



# BOARD OF ADJUSTMENT MARICOPA COUNTY, ARIZONA

205 W. Jefferson Street, Phoenix, Arizona  
and by GoToWebinar

**June 23, 2022**  
**Minutes**

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**CALL TO ORDER:**

Chairman Loper called the meeting to order at 10:01 a.m.

**MEMBERS PRESENT:**

**In-person**

Mr. Greg Loper, Chairman

Mr. Jeff Schwartz

**GoToWebinar**

Ms. Fern Ward

**MEMBERS ABSENT:**

Mr. Craig Cardon

Ms. Heather Personne, Vice Chair

**STAFF PRESENT:**

Mr. Tom Ellsworth, Planning & Development Director

Mr. Darren Gérard, Planning Services Manager

Mr. Matt Holm, Planning Supervisor

Ms. Rachel Applegate, Senior Planner

Mr. Daniel Johnson, Planner

Mr. Joel Landis, Planner

Mr. Joseph Mueller, Planner

Mr. Nicholas Schlimm, Planner

Ms. Rosalie Pinney, Recording Secretary

**COUNTY AGENCIES:**

Mr. Wayne Peck, County Attorney

Ms. Alisha Bach, Technical Team

Ms. Pearl Duran, Technical Team

Mr. Martin Camacho, Technical Team

**ANNOUNCEMENTS:**

Chairman Loper made all standard announcements.

**AGENDA ITEMS:**

BA2022014, V202001428, V202200108, BA2022017, TU2022023,  
TU2022020

**APPROVAL OF MINUTES:**

May 19, 2022

Chairman Loper asked if there were any changes or comments to the minutes for May 19, none.

**BOARD ACTION: Chairman Loper approved the May 19, 2022 minutes as written.**

**WITHDRAWN AGENDA**

**BA2022014  
Applicant:**

**Brown Property (Cont. from 5/19/22)**  
Roderick Brown

**District 3**

**Location:** APN 211-23-227 @ 118 E. Jordon Ln, Phoenix, AZ  
**Request:** Variance to permit:  
1) Existing mare motel accessory structure with a required rear yard coverage of 41.4% when 30% is the maximum permitted per MCZO Article 1106.2.

**Findings:** A legal non-conforming status was granted for the 41.4% rear yard coverage for the Brown Property. Planning Services decided that due to issuance of the building permit B202100795 was done in error which the owner and the contractor proceeded in good faith to complete the work authorized by the issued permit. Due to this determination, the applicant has withdrawn the variance request since it's no longer needed due to the legal non-conforming status that has been granted.

No action required by the Board.

### **CODE COMPLIANCE REVIEW**

<b>V202001428</b>	<b>Code Enforcement Review</b>	<b>District 2</b>
<b>Respondent:</b>	David A. Franson	
<b>Location:</b>	201 N. 88th Pl. Mesa, AZ 85207 (parcel 218-40-128)	
<b>Violation:</b>	Operating a commercial business without entitlements, construction without benefit of permits/clearances, accumulation of junk/trash/debris, occupied RV and parking/storage of unregistered/inoperable vehicles.	

Mr. Gérard presented V202001428 and noted the violation case was opened September 8, 2020 and was verified on September 25, 2020 with photographic evidence. The code officer, Ricardo Garcia who is now retired sent a Notice and Order to Comply (NOTC) ordering the property owner to remove all junk, trash and debris from the site, and remove or store unregistered/inoperable vehicles in compliance with the ordinance and cease and desist commercial activities, and to obtain all necessary permits and entitlements by January 31, 2021. A site inspection was done on February 9, 2021 where the property remained unchanged and a Summons was sent to the property owner on March 11, 2021. An Administrative Hearing was held on April 13, 2021. The Hearing Officer found the property owner responsible and he was ordered to bring the property into compliance, a fine of \$500 plus a \$50 accruing until compliance is verified. The Hearing Officer dismissed if the property is brought into compliance by December 20, 2021. No fine amount has been paid to date. The respondent appealed for Code Enforcement Review on May 4, 2021. This was continued from an original scheduling of July 15, 2021 due to the COVID issues and miscommunication. Unfortunately, Mr. Franson came down last month, but the case was not scheduled. The respondent admitted the violation at the hearing. The Board of Adjustment may either affirm the hearing officer's order of judgment or remand it to the Hearing Officer due to a finding of a procedural error. Staff believes the evidence supports the decision of the Hearing Officer and staff cannot find no procedural error leading up the Hearing Officer's determination. Staff recommends the Board affirm the Hearing Officer's order of judgment. Whatever is decided can be appealed by the property owner to the Superior Court.

Chairman Loper asked it is not in our purview to hear the case itself but whether there was a procedural error. Mr. Gérard said that is correct.

Mr. David Franson, the respondent said this has been going on for over eight years. He's been getting letters for years over the same thing of junk, trash, and debris. As far as the commercial business, he's been working out of his house since 2007, and it is how he earns his living. He never had any complaints until now. He doesn't know who keeps complaining about his property.

Chairman Loper asked if there was something procedural that was done incorrectly. We cannot look at the merits on this case itself. Mr. Franson said he believes it is according to the statute, and next this case would go to a judge. He is here as a matter of due process.

Mr. Franson said it is not their jurisdiction to tell me if my car isn't registered. He has a Mustang that isn't registered because he can't afford to get insurance. Adjacent properties have vehicles with missing tires, wheels and doors and they weren't cited. Code enforcement comes by every two to three weeks taking pictures and try to come up with more charges.

Chairman Loper said there are certain allowances in the zoning ordinance for Home Occupations and Special Use Permits. He encouraged the respondent to explore those options with staff. Mr. Franson said when he went in business for himself in 2008, he went down and got a transaction privilege tax permit. At that time, the City of Mesa called and told him they didn't have his occupancy on file, but said he is not a resident of the City of Mesa and he thought that's all he needed.

Mr. Peck said the statute grants the Board the authority if the Board of Supervisors so desires to hear these appeals. The statute is silent as to what the standard review is, and the Board of Supervisors has told you the standard review is just for procedural errors. If this goes to court, there is not a De Novo hearing. If you were to grant or deny a variance and someone appealed, or interpret the ordinance and someone appeal that, that would be De Novo.

Member Schwartz asked you confirmed you are in violation. Mr. Franson said no.

Member Schwartz said you have a commercial business running from your home. Mr. Franson said he works from his house and no employees. He was told he didn't need a permit. If he needs a permit give him a permit, but they aren't getting any money from him. He is not jumping through a bunch of hoops since he hasn't done anything wrong.

Member Schwartz said it is best to work with staff to see if there is a permitting option, because if this goes to court you never know what is going to happen and it could cost a lot of time and money. If there is a solution the planning department would be more than willing to sit down with you and go over options that may exist. We want people to have success and an earn a living, but there are regulations and rules that everybody must follow with no exceptions or special paths. Mr. Franson said he tried in 2014 with no solutions, just to clean up my property.

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

Mr. Peck said if the Board were to vote that wouldn't change the fact that staff would work with him to try and come up with a solution. The only thing that would change is the time period if he is wishing to go to court. If he filed, we would still sit down and try to get this resolved. This is never because the department needs the money, we care about getting these properties in compliance.

Mr. Gérard said this case has multiple violations - commercial business without entitlement, unpermitted construction, junk, trash and debris, occupied RV, and unregistered/inoperable vehicles. Mr. Franson said his friend comes and spends the winters here and stays in his backyard and he's been doing that since he owned the property. It is two lots with plenty of room.

Chairman Loper said he has not heard any evidence of a procedural error.

**BOARD ACTION: Member Schwartz motioned to Affirm the Hearing Officer's Order of Judgment. Member Ward second. Affirmed 3-0. Ayes: Schwartz, Ward, Loper.**

<b>V202200108</b>	<b>Code Enforcement Review</b>	<b>District 2</b>
<b>Respondent:</b>	David A. Franson	
<b>Location:</b>	201 N. 88th Pl. Mesa, AZ 85207 (parcel 218-40-129)	
<b>Violation:</b>	Junk/trash/debris and overgrown, dried weeds.	

Mr. Gérard presented V20200108 and noted this violation case was opened January 18, 2022 due to citizen complaints. It was verified on January 25 by code officer Mario Bertuccelli who is no longer employed with the department. He took photographic evidence and sent a Notice and Order to Comply ordering that all junk, trash, debris and weeds be removed by February 25, 2022. On February 18 he did another inspection and the site condition was unchanged and noted other violations on the adjacent property also owned by the respondent. He conducted an inspection on March 4 and sent a revised NOTC and a hearing summons. The hearing was held on April 14 and the hearing officer found the respondent responsible pertaining to the accumulation of junk, trash, and debris and the weed violation, but the other charges were dismissed noting to staff there were error with those violations by citing the wrong parcel number. The Hearing Officer ordered a fine of \$30 per day, to commence on May 19 and no fine amount has been paid today. On April 14, the respondent appealed for Code Enforcement Review. The Board may affirm the hearing officer's order of judgment or remand it back to the hearing officer due to a finding of a procedural error. Staff has reviewed the record and found no procedural error specific to what led to the hearing officer's order with regards to weeds and junk, trash, and debris. Fountain grass and pampas grass are not uncultivated vegetation although they go dormant in the winter, the weeds would only be regarding uncultivated vegetation that grows over 12 inches and dries out.

Mr. David Franson, the respondent said in the hearing Mr. Hart stipulated that the grass is not a hazard because it is green and an ornamental grass. Not sure how the grass would constitute a hazard. He had a few items laying in the yard and he doesn't see how that constitute a hazard for public health and safety. There is nothing in the ordinance that states how his property looks. He purposely bought his property in a county island, so he didn't have to deal with HOA's. Now they are making stuff up and telling him how his property looks. They also mentioned that old washer and dryer sitting outside, which is a new washer and dryer, but he hasn't gotten the plumbing fixed in the house to hook it up. It shouldn't matter since it's not a threat to public health and safety.

Chairman Loper said the county responds to complaints and they don't go looking for things. He asked if there is a specific procedural error or process, they didn't follow that was incorrect. Mr. Franson said the incorrect interpretation of the statute is procedurally wrong. He keeps getting railroaded any time he tries to work with them. He wants staff to point out the hazards to public health and safety. They describe his property as filth, and he doesn't see anything that

would justify that, and you don't get to tell him how his property looks. That is why he wants to sue, and he has been dealing with this for eight years.

Member Schwartz said it looks like there is cluttered debris on your property and you may think differently. The County applies the statutes and regulations to everybody the same across the board.

**BOARD ACTION: Member Schwartz motioned to Affirm the Hearing Officer's Order of Judgment. Member Ward second. Affirmed 3-0. Ayes: Schwartz, Ward, Loper.**

### REGULAR AGENDA

<b>BA2022017</b>	<b>Taylor Residence</b>	<b>District 4</b>
<b>Applicants:</b>	David Shane & Meg Taylor	
<b>Location:</b>	APN 200-07-036L @ 8204 W. Williams Rd. – 83rd Ave. & Williams Rd., in the Peoria area	
<b>Requests:</b>	Variance to permit: <ol style="list-style-type: none"><li>1) As-built setback of 5' for a private outdoor recreational court where 20' is the minimum permitted per MCZO Article 501.2.15.c and;</li><li>2) As-built setback of 4' for accessory use lights where 20' is the minimum permitted per MCZO Article 501.2.15.e</li></ol>	

Mr. Johnson presented BA2022017 and noted the request would allow the applicant zoning clearance and building permit issuance for the pickleball court and lights. The request fails to meet the statutory test for variance approval due to no peculiar condition on the lot that prevents the recreational court meeting the required setback. Staff has received three letters of support from adjacent neighbors.

Chairman Loper asked does this fall under accessory uses in a rear yard. Mr. Johnson said there are specific setbacks requirements for recreational structures including lighting.

Member Schwartz asked is the permanency of the net causing this to be a recreational use. Mr. Gérard said it is the use of the area as a sports court and the lighting height is limited to 20 feet for an accessory sport court. You can have a mare motel at 3 feet, but an accessory court needs to meet a separate setback. Member Schwartz asked if they didn't call this a sport court and just put a multi-functional slab and then they wouldn't have to come in front of the Board. Mr. Gérard said that is correct. They still must come in for a construction permit for the lights and that would trigger if they meet the setbacks.

Chairman Loper asked if the lights were on the other side of the court then they wouldn't need the variance. Mr. Johnson said yes it would meet the requirement. Chairman Loper said then it would shine more at the neighbors. Mr. Gérard said there are shielding requirements and that's another reason for the lower height.

Mr. Shane Taylor, the property owner said they purchased the property in July 2020, and they had plans to remodel the house, build a casita, and use the backyard for our family and children. We did build the casita and built the pickleball court. The property was used previously for a storage facility for semis, so the neighbors were happy when we bought the property and started

improving it. We pulled a permit to enlarge our septic tank to do the other improvements, then we pulled a permit for the casita, and next we started working on the pickleball court not knowing we needed a permit for that. We weren't aware of the zoning requirement of a 20-foot setback for a recreational court and we assumed that all accessory structures had the same setbacks as our casita. He understands that ordinance is there for sound and noise. One of the remedies is to relocate it, but it would cost too much to do so and he wouldn't know where else to put it. There is a leach field next to the pickleball court and casita and it would be challenging to move the court. We would like the variance so we can continue to use it as is. This variance wouldn't negatively affect the community or our neighborhood. We checked with our neighbors and they were all fine with the pickleball court, and they all wrote support letters. We are willing to get the proper permitting.

Member Ward said she understands the problems with trying to build around a leach field.

Chairman Loper asked if he would have objection to have some shielding for the lights. Mr. Taylor said he is okay with that.

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

**BOARD ACTION: Member Schwartz motioned to approve BA2022017 with conditions 'a'-'b'. Member Ward second. Approved 3-0. Ayes: Schwartz, Ward, Loper.**

- a. Variance approval establishes a 5' private outdoor recreational court (west) setback line for APN 200-07-036L.
- b. Variance approval establishes a 4' accessory use light (west) setback line for APN 200-07-036L.

<b>TU2022023</b>	<b>Temporary Seasonal Sales- Fireworks</b>	<b>District 5</b>
<b>Applicant:</b>	Karen Herman	
<b>Location:</b>	APN 211-52-014G @ 824 E Carefree Hwy., in the North Phoenix area	
<b>Request:</b>	Temporary Use Permit: <ul style="list-style-type: none"><li>1) Seasonal sales of fireworks per Maricopa County Zoning Ordinance (MCZO), Article 1302.2.6.</li></ul>	

Mr. Johnson presented TU2022023 and noted the site is zoned commercial and is five acres. The temporary use request is for seasonal sales of fireworks for a period not to exceed 11 days, from June 24 to July 4 between the hours of 8 a.m. to 10 p.m. with a temporary pop up tent. Staff has found this is an allowed use per the MCZO. As part of the temporary use process, a public notice is required to be posted for 10 calendar days. One letter of opposition was received with concerns of fire risks associated with the sales of fireworks in the state of Arizona. Staff is in the opinion the applicant has satisfied the requirements regarding temporary seasonal sales. Staff recommends approval of the Temporary Use Permit. The site was posted in accordance with the MCZO and the reviewing agencies do not have any objections to the request.

Ms. Karen Herman said she is part owner of Red Hot Fireworks. She and her husband moved here in 2010 to start their business and she has sold fireworks for 40 years. They have been working with the county for 10 years, twice each year and have been approved with no problem. The State of Arizona approves the sale and use of safe and sane fireworks, and that is the type they

sale. They stay on the ground or go up about 10 or 12 feet and must stay connected to the ground. They do not sale explosives or aerals. The larger corporate firework company's like TNT, have representatives that get corporate contracts with the big box stores and sale their products inside the stores or in the parking lot. Independent firework company's like hers are forced to look for a lot, and they have been in this location for several years without any problems. Daisy Mountain Fire has worked with them for 10 years and they already obtained their permit with them. They follow all the guidelines and safety requirements.

Mr. Gérard said staff would have administratively approved this TUP, but since they received a general opposition letter it came before the Board.

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

**BOARD ACTION: Member Schwartz motioned to approve TU2022023 with conditions 'a'-'h'. Chairman Loper second. Approved 3-0. Ayes: Schwartz, Ward, Loper.**

- a. Development of the site shall be in substantial conformance with the site plan entitled "Site Plan-2", stamped received May 27, 2022, consisting of 2 pages, except as modified by any condition identified herein.
- b. Use of the site shall be in substantial conformance with the Narrative Report entitled, "Red Hot Fireworks", consisting of 1 page, stamped received May 11, 2021, except as modified by any condition identified herein.
- c. Use of the site shall be in conformance with the Supplemental Questionnaire, consisting of 1 page, stamped received May 11, 2022, except as modified by any condition identified herein.
- d. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with any condition.
- e. This Temporary Use Permit is authorized for seasonal sales on the following dates: June 24 through July 4 from 8:00 a.m. to 10:00 p.m. Changes in proposed dates shall be provided to staff at least two weeks in advance of the change in event dates. This Temporary Use Permit shall expire on July 5, 2022 and all associated structures must be removed within 48 hours. The Temporary Use Permit letter must be visibly displayed at the front of the property at all times. Failure to meet this display requirement shall result in revocation of the Temporary Use Permit if a Zoning Citation is issued.
- f. The property owner/s and their successors waive claim for diminution in value if the County takes action to rescind approval due to noncompliance with any condition.
- g. Approval of the Temporary Use is not an approval to construct. Prior to construction, development or use of the property, the applicant/owner shall obtain all necessary clearances and construction permits.

- h. All development and engineering design shall conform with the Drainage Regulation, Drainage Policies and Standards and current engineering policies, standards and best practices at the time of application for construction.

<b>TU2022020</b>	<b>Olson Property</b>	<b>District 4</b>
<b>Applicant:</b>	Kathleen Coombs	
<b>Location:</b>	APN 200-89-236 11417 Hacienda Dr. – 103 <sup>rd</sup> Ave. & Alabama Ave., in the Sun City Area.	
<b>Request:</b>	Temporary Use Permit:	
	1) Underage occupancy of a minor in the Senior Citizen Overlay.	

Mr. Mueller presented TU2022020 and noted the request is for a Temporary Use Permit for underage occupancy of a minor in the Senior Citizen Overlay. The applicant's mother is 96 years old; she needs care and assistance especially during the night. The granddaughter in her late 20's has spent nights at the residence to serve as an overnight caregiver. A letter from the homeowner's doctor has stated this care is needed and appropriate. The granddaughter has a five-year-old child that also spends the night at the residence. Granting this TUP will allow the underage child to temporarily reside at the residence. Staff has received 1,154 letters of opposition and nine letters of support. Many of the opposition were general concerns of the senior citizen overlay. The zoning establishes a senior citizen zoning district overlay, it dictates that each residence if occupied must have at least one person no less than 55 years of age and no person 18 years or younger. The zoning ordinance also establishes a Temporary Use Permit may be sought reason of exceptional or unusual family situation to allow persons not in conformance with the age limitations. This temporary use approval will allow occupancy for a minor in the senior citizen overlay for one year from the Board's approval.

Chairman Loper said this use is temporary and it has no impact on the senior citizen overlay. Mr. Mueller said that is correct. Chairman Loper said the senior citizen overlay would still apply to this property, they would just have a Temporary Use Permit to allow for the underage occupancy of a minor. Mr. Mueller said that is correct.

Member Schwartz asked how long a Temporary Use Permit is for. Mr. Mueller said the maximum amount per the ordinance is two years, but staff's recommendation for this case is one year.

Member Schwartz asked if it was a home care service and they brought their child along it would still be the same process. Mr. Gérard said it would be the same situation since they are residing their overnight.

Mr. Gérard said we are looking at the residential zoning under the Senior Citizen Overlay and the community needs to file an annual report stating they maintain the rules for the overlay. They have to report that at least 80 percent of households throughout the zoning district comply with the age requirements. That means 20 percent would not have to comply, which is a very big number. In the last three years, there has been only two underage occupancy Temporary Use Permits in Sun City.

Ms. Kathleen Coombs, the applicant said we were notified by Sun City last year and her granddaughter was just visiting and went back to Colorado. Then on September 21 she had to come back because her sister that was watching their mother had heart problems. Our granddaughter came back to stay with our mother, and she has a five-year old son. She works



during the day and the child is in daycare and they stay the night with her. She is 96 with her health declining, and she has been falling. This is a temporary situation and we checked into homes and they cost \$8,000 a month. We don't want to change anything; this is just temporary. The county informed us of the Temporary Use Permit, and we have taken all the steps the county said to do.

Chairman Loper stated this is a request for a Temporary Use Permit, not to remove the Senior Citizen Overlay.

Chairman Loper said Melinda Wills, Kay Capps, James Wills, Bonnie Swank, Maja Becker, Deborah Shaub, Benjamin Shaub, Kimberly Johnson, Jay Johnson, and George DeHaven do not wish to speak and are opposed.

Ms. Susan Beaman said she recently acquired a home in Sun City. Her father used to live in Sun City for 30 years and she would come from Los Angeles to be with him. When he got sick, she moved to come help him. She moved to Youngtown since she had two minor children and she obeyed the rules of Sun City. At that time, she hired someone to watch her kids while she went to help her father. When her son wants to come visit, she told him he only has two weeks and he knows the rules of how long he can stay. Youngtown was the first 55 year and older community in the state, but it was ruined because of a court case allowing a variance of a minor. When one person gets to do it everyone wants to do it.

Mr. Frederis Stow said he lives in Sun City and their CC&R's give a very clear way to handle a situation like this. An underage person under the age of 19 can live there for 90 days within a 12-month period for situations just like this, to get in a resolve the problem and move on. All the homeowners in Sun City has signed the CC&R documents to understand and abide by the rules. He asked the Board to deny this TUP.

Chairman Loper said CC&R's is a private agreement and are not enforced by the county. A Temporary Use Permit has no impact on CC&R's.

Ms. Patricia Stow said she lives in Sun City and when COVID hit she received a call from her daughter who found that distance learning wasn't very good and asked to come down and have her teach her grandson. So instead she decided to pack up all her teaching materials and move to Henderson, Nevada for two years. She is representing all the people that have taken the CC&R's very seriously. This was a difficult thing to do, but to maintain the quality of life we have in Sun City she chose to do that along with many others who have been in the same situation as Ms. Coombs.

Mr. William Shaw said he moved to Sun City for retirement and suggested they sale the home and move to another area. After the one-year timeframe, they would want an extension to the TUP and how long would this go on. Sun City is not designed to have children under 18.

Mr. Michael Blachet said he lives in Sun City and he knows it is a difficult situation for Ms. Coombs. He's been through it and knows it is expensive and hard. This TUP shouldn't be considered there are other solutions. This is a Senior Citizen Overlay along with the CC&R's. She wants to be allowed to break the law. There is no reason for an underage person to be here especially with no schools.

Mr. Bill Cook said he is the general manager of the Recreation Centers of Sun City. He supports the fitness centers and golf courses and the residents of Sun City. There have been others that have had family members with health issues. There is no evidence that this will become a rule once this is approved and more requests may come about. Youngtown lost their overlay in 1997. If we lose homeowners and occupancy rates go down, he loses his revenue stream that pays for all his employees. He would like the Board not to make any exceptions.

Mr. Ritchie Miller said when moving to Sun City each owner signs a document on their behavior and how to treat their property. We all signed it and acknowledged it, no kids. If you open this Pandora's box everybody will apply for a TUP and that will ruin Sun City. Their family owns three houses on the same block they can work out some sort of solution. This has been going on since last fall. He asked the Board to deny this request.

Ms. Lila Johnson said she moved to Sun City one week ago. She specifically moved to Sun City because of the 55-year-old plus community. She had a two-hour orientation with the rules and regulations, and they are very clear. She has compassion for what the family is going through but there are many other alternatives.

Mr. Richard Atwood said he moved to Sun City 14 years ago from Colorado because of the weather and a senior community. There are rules with the HOA. We have problems during the summer with crime when teenagers are here on their breaks for those 90 days. This is a nice friendly community with hardly any walls, but the kids trespass and free roam because there is not much for them to do.

Mr. Eric Hoagland said he is a homeowner in Sun City and the Sun City Homeowner's Association (SCHOA) president. We don't want to jeopardize our Senior Citizen Overlay. We mean no harm and don't want to put people on the street, but we need to protect our community to keep it the way it is. This is a place we can retire in our golden years in a specific environment and people under 19 do not fit in that environment. We advocate for the community and if you don't approve it what happens then. Our CC&R's reflect the 55 plus overlay. Member Schwartz asked the CC&R's allows for 90 days and is there anything about consecutive 90 days. Mr. Hoagland said the 90 days is sufficient to accommodate those visiting with children, and enough time resolve any issues. The homeowner could apply to the board of directors for a variance to deal with their situation. In this case, they haven't asked us to consider this and did speak with our compliance staff in August last year and this was supposed to be resolved by September 15, but here we are today.

Member Schwartz asked after 90 days occurs can somebody move out and then come back in a start another 90 days. Mr. Hoagland said it is 90 days in a 12-month period.

Member Schwartz said he comes from a family of immigrants and they always moved in with their families. It is a sensitive issue regardless of what is written, we care about our family and want to have the best care for them.

Mr. Steven Collins, a resident of Sun City said he has written up a family for five years, but they don't have the authority to do anything about it only Maricopa County has the authority to enforce it. He doesn't want another circumvent to the rules when we are already having a difficult time enforcing our rules in Sun City. Everyone signed the papers, and everyone knows

the rules; this is a 55 and older community. In 1973, they voted to eliminate Sun City from the Peoria School District and we are not part of it at all because of our overlay.

Ms. Susan Lafreniere said she is a 20-year resident of Sun City. She has compassion to this, if the Board approves this with over 1,000 letters in opposition and only 3 in favor you are clearly setting a precedent. This will have consequences and affect the quality of life, property values and taxes. You need to look at the history as mentioned in Youngtown. This family owns several properties on this street, and they should have other options. When they purchased their properties, they should have clearly understood the Sun City CC&R's which are legal binding documents. They agreed to live in this community with the age restrictions. She asked the Board to not approve this Temporary Use Permit.

Mr. Bill Cook said we have multiple long-term care facilities in Sun City, and he would be more than willing to speak with the family and discuss some options.

Mr. Korby Spielberg said he's been a resident for two years and he moved here solely because of the 55-year-old age restriction. This family owns multiple homes and they should have the ability to accommodate in this recreational environment. There are a lot of assisted living facilities, there is no need for a 28-year-old and a 5-year-old to be living here. This is an age restricted community governed by 55 and older. They can find another alternative.

Mr. Michael Graham said he is sympathetic to this situation, but there are thousands of Sun City residents that moved here specifically for the 55 plus overlay and the overlay is the one reason Sun City exists. When a property owner disobeys the rules, they are putting all us in jeopardy. If we allow this, we could lose our overlay unless we defend it. The HOA has been trying to make the property owner comply since August 2021, and he doesn't believe this is a temporary situation.

Ms. Annemarie Mahoney said she moved to Sun City one year ago. This will open the gates if this TUP is allowed. Everybody should have read the CC&R's and accepted them. This is a privilege that we all cherish, and they shouldn't have someone underage live here. They should have some other options. It was said on a previous case, we all have rules and regulations to follow and they shouldn't get a special pass.

Ms. Rita Tillery said she is a former treasurer and director of the Sun City Homeowner's Association. She echoes everyone's opposition to this TUP. She has no argument that individual circumstances change as we age. We all must be prepared to make the necessary changes to fit the situation and that could mean moving or other options. It doesn't mean making an exception with an underage child and violating the CC&R's. She asked the Board to not allow this.

Ms. Lonette Sullivan said this family has violated the Sun City HOA overlay and the CC&R's. Sun City is a senior community and we agreed to certain restrictions when buying our homes. This exception could establish a precedent and the family has many other options available. This community is not designed for children or young families. We have no schools and no playgrounds, and it is not in the best interest for this child, family, or community to grant this exception. She asked this TUP to be denied.

Ms. Judy Moore said she has lived in Sun City since 2010. It is the responsibility of the residents and owner to meet the age restrictions of 55 and older and maintain it. It was said a TUP that allows underage occupancy will not affect our Fair Housing Act exemption, she would like to see proof it can never affect their senior citizen overlay.

Ms. Laverne Porsche said she is asking the Board to disapprove this request. Granting this request has the strong potential to put all Sun City residents in economic jeopardy. Many residents are living solely on their social security. It is only because of the age overlay and school related property taxes that many residents can continue to live here. If a child moves in for an extended period of time, Maricopa County could challenge the age overlay and ask school taxes to be permitted against all Sun City residents and they could lose their homes if they couldn't afford the taxes.

Ms. Noreen Nickersoncruz said she is the daughter that has been caring for her mom, Audrey Olson. She lives next door and has lived in Sun City for eight years. This request will not affect the overlay. She has been harassed telling her to move her mom to a nursing home, but she is trying to protect her mother's autonomy. Her mom wants to stay in her own home. It has been taking some time to recover from her health condition to care for her mother. Her niece has been able to care for her mother while she recovers. This is a temporary request and she asked the Board for their approval.

Ms. Nanette Nelson said she moved to Sun City a few years ago, her sisters and her parents reside here as well. They wanted to be close to their parents where they coordinate to help with care and take them to appointments. She would love to have her grandkids live here, but she wouldn't do that because she signed the documents when she moved in. If they have so many family members living on the same street, she doesn't understand why somebody else can't spend the night with her and take turns to avoid this exclusion to the regulations.

Mr. Jerome Walczak said he is opposed to this request. He is the vice president of the Sun City Condo Association and we get weekly requests for exceptions of the age overlay. Underage occupants can only stay 90 days within one calendar year, then they must wait another 360 days before they can do it again. He asks the Board to not grant this request.

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

Chairman Loper said this is a difficult issue and it gets tough as we age, and he understands wanting to stay in their own home. The Temporary Use Permit is a remedy from the provisions of the senior citizen overlay, and it does not affect the senior citizen overlay.

Member Schwartz said this is a sensitive issue and we all have family members where we had to figure out other options for them. He believes there are other options available that should be looked at first before coming to the Board. He is not in support of this application.

Member Ward said this is a hard decision to make and she remembers when Youngtown had their problems. Sun City isn't for everybody, she has five grandchildren and it is not for her. People move to Sun City knowingly understand they are giving up rights for other comforts. This could be their final homes and they should have plans for palliative care. This is a senior community, and this is very important to them. She can't support this request.

**BOARD ACTION: Member Schwartz motioned to deny TU2022020. Member Ward second. Denied 2-1. Ayes: Schwartz, Ward; Nays: Loper.**

**Adjournment:** Chairman Loper adjourned the meeting of June 23, 2022 at 12:23 p.m.

Prepared by Rosalie Pinney  
Recording Secretary

June 23, 2022