

ATTACHMENT E

From: [Stephen Nolan](#)
To: [Matteo Moric](#)
Subject: Fw: Agenda for Special Racing Commission meeting, Tues. Dec 5th, 2023 @ 2:30
Date: Monday, December 4, 2023 2:56:19 PM

----- Forwarded Message -----

From: Stephen Nolan <nolanhorseracing@yahoo.com>
To: Council District 3 PCC <council.district.3@phoenix.gov>; Debra Stark <debstarkaz@gmail.com>
Sent: Monday, December 4, 2023 at 02:54:46 PM MST
Subject: Agenda for Special Racing Commission meeting, Tues. Dec 5th, 2023 @ 2:30

Link to Agenda

<https://gaming.az.gov/file/4434/download?token=UsTxivZ7> [gaming.az.gov]

From: [Stephen Nolan](#)
To: [Rudy Casillas](#); [Ana Armenta](#); [Council District 3 PCC](#); [Debra Stark](#); [Matteo Moric](#); [Jackie Johnson](#); [Caitlin Caputo](#); [Brian Duncan](#)
Subject: Consideration for additional item to be placed on AZ Racing Commission Special Meeting agenda, (companion to any request for race dates).
Date: Monday, December 4, 2023 7:37:05 AM

Good morning,

In an attempt to be completely transparent, I respectfully request an addition item be placed on any agenda of a "Special Commission Meeting". I believe discussion is warranted concerning the permittee's attempt to rezone a parcel of land that falls inside the fenced portion of the property that falls under the jurisdiction of the Arizona Department of Racing, a division of the Arizona Department of Gaming and the ARIZONA RACING COMMISSION. I am concerned that there is misinformation, as it relates to the application for dates and the affect that the rezoning could have on Arizona's Agricultural Entertainment Industries of Horse Racing and Breeding.

Many have said that the rezoning of the property would have no affect on racing. And I find that statement very troublesome and not completely the whole story, thus this request for more transparency.

As mentioned above, the parcel of land trying to be rezoned falls in that part of the property that is required to run a race meet. Therefore, it falls under the regulatory authority of the Racing Commission leading me to request clarification as to whether the permittee has the "unfettered personal property rights" to request rezoning without Commission approval.

It was clear that the Arizona Legislature in a recent legislation (2019, SB1144, resulted in Arizona Revised Statute Title #5, Chapter #1 5-117) has clarified that the Permittee does not have "unfettered authority" when it comes to regulations that fall under the regulatory umbrella of the Arizona Racing Commission. This request is a companion to any request for dates. The industries need to know the facts and an Attorney General review of the legal authority of the Arizona Racing Commission as it relates to the attempt to rezone the regulated parcel of property required to run a race meet. This is a very unusual situation that has not come to the attention of regulators as other portions of the property, that had been rezoned, had not come before the Arizona Racing Commission as those portions of property they were not in jeopardy of redevelopment. And is that redevelopment in the best interest of Breeding and Racing in Arizona.

Director Casillas, I copied you a communication dated November 20th, 2023, to many more authorities, voicing my concerns as it relates to the rezoning planned and the potential damage it could do to the Racing and Breeding Industries in Arizona. I urge caution, and I do not understand the urgency in rezoning if in fact there is a planned race meet through early May.

Sincerely,
Stephen H. Nolan

From: [Stephen Nolan](#)
To: [Council District 3 PCC](#); [Debra Stark](#); [Matteo Moric](#); [Jackie Johnson](#); [Caitlin Caputo](#); [Rudy Casillas](#); [Brian Duncan](#)
Subject: Turf Paradise Property rezoning applications Z-31-23-3 (companion GPA-DV-1-23-3)
Date: Monday, November 20, 2023 9:29:39 PM
Attachments: [IMG_1479 \(1\).PNG](#)

Good morning,

The reason for this communication is to inform City of Phoenix District #3 and Councilwoman Stark and Staff of some information as it relates to the application(s) mentioned above.

I wish to voice my concern as it is related to the August 3rd, 2023, GENERAL PLAN AMENDMENT STAFF ANALYSIS (REVISED) recommending the approval of application #GPA-DV-23-1-3, (and as it relates to application #Z-31-23-3) as much has changed since the August 3rd, revision. It appears, that the original application(s) submitted by applicant James Watson of CT Investors, is not the same application(s) that is trying to move forward now. For instance, referring to the June 5th, 2023 letter sent out included a conceptual site plan showing data centers with the thought that the perimeter of the Turf Paradise property would be more AESTHETICALLY pleasurable to our community. That plan is no longer in play and the information disseminated prior to the August 3rd revised analysis is not the same information that currently exists at the Turf Paradise property. The entire property is in total disarray and in deplorable condition. The application(s) are now in Simms name, therefore, I respectfully request another review and analysis by staff addressing all the changes that have been made prior to these applications moving forward.

THERE IS AN EXTREME NEED FOR TOTAL TRANSPARENCY AS IT IS THE CURRENT OWNER (SIMMS), HAS 'SINGLE HANDEDLY" ALLOWED THE TURF PARADISE PROPERTY AND ARIZONA'S AGRICULTURAL ENTERTAINMENT BUSINESSES OF HORSE RACING AND BREEDING (APPROX \$100mil ECONOMIC IMPACT TO THE STATE OF ARIZONA) TO SIGNIFICANTLY DECLINE. THE CURRENT OWNER (SIMMS) HAS SUCKED MOST OF THE LIFE OUT OF THE VEGETATION ON THE PROPERTY BY FAILING TO WATER THE PLANTS AND DO NORMAL LANDSCAPING UPDATES AND HAS CONTINUALLY (FOR 2 DECADES) FAILED TO DO ANY UPDATES TO INFRASTRUCTURE OF THE PROPERTY AND BUILDINGS (APPROXIMATELY 60 STRUCTURES). IN ADDITION, THE CURRENT OWNER (SIMMS) HAS AND CURRENTLY CONTINUES TO FAIL TO FULFILL HIS LEGAL OBLIGATION TO HOLD A RACE MEET (FROM THE FALL OF 2023 THROUGH SPRING OF 2024) AS REQUIRED BY A 3 YEAR PERMIT GRANTED TO TURF PARADISE (SIMMS) BY THE ARIZONA RACING COMMISSION AT THE RECOMMENDATION OF THE AZ DEPARTMENT OF RACING, A DIVISION OF THE AZ DEPARTMENT OF GAMING, WHICH DOES NOT EXPIRE UNTIL JUNE 30TH, 2024.

There are many moving parts when dealing with the application and the applicant (Simms) and the requested rezoning of the Turf Paradise property.

One such concern is the fact there are litigation(s) that involve the property in question that were initiated in 2010 and involves a "land swap". (referencing Maricopa County Superior Court Case CV2010-022308 which has been Stayed pending the resolution of Maricopa County Superior Case #2016-000505 which I believe is in the Court of Appeals). Because of the litigations, it is speculative to know if the property could close on a purchase agreement pending the final adjudication of such cases. Because of this uncertainty, I urge caution, as if the rezoning is allowed, and a sale is then tied up due to these outstanding litigations, then the Turf Paradise property could potentially sit empty until such time the litigations are finally adjudicated (as there is no end in sight). This attempted rezoning will replace the current status of "Special Use Permit, Horse Racing".

According to a letter dated June 5th, 2023, sent by Attorneys, Beus Gilbert McGroder, this rezoning if allowed "will become effective upon the ceasing of horse racing operations and the redevelopment of the property or portions thereof"... It is now known that the ceasing of horse racing operations terminates on December 31st, 2023. And if the smallest part of the property is redeveloped the whole property is rezoned. I hope you understand the concern this raises, as this community watched the property on the west side of 19th avenue (across from the Turf Paradise property) sit empty for near 2 decades as that property was tied up in litigation.

There are many other concerns, too many to address at this time. I wish to remind you that many people showed up to speak on these applications at the Deer Valley Village Committee Meeting last Thursday evening Nov. 16th, 2023 and were turned away as the meeting had no quorum. That was through no fault of the community members wishing their voices be heard. And in the spirit of the Arizona Open Meeting Laws, I feel that these applications should follow the process as originally set, (requiring an updated review and analysis by staff as it now relates to Jerry Simms, the new applicant) and being heard by the Deer Valley Village Committee, then to the City of Phoenix Planning Commission, and then to the City of Phoenix City Council. To follow this procedure, it would allow for the proper time for more information to become available to those empowered to make the best decision for our community.

There is said to be another purchase contract concerning this property and very little due diligence has been done and it seems skeptical that it will be able to make it to the finish line in the near future. A project of this magnitude which will be disruptive to our community for years, needs a proper review and analysis and as Jerry Simms states that this decision will have an impact on about 5000 jobs in our community. He stated this at the Racing Commission Meeting on October 12th, 2023 and has it published on the Turf Paradise website. (See attached)

Thank you for your attention to this matter as many in this community ask for more transparency and simply just want to be heard on this matter. I look forward to you response.

7:39



RACING OFF TRACK BETTING LATEST NEWS



LATEST NEWS

Clarification

The buyer of Turf Paradise is going to be Richard Moore and the Turf Paradise Land Trust. Frank Nickens is the visionary. Mr. Moore's purchase of the track will save over 5,000 jobs.

Turf Paradise, located at 19th Ave and Bell Road, first opened its doors in 1956. It has maintained Arizona's horse racing tradition for more than six decades and is Arizona's FIRST sports franchise.

Horsemen

The reason the AZHBPA extended the simulcast contract until November 12, was because there's a buyer for Turf Paradise. "There were a number of buyers that wanted to buy the track, perhaps at a higher price," said Jerry Simms. "But I decided on this gentleman because he's going to run racing. I wanted to keep live racing alive in Arizona."

From: [Stephen Nolan](#)
To: [Matteo Moric](#); [Debra Stark](#)
Subject: Turf Paradise Property rezoning cases.
Date: Friday, October 20, 2023 12:58:05 PM

I want to give you a quick update.

I have filed the following public records request with the planning and development department:

Public Records Request

R005336-102023 [cityofphoenixaz.govqa.us]

I would greatly appreciate a copy of the new application filed for Zoning Case No. #Z-31-23-3. In addition, there is an accompanying Application to Amend the General Plan, application #GPA-DV-1-23-3, also on file with Planning and Development. Could I get an update (and copy) of the status is of application #GPA-DV-1-23-3? Thank YOU for your attention to this matter!

Status : Waiting for Clarification

Mr. Moric, Could you help me understand the process to move forward, such as a new notice being sent out? Or is this item automatically put on next months agenda and when is next months meeting(s) (as there is confusion to the dates that are publicly posted on the corner of 19th Ave and Tierra Buena)? Or is this meeting rescheduled prior to the next months agenda?

I wish to voice my concern as it is related to the August 3rd, 2023, GENERAL PLAN AMENDMENT STAFF ANALYSIS (REVISED) recommending the approval of application #GPA-DV-23-1-3, (and as it relates to application #Z-31-23-3) as much has changed since the August 3rd, revision.

It appears, that the original application(s) submitted by applicant James Watson of CT Investors, is not the same application(s) that is trying to move forward now. For instance, referring to the June 5th, 2023 letter sent out included a conceptual site plan showing data centers and the thought that the perimeter of the Turf Paradise property would be more AESTHETICALLY pleasurable to our community. That plan is no longer in play and the information disseminated prior to the August 3rd revised analysis is not the same information that currently exists at the Turf Paradise property. The entire property is in total disarray and in deplorable condition. And if the application(s) are reverting back to the current owner (SIMMS);

THEN THERE IS AN EXTREME NEED FOR TOTAL TRANSPARENCY AS IT IS THE CURRENT OWNER (SIMMS), THAT HAS 'SINGLE HANDEDLY' ALLOWED THE TURF PARADISE PROPERTY AND ARIZONA'S AGRICULTURAL ENTERTAINMENT BUSINESSES OF HORSE RACING AND BREEDING (APPROX \$100mil AZ ECONOMIC IMPACT) TO SIGNIFICANTLY DECLINE. THE CURRENT OWNER (SIMMS) HAS SUCKED MOST OF THE LIFE OUT OF THE VEGETATION ON THE PROPERTY BY FAILING TO WATER THE PLANTS AND DO NORNAL LANDSCAPING UPDATES AND HAS CONTINUED (FOR 2 DECADES) FAILED TO DO ANY UPDATES TO INFRASTRUCTURE OF THE PROPERTY AND BUILDINGS (APPROXIMATELY 60 STRUCTURES). IN ADDITION, THE CURRENT OWNER (SIMMS) HAS AND CURRENTLY CONTINUES TO FAIL TO FULFILL HIS LEGAL OBLIGATION TO HOLD A RACE MEET (FROM THE FALL OF 2023 THROUGH SPRING OF 2024) AS REQUIRED BY A 3 YEAR PERMIT GRANTED TO TURF PARADISE (SIMMS) BY THE ARIZONA RACING COMMISSION AT THE RECOMMENDATION OF THE AZ DEPARTMENT OF RACING, A DIVISION OF THE AZ DEPARTMENT OF GAMING, WHICH DOES NOT EXPIRE UNTIL JUNE 30TH, 2024.

I respectfully request another review and analysis addressing all the changes that have been made prior to these applications moving forward. This request is to require the appropriate transparency expected, following the guidelines of the "Open Meeting Laws".

Please forward this communication to the Deer Valley Village Planning Committee Members and City of Phoenix Planning Commission Members and all other interested parties.

Sincerely,
Stephen H Nolan
1120 W. Le Marche Ave
Phoenix Az, 85023

From: [Matteo Moric](#)
To: [Stephen Nolan](#)
Cc: [Sarah Stockham](#)
Subject: RE: Turf Paradise property cases
Date: Tuesday, October 10, 2023 8:27:00 PM
Attachments: [image003.png](#)
[image004.emz](#)
[image005.png](#)

Hello Stephen,

Thank you for your input. I will forward your email to the Deer Valley Village Planning Committee.

For your information:

- The applicant on a rezoning application can change. They just need to let the City of Phoenix Planning and Development Department know the contact information for the new applicant and sign an updated application form, which they have completed.
- Approved zoning means the zoning was approved but not vested with a final site plan.
- And I can not speculate on why the owners many years ago did not include the subject approximate 28 acres into their earlier request.

Thank you,

Matteo Moric

Planner II* Village

City of Phoenix

Planning and Development Department

Long Range Planning Division

200 West Washington Street

Phoenix, Arizona 85003

matteo.moric@phoenix.gov

(602) 261-8235



Mission: Planning, Development and Preservation for a Better Phoenix

From: Stephen Nolan <nolanhorse racing@yahoo.com>

Sent: Tuesday, October 10, 2023 8:42 AM

To: Matteo Moric <matteo.moric@phoenix.gov>

Subject: Turf Paradise property cases

Please forward to Deer Valley Planning Committee Members and all appropriate.

I will update you concerning the two dates that have come and gone as to the reason these cases were continued from the August 10th Planning Committee Meeting.

First, the due diligence deadline (of September 15th) passed and the rezoning applicant, James Watson of CT Investors, has walked away from the project to purchase Turf Paradise.

Secondly, the Arizona Racing Commission had a meeting on September 28th, at which time, current Turf Paradise owner, Jerry Simms spoke (min 38:00-40:12), ([715th Arizona Racing Commission Meeting \[youtube.com\]](#)) in support of the Racing Industry remaining at Turf Paradise and that is why he chose the new prospective buyer.



The above leads me to request further information as it pertains to item #4 scheduled on the agenda of the Oct. 12th, Deer Valley Village Planning Committee Meeting.

Applications, GPA-DV-1-23-3, and Z-31-23 were submitted by James Watson of CT Investors, and paid for by such on May 19th, 2023.

Now knowing (through numerous media sources and Mr. Simms statements) that Mr. James Watson of CT Investors have walked away from this purchase project.

1) ARE THESE APPLICATIONS TRANSFERRABLE TO ANOTHER ENTITY?

In the June 28th, "Outreach Meeting", it was stated that the current zoning of the Turf Paradise property was done in approximately 2002, and was "approved" as is, but was never "finalized" by the City of Phoenix.

2) CAN I GET AN EXPLANATION TO THIS PROCESS OF "APPROVAL BUT NEVER FINALIZED"?

(Many things have changed to the immediate surrounding of the Turf Paradise property that were not here in 2002, including Walmart and Sam's Club which have had a major impact to the traffic in our community. If in fact that this technical matter is a concern, I would greatly appreciate it investigated and a response if these cases move forward).

Additionally, at that same "Outreach Meeting" a question remains unanswered?

3) When this 2002 rezoning occurred to some of the Turf Paradise property, why was this particular 28 acre parcel left out of that rezoning at that time? (this is very peculiar as it is in the middle of the property and a major part of the current land necessary for racing).

As I stated at the Aug 10th Planning Committee Meeting, there are many moving parts (that i believe relevant to this process) when it comes to Turf Paradise and Owner Jerry Simms. Litigations that extend over 13 years and one in particular that involves the State Department of Racing and the Arizona Racing Commission that has made it to the State Supreme Court.

I wish to submit the following two photos. The first is a visual of some of the the impact that Arizona Racing (mostly at Turf Paradise) has on the entire Arizona community. Second picture is what Turf Paradise (on it's website) states the need for the 5000 jobs it saves.

There is a regularly scheduled Racing Commission Meeting scheduled for Thursday morning at 10:00am.

There is not an agenda out at this time. I will forward it accordingly including a link to join with a zoom call.

Thank You,
Stephen H. Nolan
1120 W. Le Marche Ave
Phoenix, Az 85023

From: [Matteo Moric](#)
To: [Stephen Nolan](#)
Cc: gfreeman@mpbreality.net; debstarkaz@gmail.com
Subject: GPA-DV-1-23-3 and Z-31-23-3 (Approximately 500 feet east of the northeast corner of 19th Avenue and Tierra Buena Lane)
Date: Tuesday, September 5, 2023 5:47:00 PM
Attachments: [image002.png](#)

Good afternoon Mr. Nolan,

Thank you for your interest in these cases.

The Planning Commission agenda items you are speaking of related to the Turf Paradise site (GPA-DV-1-23-3 and Z-31-23-3) are being continued.

On August 10, the Deer Valley Village Planning Committee made a recommendation of approval of the General Plan Amendment, and recommended a continuance of the Rezoning Case to the October VPC meeting. The VPC meeting is planned to be on October 12, 2023 at the Deer Valley Community Center.

If you have any correspondence of support or opposition please feel free to forward those onto me.

Thank you,

Matteo Moric

Planner II* Village

City of Phoenix

Planning and Development Department

Long Range Planning Division

200 West Washington Street

Phoenix, Arizona 85003

matteo.moric@phoenix.gov

(602) 261-8235



Mission: Planning, Development and Preservation for a Better Phoenix

From: Stephen Nolan <nolanhorseracing@yahoo.com>

Sent: Tuesday, September 5, 2023 3:58 PM

To: Matteo Moric <matteo.moric@phoenix.gov>; gfreeman@mpbreality.net;
debstarkaz@gmail.com

Subject: Re: This is Greg Freeman from the Turf Paradise meeting last night

Good afternoon,

I want to thank you for being available to answer some questions as I am not familiar with the rezoning process.

Concerning the agenda items #4 and #5 scheduled for the City of Phoenix Planning Commission Hearing at 6:00 pm, September 7th, 2023.

I respectfully request clarification as I had left the August 10th, Deer Valley Village Planning Committee meeting thinking that at least one if not both agenda items #4 & 5 above were to be tabled until the October meeting. The reason cited was to allow 2 important dates to occur in September. The Next Racing Commission Meeting, now rescheduled for September 28th from a date of September 14th. And the September due diligence deadline for the rezoning applicants, Mr. Watson to move forward with the purchase of the property wishing to be rezoned. I feel there are numerous issues that remain unanswered, and it is premature to move forward without gathering all possible information to be able to make the best decision for the community.

Many factual and legal reasons can be provided in support of the continuation of these agenda items to another date in order to allow for these meetings and deadlines to pass. A tremendous amount of information will be gathered from the results of due diligence deadline and Racing Commission meeting. Therefore, I respectfully request that the agenda items #4 & #5 be tabled to another date.

Sincerely,

Stephen H Nolan

1120 w Le Marche ave, Phoenix Az 85023

On Friday, July 7, 2023 at 10:03:10 AM MST, Greg Freeman <gfreeman@mpbrealty.net> wrote:

Thank you for the email, Stephen.

I just got back in town from a trip to see my wife's family over the holiday, so pardon my delayed response. I would love for us to meet so I can get some insight into the history of the property and hear a bit more about things on the horse racing side. We can meet together or with other interested parties that you see fit to include.

In this next week, I have availability to meet in the evening between 6pm and 8pm on Monday, Tuesday or Wednesday. Let me know if one of those days and or times work for you.



[\[mpbrealty.net\]](http://mpbrealty.net)

Greg Freeman

PROPERTY MANAGER

gfreeman@mpbrealty.net | mpbrealty.net [\[mpbrealty.net\]](http://mpbrealty.net)

O 602.280.1010 EXT 108 F 602.234.3880

1450 EAST INDIAN SCHOOL RD, SUITE 104 [\[MPBREALETY.NET\]](http://MPBREALETY.NET)

PHOENIX, AZ 85014 [\[MPBREALETY.NET\]](http://MPBREALETY.NET)

From: Stephen Nolan <nolanhorseracing@yahoo.com>
Sent: Monday, July 3, 2023 7:09 AM
To: Greg Freeman <gfreeman@mpbrealty.net>; Debra Stark <debstarkaz@gmail.com>; Leroy Gessmann <wlgessmann@gmail.com>; Berdette ATBA <atba@att.net>; Ivy Kushner <iv4k@aol.com>
Subject: Re: This is Greg Freeman from the Turf Paradise meeting last night

Thank You for your response. I am willing and available to meet with you at your convenience.

My concerns are for my neighborhood, where I have resided since the mid 1980's.

I wish to gather information concerning the past rezoning of the Turf Paradise property in order to understand why the 28 acre parcel was not included in the previous rezoning as part of this acreage is in the middle of the property.

In the past 23 years (the period when Jerry Simms has owned the property), I have witnessed the deterioration of this property. Many attempts to request regulators to hold Jerry Simms accountable for it's upkeep have fallen upon deaf ears. He was able to accomplish this through his manipulation of the Racing Commission which is the focus of litigation, that currently exist. I will bring these attempts to your attention when we meet.

In conclusion, it is my belief that this property needs to be restored to the condition in which it was when he purchased the property, (approximately) 1999-2000. The damage that the presence of Jerry Simms has brought to my community, our neighborhood, the Arizona Agricultural Entertainment Businesses of Horse Racing and Breeding, and all of Arizona are extremely visible. He has been a terrible business neighbor to all of Arizona.

Again, Thank You for your response, and I await your reply.

On Thursday, June 29, 2023 at 12:20:15 PM MST, Greg Freeman <gfreeman@mpbrealty.net> wrote:

Stephen,

This is Greg Freeman, we met at the Turf Paradise meeting last night.
I apologize for not having a business card with me, but my contact information is attached. Let me know if you have any questions or would like to set a time to meet.

Thank you!



Greg Freeman

PROPERTY MANAGER

gfreeman@mpbrealty.net | mpbrealty.net [\[mpbrealty.net\]](http://mpbrealty.net)

[\[mpbrealty.net\]](http://mpbrealty.net) O 602.280.1010 EXT 108 F 602.234.3880

1450 EAST INDIAN SCHOOL RD. SUITE 104 [\[MPBREALETY.NET\]](http://MPBREALETY.NET)

PHOENIX, AZ 85014 [\[MPBREALETY.NET\]](http://MPBREALETY.NET)