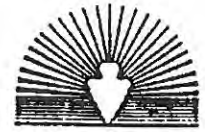




LAND USE SERVICES DEPARTMENT
PLANNING DIVISION
PLANNING COMMISSION STAFF REPORT



HEARING DATE: March 7, 2013

AGENDA ITEM # 2

Project Description

Vicinity Map

APN: 3037-161-18
Applicant: Ben W. Eby
Community: Phelan/1st Supervisorial District
Location: Northwest corner of Flowerfield Street and Sun Down Drive
Project No.: P200900360/CF
Staff: Tracy Creason
Rep: Jonathan L. Zane Architecture
Proposal: A) Conditional Use Permit to establish a 20000-square foot covered arena with a 6000-square foot barn, both for personal use only on a portion of 4.28 acres; B) Major Variance to allow the accessory structures to extend in front of the primary residence



18 Hearing Notices Sent On: February 22, 2013

Report Prepared By: Tracy Creason

SITE INFORMATION

Parcel Size: 4.28 acres
Terrain: Slopes from the southwest to the northeast, with elevations between approximately 4255 and 4230
Vegetation: Installed landscaping near residence; cleared elsewhere

SURROUNDING LAND DESCRIPTION:

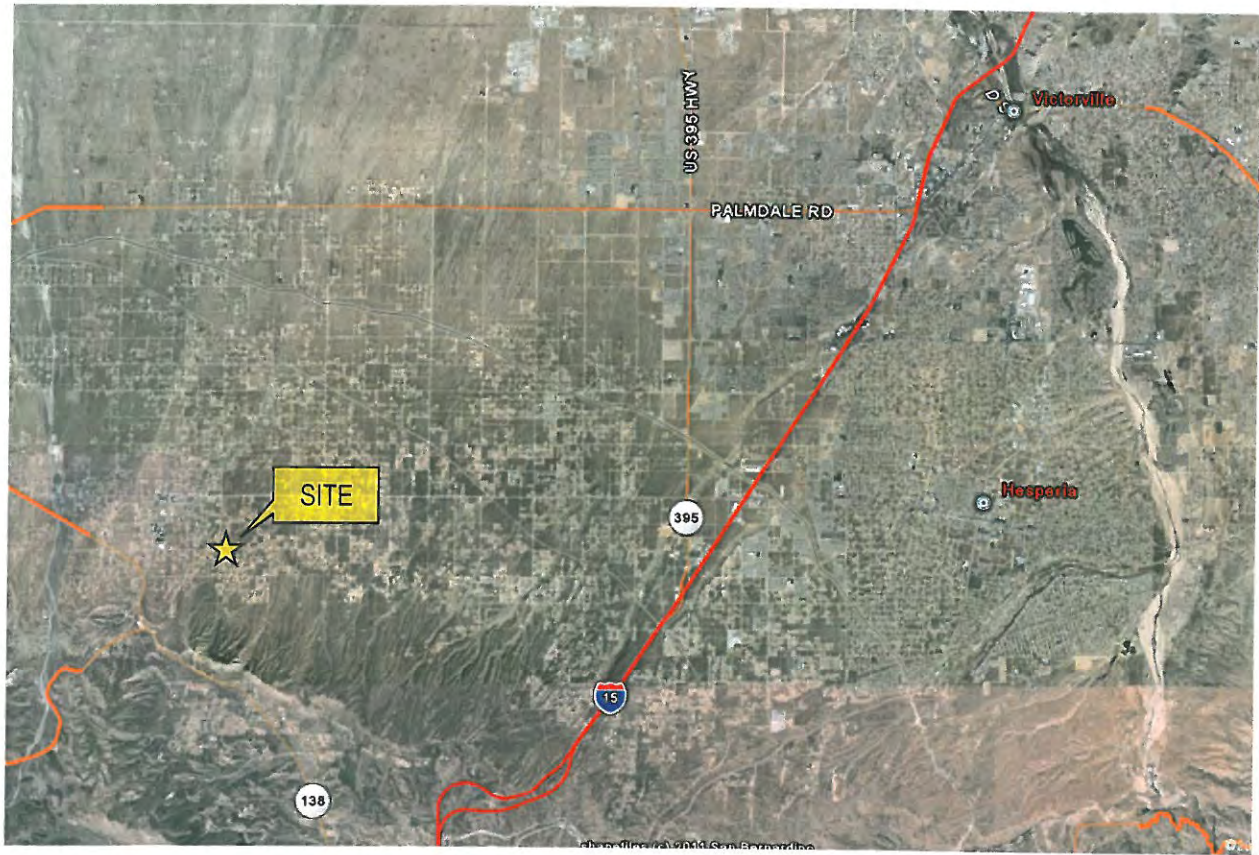
AREA	EXISTING LAND USE	LAND USE ZONING DISTRICT / OVERLAYS
Site	Gold Rush Gypsy Vanner Farms / Single Family Residence / Accessory Structures	PH/RL – Phelan Pinon Hills Community Plan/Rural Living; FS-2 – Fire Safety; FP-3 – Flood Plain
North	Gold Rush Gypsy Vanner Farms / Accessory Structures	PH/RL – Phelan Pinon Hills Community Plan/Rural Living; FS-2 – Fire Safety; FP-3 – Flood Plain
South	Single Family Residences	PH/RL – Phelan Pinon Hills Community Plan/Rural Living; FS-2 – Fire Safety; FP-3 – Flood Plain
East	Single Family Residences / Vacant	PH/RL – Phelan Pinon Hills Community Plan/Rural Living; FS-2 – Fire Safety; FP-3 – Flood Plain
West	Gold Rush Gypsy Vanner Farms / San Bernardino County Drainage Easement	PH/RL – Phelan Pinon Hills Community Plan/Rural Living; FS-2 – Fire Safety; FP-3 – Flood Plain

	AGENCY	COMMENT
City Sphere of Influence/MAC/CAP:	None	N/A
Water Service:	PPHCSD	Will continue to serve
Sewer/Septic Service	Septic	EHS Approval Required

In accordance with Section 86.08.010 of the Development Code, this action may be appealed to the Board of Supervisors.

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VICINITY MAP



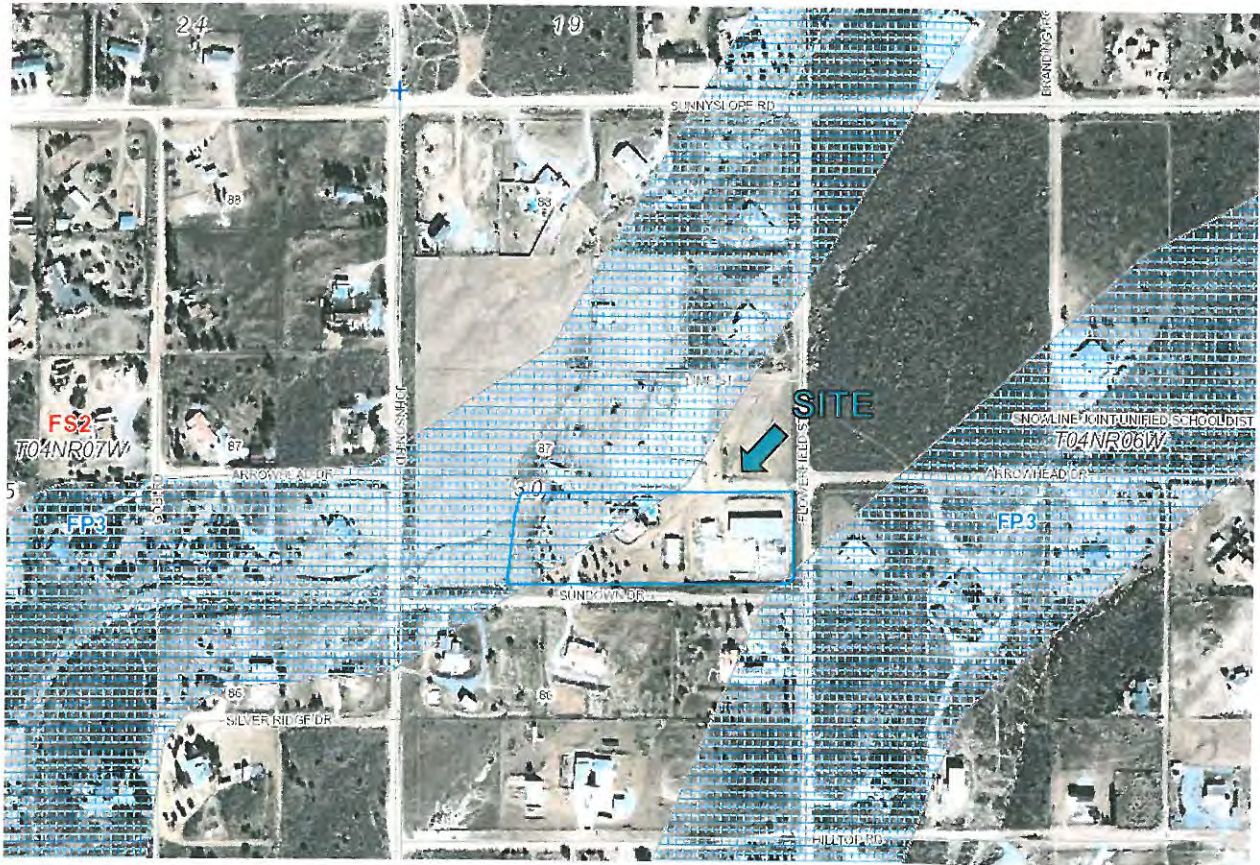
AERIAL VIEW



LAND USE ZONING DISTRICT MAP



HAZARD OVERLAY MAP



SITE PLAN



BACKGROUND:

The applicant is the owner and operator of Gold Rush Gypsy Vanner Farms, a breeding and training facility on the site and approximately 15 adjacent acres to the north and west. The proposed project (Project) is an application to establish a new 20,000 square foot covered arena and a 6,000 square foot barn, both for private use only, on a 4.28-acre rural residential property in the community of Phelan. The application was originally filed as a Minor Use Permit (MUP) with a Major Variance (Variance) request. Due to public controversy in the form of objections from several neighbors, the MUP application was elevated to a Conditional Use Permit (CUP), requiring a public hearing by the Planning Commission. The Variance is requested to allow the accessory structures to extend in front of the primary residence. According to a letter of intent filed with the application, the proposed structures will support horse breeding and training on the Project site.

In April of 2006, the applicant submitted plans for a 29,000-square foot barn/arena to County Building and Safety (BNS). BNS issued a plan review correction notice, requesting engineering for the structure and Planning Division approval of the structure and its location. The BNS Plan Review expired October 9, 2006. The plans were never re-submitted, and no permit was issued, but the structure was constructed.

In December 2008, the High Desert received heavy snowfall. Under the weight of the snow, the unpermitted arena collapsed. In 2009, BNS issued two Notices to Stop Work on all non-permitted construction activities, as well as an Order to Comply. On June 30, 2009, the applicant submitted the MUP application for a 20,000 square foot covered arena and a 6,000 square foot barn, with a Variance to permit the accessory structures to extend in front of the primary residence. Comments received in response to the Project notice discussed neighbor concerns about previous public events at the unpermitted arena. As a result of the significant opposition to the Project, the MUP application was elevated to a CUP. Based on the applicant's assertion that the facilities are proposed for private use only, staff continued processing the applications as a proposal of accessory structures for private use, without public assembly.

Neighboring property owners also expressed concern about the "commercial horse business" on the site and two adjacent vacant properties owned by the applicant, which total approximately 19 acres. In the RL land use zoning district, the Development Code (Code) permits animal keeping as a primary or accessory use. As a primary use in the RL zoning district, the Code permits horses at a density of one per 10,000 square feet. Using this density formula, the 19 acres (827640 square feet) could support 82 horses. Although the horse numbers fluctuate due to sales and breeding cycles, the average number kept on the subject site and adjacent acreage is 50. The Code also allows an agricultural accessory structure up to 10,000 square feet on parcels that are five acres or less, but requires a use permit (MUP or CUP) for an agricultural accessory structure greater than 10,000 square feet on five acres or less.

Location and Setting: The site is located at the northwest corner of Flowerfield Street and Sundown Drive, in the Phelan Pinon Hills Community Plan area. Access to the single family residence on the site is from Sundown Drive. Access to the proposed arena and barn is taken from Flowerfield Street on an adjacent parcel to the north, which the applicant owns. Little to no vegetation exists on the three parcels associated with the horse ranch, including the Project site. Elevations range from approximately 4255 to 4230 feet above mean sea level. The entire property is within the Fire Safety 2 overlay and the western portion of the site is within the Flood Plain 3 overlay.

ANALYSIS: CONDITIONAL USE PERMIT

Aesthetics/Visual: The properties in the general area of the Project site range in size from 2.5 gross acres to 40 gross acres, although most are 2.5 gross acres. The zoning is PH/RL in all directions for a minimum of ½ mile, which permits a single dwelling unit on a minimum 2.5-acre parcel.

Surrounding property owner opposition to the Project included concerns about visual impacts, specifically restriction of the views from neighboring homes. The Code establishes 35 feet as the maximum height of structures in the RL land use zoning district, but allows miscellaneous structures, including barns and other farm structures in the RL land use zoning district, to exceed the maximum structure height by no more than 50 percent – an overall height of 52.5 feet. The arena structure will be approximately 24.5-feet tall at its peak, while the attached barn will be 20-feet tall. Only the barn will have solid sides; the arena will have open sides.

The structures are proposed to be 25 feet from the property line along Flowerfield Street and 30 feet from the property line along Sundown Road. Animal raising and equestrian opportunities define the rural residential lifestyle of the Phelan Pinon Hills Community Plan area. Within the area, accessory structures associated with agricultural and animal keeping uses are common.

ANALYSIS: MAJOR VARIANCE

Project Description: A variance to allow the accessory structures to extend in front of the primary residence is requested. The long, narrow Project site, on the corner of Flowerfield Street and Sundown Road, contains two frontages. The existing residence is situated just west of the east/west center of the property, near the northern property line. The FP-3 overlay covers the western third of the property, with street frontages to the south and east.

The Code prohibits detached storage structures from extending in front of the primary structure. Due to the shape of the parcel, the location of the existing residence, and the hazards affecting the site, the proposed structures cannot be constructed behind the primary residence on the site. In order to approve a variance, the Development Code requires certain findings to support the need for a variance. These findings are included in Exhibit A.

ENVIRONMENTAL REVIEW:

Planning Staff prepared an Initial Study (IS) for the Project pursuant to County Guidelines under Ordinance 3040 and Section 15063 of the California Environmental Quality Act (CEQA) Guidelines. Staff prepared and mailed 15 Notices of Availability (NOA) on November 16, 2012. The Initial Study was posted with the Clerk of the Board and on the County website for public review. Staff received two responses to the NOA from surrounding property owners. Both reiterated objections to the Project as outlined in responses to the initial Project Notice, including the following:

- Commercial use of structures for existing horse business
- Previous lack of approvals
- Continuing neighborhood impact from horses
- Dirt and dust resulting from tractor work/grading associated with the horse business

The Initial Study has been updated to clarify that the Project was designed to avoid potential impacts. This clarification does not identify a need for mitigation measures. No new or different conclusions were reached as a result of adding clarification to the Initial Study, which concludes that the proposed Project will not have a significant effect on the environment. Therefore, a Negative Declaration is proposed for adoption by the Planning Commission.

SUMMARY:

The proposed Project is consistent with County goals and policies regarding land use, specifically the Phelan Pinon Hills Community Plan priority to preserve the community character by maintaining animal raising and equestrian opportunities in the rural residential areas of the community. Therefore, Planning Staff recommends approval of the Project.

RECOMENDATION: That the Planning Commission:

- 1) **ADOPT** the Negative Declaration and find that the Initial Study was completed in compliance with the California Environmental Quality Act, that it has been reviewed and considered prior to approving the Project and that the Initial Study/Negative Declaration reflects the independent judgment of San Bernardino County;
- 2) **ADOPT** the Findings for approval of a Conditional Use Permit and a Major Variance as contained in the Staff Report;
- 3) **APPROVE** the Conditional Use Permit to establish a 20,000-square foot covered arena with a 6,000-sqaure foot barn, both for personal use only on a portion of 4.28 acres;
- 4) **APPROVE** the Major Variance to allow the accessory structures to extend in front of the primary residence; and
- 5) **FILE** a Notice of Determination.

ATTACHMENTS:

Exhibit A: Findings
Exhibit B: Conditions of Approval
Exhibit C: Initial Study
Exhibit D: Correspondence