scrutiny as an [Industrial Use
9 Permit].”

10 54. After considering the items required for an Industrial Use Permit under
11 the Old Code (and not considering the items required for a Conditional Use Permit under
12 Section 504.06 of the New Code), the Staff Report concludes with a recommendation of
13 approval for the Conditional Use Permit to be submitted to the City Council.

14 55. The City Defendants scheduled a City Council hearing for April 18, 2017
15 to consider and discuss PMG’s Application.

16 56. The City Council held its hearing on April 18, 2017 to consider and
17 approve PMG’s Application.

18 57. At that hearing, the Senior Planner of the Commission informed the City
19 Council that, among other things, (i) the current zoning for the Property, CI-2 –
20 Industrial Zone, is not a zoning code that exists under the New Code, (ii) an Industrial
21 Use Permit is required for the construction of a racetrack on properties zoned CI-2 –
22 Industrial Zone, such as the Property, and (iii) under the New Code, there is no
23 Industrial Use Permit under the current applications or fees under the New Code.

24
25

1 58. At the conclusion of the meeting, the City Council unanimously voted to
2 approve PMG's Application for the granting of a Conditional Use Permit for
3 construction of a racetrack on the Property.

4
5 **COUNT ONE: DECLARATORY JUDGMENT (against all Defendants)**

6 59. Plaintiffs hereby incorporate by reference the preceding paragraphs as if
7 fully set forth herein.

8 60. Plaintiff seeks a declaratory judgment pursuant to the Uniform
9 Declaratory Judgment Act, A.R.S. §§ 12-1831 *et seq.*

10 61. For the reasons set forth in this Verified Complaint, Plaintiff is entitled to
11 and request a judicial determination and declaratory judgment that the Maricopa City
12 Clerk is required to transmit the 5% random sample to the Pinal County Recorder for
13 verification, and that the Clerk is a required to restore the 12 improperly disqualified
14 signatures.

15
16 **COUNT TWO: INJUNCTIVE RELIEF (against City Defendants)**

17 62. Plaintiffs hereby incorporate by reference the preceding paragraphs as if
18 fully set forth herein.

19 63. A.R.S. § 19-122 provides that "if the secretary of state refuses to transmit
20 the facsimiles of a signature sheet or sheets or affidavits of circulators to the county
21 recorders for certification under section 19-121.01, the secretary of state shall provide
22 the person who submitted the petition, proposal, signature sheet or affidavit with a
23 written statement of the reason for the refusal. Within five calendar days after the refusal
24
25

1 any citizen may apply to the superior court for a writ of mandamus to compel the
2 secretary of state to file the petition or proposal or transmit the facsimiles.”

3 64. The Clerk improperly and illegally refused to submit any petition sheets to
4 the County Recorder claiming that the challenged City action was an administrative one.

5 65. The challenged City action is legislative in nature, it is referable and the
6 Clerk is required by law to submit the random sample of the petition sheets to the
7 County Recorder for verification.
8

9 66. The Clerk disqualified the following signatures improperly based on either
10 a lack of a city or a lack of a zip code: petition sheet 2, lines 2-4, petition sheet 4, lines 1
11 and 2, petition sheet 10, line 11, petition sheet 22, lines 3-6, and petition sheet 70, lines 2
12 and 3. A.R.S. § 19-121.01(A)(3)(b) permits the Clerk to remove a signature “If the
13 residence address or the description of residence location is missing.” The Clerk was
14 not legally entitled to remove these signatures, and as long as the County Recorder can
15 verify that the person is a registered voter, if that signature is in the sample sent, that
16 signature counts.
17
18

19 67. The Plaintiffs are entitled to injunctive relief from this Court in the form of
20 an order from this Court requiring the Maricopa City Clerk and the other City
21 Defendants to transmit the 5% random sample to the Pinal County Recorder for
22 verification, and that the Clerk and City Defendants are required to restore the 12
23 improperly disqualified signatures.
24
25

1 WHEREFORE, Plaintiff prays for a judgment against Defendants as follows:

2 A. For a declaration from this Court that the Maricopa City Clerk is required to
3 transmit the 5% random sample to the Pinal County Recorder for verification, and that the
4 Clerk is a required to restore the 12 improperly disqualified signatures.

5
6 B. For an order from this Court requiring the Maricopa City Clerk and other
7 City Defendants to transmit the 5% random sample to the Pinal County Recorder for
8 verification, and that the Clerk and City Defendants are a required to restore the 12
9 improperly disqualified signatures.

10
11 C. For an award of attorney's fees pursuant to A.R.S. § 12-2030 (providing for
12 mandatory fee award for successful action to compel officer to perform duty imposed by
13 law) and A.R.S. § 12-348(A)(2) and (A)(4) (mandatory fee award for successful action to
14 review city action where cause of action is authorized by statute and for challenge of action
15 taken against Plaintiff).

16
17 D. For an award of taxable costs under A.R.S. § 12-341.


18 E. For any other such relief as this Court deems fair and just.

19 F. For Findings of Fact and Conclusions of law.
20
21
22
23
24
25

RESPECTFULLY SUBMITTED June 26, 2017.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TIMOTHY A. LA SOTA, PLC

By: 

Timothy A. La Sota, SBN 020539

2198 East Camelback Road, Suite 305

Phoenix, Arizona 85016

Telephone: (602) 515-2649

Email: tim@timlasota.com

Attorney for Plaintiffs

Rule 80(i) Declaration

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I declare under penalty of perjury of the laws of the State of Arizona that the foregoing Verified Complaint For Special Action is true and correct to the best of my knowledge and belief and that this Declaration is executed by me on the 26 day of June, 2017, in Maricopa County, Arizona.

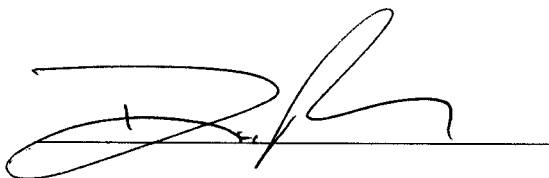
A handwritten signature in black ink, consisting of stylized initials and a surname, written over a horizontal line.

EXHIBIT A

June 20, 2017

VIA U.S. Mail and Email (maricopacitizens@gmail.com)

Maricopa Taxpayers Protecting Citizens
Attn: Robert Rebich, Chairman
20987 N. John Wayne Parkway, #B104-129
Maricopa, AZ 85139

Re: Notice of Refusal to Transmit Signatures to the Pinal County Recorder
Referendum 17-01

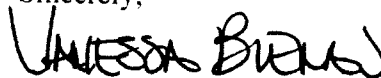
Mr. Rebich,

On June 2, 2017, the Maricopa Taxpayers Protecting Citizens committee filed approximately 86 petitions purportedly containing 1133 signatures for Referendum 17-01 in an effort to refer City of Maricopa CUP 17-01, relating to the operation of a private motorsports facility by Apex Motorsports, to City voters. Under the Arizona Constitution, the power of referendum is limited to those actions that are legislative acts of the City Council (Arizona Constitution Art. 4, Pt 1, §1(8)). The City of Maricopa determined that the approval of CUP 17-01, the subject matter of Referendum 17-01, is an administrative act, rather than a legislative act and, therefore, not subject to referendum. This Office will not transmit the petitions pursuant to A.R.S. §19-121.01.

For your information, while the City was determining whether this matter was referable, I conducted the requisite review of the submitted signatures pursuant to A.R.S. §19-121.01. The enclosed spreadsheet sets forth the 30 signatures that I determined are deficient and the reason for such determination. In addition, although I am not required to decide this issue for the purposes of A.R.S. §19-121.01 disqualification, the margins on the petitions appear to be less than required by law.

Please be advised that I will retain protective custody of the petitions to preserve their integrity during the period within which legal relief may be sought pursuant to A.R.S. §19-122.

Sincerely,



Vanessa Bueras
City Clerk, CMC

Enclosure
cc: City Manager
City Attorney

Petition Sheet Number	Line Number	Reason for Removal	A.R.S. § 19-121.01(A)(3)(b)	A.R.S. § 19-121.01(A)(3)(f)	A.R.S. § 19-112 (A)	A.R.S. § 19-121.01(A)(3)(C)
2	2	City Missing	X			
2	3	City Missing	X			
2	4	City Missing	X			
4	1	Zip Code Missing	X			
4	2	Zip Code Missing	X			
4	7	Incomplete Name		X	X	
10	11	City Missing	X			
11	1	Incomplete Name		X	X	
18	1	Actual Address Missing	X			
22	2	Zip Code missing/dated before serial number issued	X			X
22	3	Zip Code missing	X			
22	4	Zip Code missing	X			
22	5	Zip Code missing	X			
22	6	Zip Code missing	X			
34	7	Incomplete name		X	X	
44	12	Actual Address missing	X			
44	13	Actual Address missing	X			
59	6	Dated after notarization				X
59	7	Dated after notarization				X
59	8	Dated after notarization				X
59	9	Dated after notarization				X
61	11	Actual Address Missing	X			
62	5	Incomplete name		X	X	
65	13	Actual Address Missing	X			
70	2	Missing city	X			
70	3	Missing city	X			
75	1	Incomplete name		X	X	
75	2	Incomplete name		X	X	
77	12	Actual Address Missing	X			
84	7	Actual Address Missing	X			

EXHIBIT B



39700 W. Civic Center Plaza
Maricopa, AZ 85138
Ph: 520.568.9098
Ex: 520.568.9120
www.maricopa-az.gov

STAFF REPORT

To: Planning and Zoning Commission
Through: Kazi Haque, Zoning Administrator
From: Rodolfo Lopez, Senior Planner
Date: April 10, 2017
RE: **PUBLIC HEARING** Conditional Use Permit (CUP) 17-01: Rose Law Group on behalf of Apex Private Motorsports Group LLC, is requesting a use permit to operate a motorsports facility on 280 acres of land located at the Northwest West corner of Ralston Road and State Route 238. **DISCUSSION AND ACTION.**

REQUEST

PUBLIC HEARING; CUP17-01: Rose Law Group on behalf of Apex Private Motorsports Group LLC, is requesting a use permit per as required per the entitled Zoning District, CI-2 Sec. 1801 of the pre-existing Zoning Code, to operate a motorsports facility on 280 acres of land located at the Northwest corner of Ralston Road and State Route 238. **DISCUSSION AND ACTION.**

RECOMMENDATION

Staff recommends approval of case # CUP17-01, subject to the conditions of approval stated in this staff report, and as amended by the Planning and Zoning Commission.

COUNCIL PRIORITIES AND/OR THEMES ADDRESSED

- o Transportation Connectivity
- o Quality of Life
- o Economic Sustainability
- o Managing the Future
- o Public Safety

APPLICANT

Rose Law Group
7144 E. Stetson Dr.
Scottsdale, AZ 85251

Phone: 480-505-3939
Contact: Jennifer Hall
Email: jhall@roselawgroup.com

OWNER

Enterprise 238 LLC
8501 N. Scottsdale Rd. Suite 120
Scottsdale, AZ 85253

Phone: 602-955-2424
Contact: Brad Hinton
Email: bhinton@eldoradoholdings.net

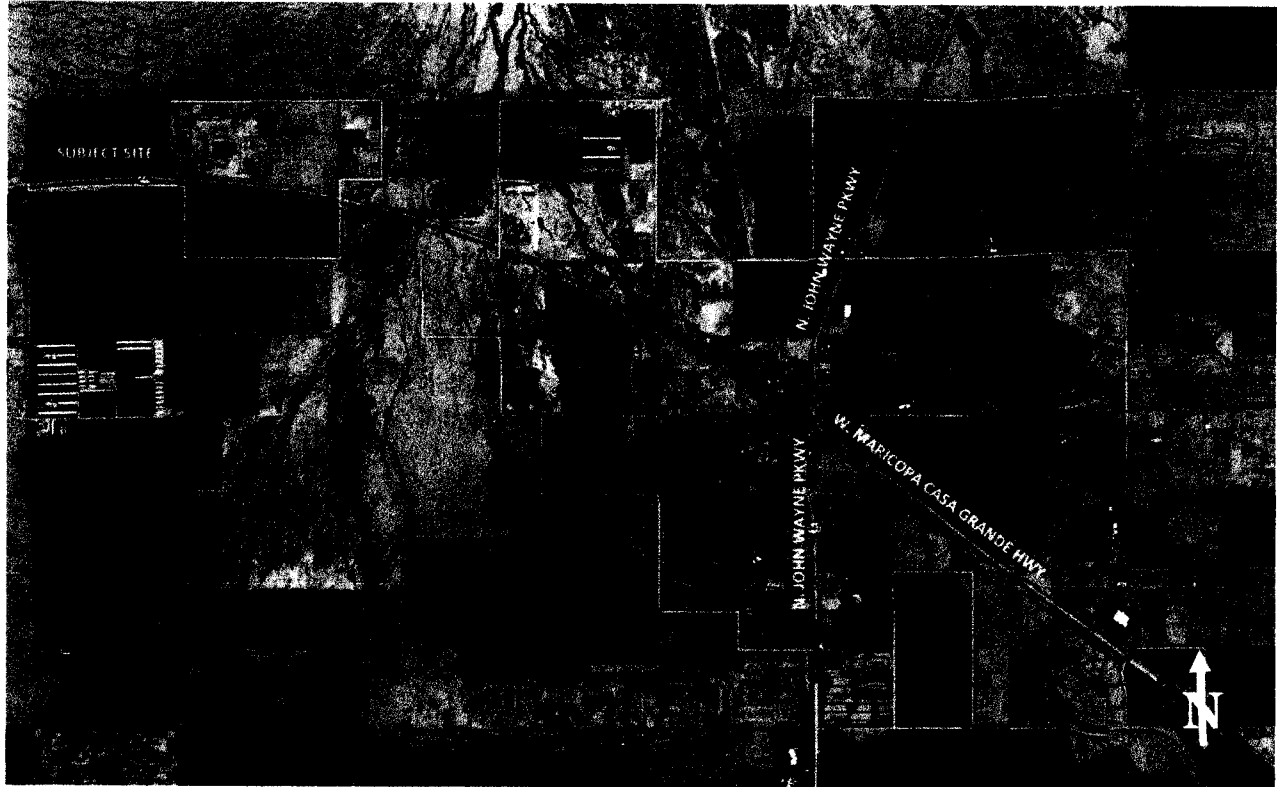
HISTORY

- 1963: County Board of Supervisors approves rezoning from General Rural (GR) to Industrial (CI-2) Zone, case # PZ-07-63.
- 2007: On April 9, 2007, City Council approves annexation petition that includes the subject property.

SITE DATA:

Site Area:	280 Gross Acres
Current Land Use:	Vacant
Existing Zoning:	CI-2 (Industrial Zone)
Existing General Plan Land Use:	Employment and Commercial
Flood Zone:	Not within a floodplain
Parcel #	510-79-003C and 002C

SITE CONTEXT/AERIAL:



SURROUND LAND USE AND ZONING:

Direction	Existing Zoning	Existing Use
North	N/A	Gila River Reservation
East	CI-2 Zoning	Landfill facility
South	Pinal County	Farmland
West	Pinal County	Industrial businesses

STAFF ANALYSIS

Rose Law Group on behalf of Apex Motorsports is requesting an Industrial Use Permit (Conditional Use Permit) to operate a motorsport facility. An Industrial Use Permit is required in accordance with previous Zoning Code, Article 18, Sec. 1801(d). The property was rezoned in 1963 as part of a mass rezoning request from General Rural (GR) to Industrial Zoning (CI-2) to serve several large feed lots. The property was then incorporated into the City's jurisdiction in 2007 as part of annexation petition request ANX06-02.

When the City of Maricopa adopted its current Zoning Code in 2014, the adoption did not re-designate existing zoning districts to the compatible zoning districts in the new zoning code. Instead property owners retained their current zoning district under the previous zoning code; however, all development and improvement standards such as lighting, parking, screening, landscaping, etc., are regulated under the new Zoning Code. ~~During this time of transition, property owners are encouraged to rezone their properties to the applicable zoning district. The only rezoning request that has been approved is for the property located at [redacted] which was rezoned to the applicable zoning district that will allow such use.~~

In the case of Apex Motorsports, a racetrack type of use is listed as a permitted use within the previous Zoning District of CI-2 Article 18. However, per Sec. 1801 (d) ~~an Industrial Use Permit (IUP) is required to be heard by the Planning and Zoning Commission and City Council and shall not be considered for approval until after the Planning and Zoning Commission has held a public hearing on the request. The Planning and Zoning Commission shall also hold a public hearing on the request. The City Council shall then hold a public hearing on the request. The City Council shall then hold a public hearing on the request.~~

The motorsport facility will include a 4.20-mile race track course, clubhouse facility, storage garages for rent, garage condominiums, and go-kart racing track. For further information on the proposed facility please refer to Exhibit A – Narrative.

Per previous Zoning Code, Article 18, Sec. 1801 (d) the following items were required to be submitted by the applicant:

1. Application and concept site plan.
2. A public notice published in a newspaper of general circulation.
3. Site posting on the property of the scheduled public meetings.
4. The applicant held a neighborhood meeting to further solicit input on the request, per the City's Zoning Code, Sec. 502.05 (B).

In reviewing the CUP request, the following items were reviewed to assure that the use will not generate flooding, traffic, or create any health safety hazards or nuisances to the area.

1. **Planning Maricopa (General Plan):** The subject site is surrounded with Employment designation with the exception of a small portion on the Northeast corner of Warren Road and Maricopa Casa-Grande Hwy which is designated as Commercial. Staff has no objection not including a commercial/retail component as staff intends to re-designate the Northeast corner to Employment as part the next General Plan Update (refer to Exhibit D, Land Use

Map Site Location). In addition, the following are goal and objective have been identified as applicable to the request.

A. **Land Use Goal B1.2:** *Develop Maricopa as a collection of villages and districts with distinct community names, themes, and unique character to reflect the variety of character, culture, and history that makes each area of Maricopa unique.*

a. **Objective B1.2.1:** *Proactively manage future development and partner with developers to create distinctive communities.*

Other recreation type activities have naturally located in this general area such as the skydiving operation west of the site, and Southern Dunes Golf course located just east of this proposed site. With the addition of a motorsports facility, the area has the potential to become a recreation activity corridor attracting other similar type businesses.

2. **Site Design:** Site concept layout shows the race track spread out throughout the entire site. Landscape buffer strips are shown on the perimeter of the property, per the submitted conceptual site plan. Site fencing standards will restrict chain link fencing along the public ROW, per the City's Zoning Code development regulations. Adhering to the city's buffer landscape requirements with dense vegetation and fencing standards, and by providing a decorative fencing material other than chain link fencing will help deter mitigate any nuisance sounds generated from the use (Refer to Exhibit B, Conceptual Site Plan).

3. **Sound Study:** Per Zoning Code, Sec. 408.05 (C) the use of automobiles creating unnecessary grating, grinding, rattling or other noise is prohibited if exceeds the maximum decibel levels. ~~To further understand how far noise is generated from such use, the applicant has submitted a sound study report to assist in determining potential noise impact levels. The findings and conclusions are generated to match existing and planned residential development (refer to Exhibit A, Sound Study).~~

4. **Preliminary Drainage:**
The Engineering Division has reviewed the preliminary design and is satisfied with the initial methods by leaving the existing wash in place and providing numerous retention basins, the drainage for the site should be an acceptable engineered solution. Final drainage report and drainage plans will be reviewed and approved as part of the next development stage, Development Review Permit application.

5. **Preliminary Traffic Data:**
~~The Engineering Division does not anticipate major issues regarding traffic congestions. A right turn lane is provided to the east and the applicant has provided a left turn lane on the west side of the site. Additional traffic signal is required for Barron Road, Warner Road and Sun Road. The applicant has provided a signal for Barron Road. The current site plan shows a signal for Warner Road and Sun Road.~~

6. **Technical Advisory Committee Review:**
The application was presented to the TAC on March 7, 2016. No major comment or concerns were made during the review.

PUBLIC NOTIFICATION/COMMENTS

Notification letters were sent out to property owners within 300 feet of the property letters advertising the proposed request and scheduled public meetings. Public notice signs were also posted on the property and a legal notice was published in the Maricopa Monitor and Casa Grande Dispatch ~~also~~ advertising the public meeting date and times (refer to Exhibit C, Citizen Participation Report).

At the time of writing this report, staff has not received any form of objection to the use request, with the exception of Waste Management noticing the applicant of their entitled right of the nearby land use (refer to Exhibit C).

CONCLUSION

Staff has determined, based on the stated facts and criteria, that a recommendation of approval for Conditional Use Permit (CUP) 17-01 be submitted to City Council for their consideration. Subject to the following conditions listed below, and as amended by the Planning and Zoning Commission.

1. Application for Development Review Permit shall be submitted and reviewed in accordance with Article 505 Development Review Permit, and any other applicable sections of the current Zoning Code of the city such as but not limited to, Lighting, Landscaping, Parking, Screening, and Performance Standards.
2. The development shall adhere to all applicable current sections within the city's Subdivision Ordinance and/or subsequent standards City adopts if the site is developed in several phases in the future.
3. ~~If, and when the city initiates a new zoning ordinance to comply with the current Zoning Code, the applicant shall be required to comply with the new Zoning Code.~~
4. All public roadway dedications and infrastructure improvements for Ralston Road, Warren Road, and State Route 238, shall be in accordance with the current City of Maricopa standards and/or subsequent standards that are developed by the City, and as approved by the Director of Public Works or City Engineer and installed by the developer.
5. The applicant shall submit and secure all required applications, plans supporting documents submittals, approvals and permits from the applicable federal, state, county and any other agencies as applicable.
6. The development and operation of the proposed Facility shall be in accordance with all applicable Arizona Department of Environmental Quality (ADEQ) requirements, if applicable, and other regulatory agencies rules and regulations.
7. The applicant/property owner shall have met and complied with all applicable fire codes under the IFC 2012, including amendments, as well as related National Fire Protection Agency (NFPA) guidelines, to the satisfaction of the Maricopa Fire Department.

- Exhibit A – Narrative
- Exhibit B – Conceptual Site Plan
- Exhibit C – Citizen Participation Report
- Exhibit D – Land Use Map, Site Location
- Exhibit E – Sound Study
- Exhibit F – Renderings

-- End of staff report--