

# MINUTES OF THE REGULAR PLANNING AND ZONING MEETING OF THE TOWN OF CHINO VALLEY

SEPTEMBER 6, 2016  
6:00 P.M.

The Planning and Zoning Commission of the Town of Chino Valley, Arizona, met for a Regular Meeting in the Chino Valley Council Chambers, located at 202 N. State Route 89, Chino Valley, Arizona.

1) **CALL TO ORDER**

Chair Merritt called the meeting to order at 6:00 pm.

2) **PLEDGE OF ALLEGIANCE**

Commissioner Pasciak led the Pledge of Allegiance.

3) **ROLL CALL**

Present: Chair Chuck Merritt; Vice-Chair Gary Pasciak; Commissioner Annie Lane;  
Commissioner Florence Sloan; Commissioner Julie Van Wuffen

Absent: Commissioner Michael Bacon; Commissioner Claude Baker

Staff Development Services Director Ruth Mayday; Associate Planner James Gardner;  
Present: Town Clerk (Recorder) Jami Lewis

4) **MINUTES**

- a) Consideration and possible action to approve the August 4, 2016, special meeting minutes.

MOVED by Commissioner Florence Sloan, seconded by Commissioner Julie Van Wuffen to approve the August 4, 2016, special meeting minutes.

**Vote: 5 - 0 PASSED - Unanimously**

- b) Consideration and possible action to approve the June 15, 2016, special meeting minutes.

MOVED by Commissioner Annie Lane, seconded by Vice-Chair Gary Pasciak to approve the June 15, 2016, special meeting minutes.

**Vote: 5 - 0 PASSED - Unanimously**

5) **STAFF REPORTS**

There was no staff report.

6) **PUBLIC HEARING**

- a) Consideration and possible action to hold a public hearing and to recommend to the Town Council adoption of Ordinance 16-824 to rezone approximately 2.49 acres of real property, located approximately 448 feet north of Road 4 1/2 North and approximately 1000 feet west of State Route 89, and also known as Yavapai County Assessor's Parcel No. 306-05-095M, located within the Northwest quarter of Section 4, Township 16N, Range 02W, Gila and Salt River Base and Meridian from Single family residential, 1.6-acre minimum (SR 1.6) to Single family residential, 1-acre minimum (SR-1) zoning district. (Applicant: Jose Granillo. Staff: James Gardner, Associate Planner).

Associate Planner Gardner stated that this item needed to be postponed until such time as the applicant would be able to attend.

MOVED by Vice-Chair Gary Pasciak, seconded by Commissioner Julie Van Wuffen to push off this item to a later date to be announced.

**Vote: 5 - 0 PASSED - Unanimously**

- b) Consideration and possible action to approve a Conditional Use Permit for an electronic LED (Light-Emitting Diode) gasoline price display sign at 995 S. State Route 89, Yavapai County Assessors Parcel No.306-29-047C. The sign is to be placed on the Northeast corner of State Route 89 and E. Road 2 South.(James Gardner, Associate Planner)

The Shell gas station is in a Commercial Light (CL) corridor. Residential zoning is 300 ft to the rear.

Applicant wants to place an electric sign on Northeast corner. The large monument style sign would replace the existing signage.

- The applicant has requested the placement of an electronic sign on the NE corner of State Route 89 and Road 2 South.
- The sign will be part of a larger monument style sign, to replace the existing signage
- The proposed sign does not include animation
- The sign is not in a community core area.

Public outreach:

- The applicant mailed letters and posted the site in conformance with state statute and the UDO.
- A neighborhood meeting was held on-site by the applicant on 7/25/16, and no members of the public were in attendance.

Chair Merritt asked how this fit with the sign code amendments.

- Planner Gardner stated that the sign would require a Conditional Use Permit (CUP).
- The only new change would be the amount of time each message is displayed.

Commissioner Pasciak asked if the sign would be outside the sight triangle for safety reasons.

- The sign will be in the same place as it is currently located.
- Staff looks into that as part of permitting process. The sign appears to be outside of the sight triangle.

MOVED by Vice-Chair Gary Pasciak, seconded by Commissioner Florence Sloan to recommend approval of the Conditional Use Permit with the stipulation that it be verified that the sign is outside of the sight triangle.

**Vote: 5 - 0 PASSED - Unanimously**

7) **NON-PUBLIC HEARING ACTION ITEMS**

There were no non-public hearing action items.

8) **DISCUSSION ITEMS**

- a) Discussion of proposed sign ordinance amendments after review by Council and the Sign Code Workgroup.

Director of Development Services, Ruth Mayday presented on this item.

Council asked the Planning & Zoning Commission to review a second time.

Flags were exempt from regulations which led to issues with flags that were used for advertising purposes and Reed content regulations. It became necessary to consider other issues, such as size and how to regulate flags, banners and pennants.

Director Mayday reviewed the basics of Reed v. Town of Gilbert.

Town of Gilbert Development Code: Temporary Directional Signs Relating to a Qualifying Event

- Signs directing the public to a meeting of a non-profit group
- Three types examined: Ideological Signs, Political Signs, Temporary Directional Signs...
  - Ideological signs treated most favorably: 20 sf, any zoning district, no time limit
  - Political signs less favorably: 16 sf resi, 23 sf non-resi; 60 days before primary, 15 days following general election
  - Temporary directional signs: 6 sf, private property or public ROW, but no more than four (4) per property at a time; 12 hrs before & 1 hr after event.

Good News Community Church claimed violation of First Amendment rights as the ordinance did not meet the "strict scrutiny" test required for content-based non-commercial speech regulations

Non-Commercial: Strict Scrutiny

- Compelling Government Interest
- Narrowly tailored

What is non-commercial speech?

- Non-commercial speech is speech that is expressing an opinion.
- Non-commercial speech is subject to Strict Scrutiny, and therefore any restrictions must be narrowly-tailored, and a compelling government interest must be proven.

Commercial speech: Intermediate Scrutiny

- Time
- Place
- Manner

What is commercial speech?

- Commercial speech has been defined by the Supreme Court as speech where the speaker is more likely to be engaged in commerce, where the intended audience is commercial or actual or potential consumers & where content of the message is commercial in character.
- Commercial speech, such as advertisements, has been ruled by the Supreme Court to be entitled to less protection under the First Amendment than noncommercial speech. Under the First Amendment, noncommercial speech is entitled to full protection, and any sort of content-based regulation is only valid if it can withstand strict scrutiny. However, commercial speech is not given such deference. For a content-based regulation of commercial speech to be valid, it only must withstand intermediate scrutiny.
- Additionally, commercial speech that is false or misleading is not entitled to any protection under the First Amendment, and therefore can be prohibited entirely.

To regulate signs now, you must totally ignore what it says. The top 9 ways to regulate signage:

1. The size of signs
2. The location of signs
3. Lighted vs. unlighted signs
4. Fixed vs. electronic message boards
5. Placement on public vs. private property
6. Placement on commercial vs. residential property
7. Distinguishing between on-premise and off-premise signs
8. Limiting the total number of signs allowed per mile of roadway
9. Imposing time restrictions on signs advertising a one-time event.

Regulation under Reed and subsequent cases

- Think of regulating signage from the back of the sign
- Focus regulations on commercial speech (e.g., # commercial flags per lot or linear distance; maximum area, etc.)
- Minimal restrictions on non-commercial speech – "...otherwise regulated elsewhere in UDO, or by other local, state, or federal regulations...."

Director Mayday identified other changes that were made to the regulations.

- Garage sale signs already excepted due to size.
- Town already regulates signs in public right of way.
- Vehicle signs, proposed is nearly identical except to remove "for advertising purposes."

Signs in the Right of Way.

#### 4.21.11 Prohibited Signs

E. Off-site signs, unless otherwise permitted by this Ordinance, more specifically signs that direct attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

#### 4.21.10 Exceptions

D. Garage sale signs not exceeding six square feet (6 sq. ft.). Such signs shall not be up longer than three (3) days. Signs may not be located upon Town sidewalks or within the public

rights-of-way.

Vehicle signs - Proposed regulation is nearly identical to existing regulation.

4.21.11 (B) Prohibited Signs

B. Vehicle signs or signs mounted, attached, or painted on trailers, boats, or motor vehicles primarily or consistently parked, stored, or displayed in a manner intended to attract the attention of the public for advertising purposes.

4.21.11 Prohibited Signs

B. Vehicle signs or signs mounted, attached, or painted on trailers, boats, or motor vehicles primarily or consistently parked, stored, or displayed in a manner intended to attract the attention of the public.

The Commissioners discussion included the following:

- Reed only address non-commercial speech. The City of Chandler case covers commercial speech.
- As long as it is non-commercial, it would be okay to fly as many flags as you want, except where regulated elsewhere in UDO, or other local, state or federal regulations.
- The trailer advertising the pancake breakfast would be ok because it is a non-profit organization and the sign is temporary and not permanent. It is a one-time event.
- The time limit for temporary sign is 3 days, 24 hours before and 24 after the event.
- The timeframe for electronic signs is 6 seconds, which is based on the national standard.
- This matter will not come back to the Planning & Zoning commission.
- Changes to the sign code are mostly word smithing.
- The changes further defined electronic sign for clarity; 4.2.1.2.g exempt signs. The table was modified to remove mention of flags other than government signs and flags which are allowed without permit and no limit.
- Historical non-commercial flags are exempt from regulation.

9) **PUBLIC COMMENTS**

There were no public comments.

10) **ADJOURN**

MOVED by Vice-Chair Gary Pasciak, seconded by Commissioner Annie Lane to adjourn the meeting at 6:44 pm.

**Vote: 5 - 0 PASSED - Unanimously**

  
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Chair Charles Merritt

11-1-16  
Date