NOTICE OF RESULTS
BOARD OF ADJUSTMENT
***REVISED**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of the **BOARD OF ADJUSTMENT** and to the general public, that the **BOARD OF ADJUSTMENT** held a meeting open to public on **Thursday, December 6, 2012, at 12:00 p.m. located in City Council Chambers, 200 West Jefferson Street, Phoenix, Arizona.**

The results of the meeting were as follows:

(ZAHO = Zoning Adjustment Hearing Officer)

RESULTS

Approved **A. Executive Session** pursuant to A.R.S. Section 38-431.03.A.3 for the purpose of receiving legal advice regarding Item 2: ZA-166-12-6.
The Board voted to go into Executive Session to receive legal advice.
(Gaynor/Hunter – Vote of 5-0. (Larios absent))

B. Approval of Minutes

Approved Approval of October 4, 2012 Minutes and November 1, 2012 Minutes.
(Hunter/Ryan – Vote of 5-0. (Larios absent))

No Action **C. Requests for Continuance and/or Withdrawal**

D. Items for Consideration

Overturned ZAHO

1. Application #: **ZA-206-12-6 (Continued from November 1, 2012)**
Existing Zoning: R1-10
Location: 2550 North 53rd Street
Proposal: Variance to allow a 64-foot wide lot. Minimum of 80 feet wide required within the R1-10 zoning district.
Ordinance Sections: 611.B.Table B.
Applicant: Gena Joaquim
Representative: Gena Joaquim
Owner: Gena Joaquim
Appellant: REO Properties c/o Scott McDonald / Fennemore Craig, PC
Overturned the ZAHO's decision of approved with

stipulations and denied the variance.
(Paul/Ryan - Vote of 4-0. (Hunter recused) (Larios absent))

Upheld ZAHO

2.

Application #:	**ZA-166-12-6 (Continued from November 1, 2012)**
Existing Zoning:	R1-10 NCSPD
Location:	7901 North Central Avenue
Proposal:	Use permit to allow a concealed wireless communication facility in a public/quasi-public (Church) residentially zoned property. Use permit required.
Ordinance Sections:	715.B.1.a.(1)
Applicant:	Joe Engbrocks / Bechtel
Representative:	Joe Engbrocks / Bechtel
Owner:	Joe Fritz / CrossRoads United Methodist Church
Appellant:	Mary Crozier / North Central Phoenix Homeowners Association

Upheld the ZAHO's decision of approved with the original stipulations:

1. **A completed Form 7460-1 shall be submitted to the FAA for review and receive a "No Hazard Determination". Documentation showing a "No Hazard Determination" shall be provided prior to issuance of a building permit.**
2. **A separate Form 7460-1 shall be submitted for any temporary construction equipment (crane) used which exceeds the height of the permanent structure. A "No Hazard Determination" shall be provided prior to the construction start date (crane becoming operational).**
3. **180 days to apply and pay for building permits.**
4. **General Conformance with the site plan and elevations date stamped August 30, 2012.**

(Hunter/Ryan – Vote of 4-0. (Paul recused) (Larios absent))

Overturned ZAHO

3.

Application #:	**ZA-121-12-7 (Continued from September 6, 2012)**
Existing Zoning:	C-2
Location:	6260 South 35th Avenue, Suite 172
Proposal:	**1)** Variance to allow a Medical Marijuana dispensary to be located within 250 feet from a residentially zoned district. Medical

			Marijuana dispensary shall not be located within 250 feet from a residentially zoned district. **2)** Variance to allow a Medical Marijuana dispensary to be located within 1,320 feet from a preschool, kindergarten, elementary, secondary or high school (Brighter Angels Learning Center). Medical Marijuana dispensary shall not be located within 1,320 feet from a preschool, kindergarten, elementary, secondary or high school.
		Ordinance Sections:	623.D.121.f. 623.D.121.g.
		Applicant:	Patrick Romo Phoenix Relief Center Inc.
		Representative:	Larry Lazarus / Lazarus, Silvyn & Bangs, P.C.
		Owner:	Dennis Johnson / PWDAF 35th and Southern LLC
		Appellant:	Randy Jones / Laveen Village Homeowners Association
		Overturned the ZAHO's decision of approval and denied the variances. ***(Hunter/Paul – Vote of 3-2. (Ryan, Koester) (Larios absent))***	
#1, #2, & #4 Upheld ZAHO with addition to stips **#3 Overturned ZAHO**	4.	Application #:	**ZA-319-12-7**
		Existing Zoning:	C-2
		Location:	6260 South 35th Avenue, Suite 104
		Proposal:	**1)** Variance to allow a Medical Marijuana dispensary to be located within 1,320 feet from a preschool, kindergarten, elementary, secondary or high school (Sun Valley Charter). Medical Marijuana dispensary shall not be located within 1,320 feet from a preschool, kindergarten, elementary, secondary or high school. **2)** Variance to allow a Medical Marijuana dispensary to be located within 250 feet from a residentially zoned district. Medical Marijuana dispensary shall not be located within 250 feet from a residentially zoned district. **3)** Variance to allow a Medical Marijuana dispensary to be located within 5,280 feet of the same type of use. Medical Marijuana dispensary shall not be located within 5,280 feet from the same

	type of use. **4)** Use permit to allow a medical marijuana dispensary. Use permit required.
Ordinance Sections:	623.D.121.g. 623.D.121.f. 623.D.121.e. 623.D.121.a.
Applicant:	Patrick B. Romo
Representative:	Larry Lazarus / Lazarus, Silvyn & Bangs, P.C
Owner:	Dennis Johnson / PWDAF 35th and Southern LLC
Appellant:	Randy Jones / Laveen Village Homeowners Association

<u>Variances</u>:
#1 & #2: Upheld the ZAHO's decision of approval.
#3: Overturned the ZAHO's decision of approval.
(Paul/Ryan – Vote 4-1. (Hunter) (Larios absent))

<u>Use Permit</u>:
Upheld the ZAHO's decision of approval with the original stipulations with the addition of Mr. Winter to the list of contacts in stipulation #7 and an additional stipulation.

1) **No Use Permit or Variance application fees are refundable.**
2) **That the Variance and use Permit shall be reviewed within 180 days and again within 365 days of the issuance of the Arizona Department of Health services license for a medical marijuana use.**
3) **Obtain a license for medical marijuana use from the Arizona Department of Health Services. If no license is granted within 180 days of the approval of the Variance/Use Permit, the Zoning Administrator shall schedule a revocation hearing for this Use Permit and Variances.**
4) **That the applicant has 180 days to apply for building permits.**
5) **That the applicant shall submit a security plan approved by the Arizona Department of Health Services to the Planning and Development Department.**
6) **That the applicant shall notify in writing the areas' Police Precinct Commander of establishing such facility. Notice of this contact shall be submitted in writing to the Planning and Development Department.**
7) **That the applicant shall send monthly email reports about on-site crime prevention and**

loitering/trespass issues to the below neighborhood leaders. This additional communication ensures that the applicant contributes information to this community-wide issue and the applicant must commit resources to help with any on-site crime or loitering/trespass issues. This stipulation will be reviewed at the 6 month and 1 year interval and it may be removed or additional requirements may be added.

a. Randy Jones: Randy.Jones@outsourcercovery.com
b. Wendy Ensminger: shmingco@q.com
c. Jen Jones: jenisakson@cox.net
d. Karl Gehring: kgehring@aamaz.com
e. Michelle Harry: mharry@cox.net
f. James Sedillo: James.Sedillo@onsemi.com
g. Scott Winter: e.scott.winter@gmail.com

8) Applicant shall get revocation of the use permit approved in ZA-235-11-7 prior to issuance of Certificate of Occupancy.

(Paul/Ryan – Vote 5-0. (Larios absent))

Overturned ZAHO and approved with stips

5.

Application #:	**ZA-233-12-4**
Existing Zoning:	C-2 TOD-1
Location:	4700 North Central Avenue
Quarter Section:	18-27(H8)
Proposal:	Use permit to reduce parking in an Infill Incentive District by 13%. Use permit required.
Ordinance Sections:	702.E.9.b.
Applicant:	Mark A. Davis / Davis Enterprises-4700 Central LLC
Representative:	Mark A. Davis / Davis Enterprises-4700 Central LLC
Owner:	Davis Enterprises-4700 Central, LLC
Appellant:	Mark A. Davis / Davis Enterprises-4700 Central LLC

* **Overturned the ZAHO's decision of denied and approved the use permit with the following stipulations:**

1) Provide staff within 60 days of today with a valid contract for valet services for the tenants that are located at the property in question, with terms and conditions that will establish that there will not be a significant increase in vehicular or pedestrian traffic, as approved by the Zoning Administrator.

2) Review 180 days after Certificate of Occupancy.

(Hunter/Gaynor – Vote of 3-2. (Paul, Koester) (Larios absent))

Upheld ZAHO with modified stips

6. Application #: **ZA-279-12-6**
Existing Zoning: R1-10
Location: 4739 North 40th Street
Proposal: Variance to allow an over height fence of 5 feet, 6 inches in the required front yard setback. Maximum 40 inches permitted within the required front yard setback.
Ordinance Sections: 703.A.2.a
Applicant: Greg Dolphin
Representative: Greg Dolphin
Owner: Greg Dolphin
Appellant: Kim Edwards for Carol Conway

Upheld the ZAHO's decision of approved with the following modified stipulations:

1. **The applicant shall receive approval from the Street Transportation Department to install and maintain landscaping shown on the plan date stamped September 20, 2012 to be installed within 180 days from approval.**
2. **180 days to apply and pay for building permits for the fence.**

(Paul/Koester – Vote of 4-0. (Larios, Ryan absent))

E. Other Business

Updated 7. Update on January 10, 2013 Board of Adjustment agenda.

No Action 8. Update on pending appeals of the Board of Adjustment.

No Action 9. Q & A: Procedure and Process - Board of Adjustment case law.

No Action 10. The Board may vote to go into Executive Session pursuant to A.R.S Section 38-431.03.A.3 for the purpose of receiving legal advice regarding any of the above Items B-E.

For further information, please call Mary L. Brown, Secretary to the Board, in the Planning and Development Services Department at 602-495-7029, or contact us via electronic mail at zoning@phoenix.gov. This electronic mail address will not accommodate zoning enforcement/violation complaints.

For reasonable accommodations, call Nici Browe at Voice/ 602-495-0256 or the City TTY/602-534-5500 as early as possible to coordinate needed arrangements.

December 6, 2012