

Planning and Zoning Commission Meeting Minutes February 1, 2022

A regular meeting of the Town of Chino Valley Planning and Zoning Commission was held on Tuesday, February 1, 2022, at the Town of Chino Valley Council Chambers, 202 N. State Route 89, Chino Valley, Arizona.

PLANNING AND ZONING COMMISSION MEMBERS present were; Chair Chuck Merritt; Vice-Chair Gary Pasciak, Commissioner Teena Meadors; Commissioner Ron Penn; Commissioner David Somerville; Commissioner Robert Switzer, Commissioner William Welker was absent. Alternate Richard Zamudio was present in the audience.

STAFF MEMBERS present were Laurie Lineberry, Development Services Director; Frank Marbury, Public Works Director; Will Dingee, Senior Planner; Bethan Heng, Planner; Dee Dee Moore, Customer Service Supervisor; Lawrence Digges, Audio/Video Technician.

CALL TO ORDER: Chair Merritt called the meeting to order at 6:00 p.m., and after the roll-call noted there was a quorum present. Commission began with the Pledge of Allegiance.

Senior Planner Will Dingee introduced the new Planning & Zoning Alternant, Richard Zamudio. He had been a Fire Chief in the military, has lived in Chino Valley for 12 years and his parents have lived in Chino Valley for 29 years. Merritt welcomed him on behalf of the Commission.

CONSENT CALENDAR – A motion was made by Commissioner Meadors and seconded by Commissioner Switzer to approve the items on the Consent Calendar with the stated corrections for Vice-Chair Pasciak comments on the ¼- ½ acre discussion. This motion passed unanimously by a 6-0 vote, with Welker absent.

CASE# Z-21-18: - This is a request by Glenn Daiutolo on behalf of O Jogo Bonito FF1, LLC, for a rezone of approximately 6.86 acres of real property from Commercial Heavy with a Planned Area Development Overlay (CH/PAD) to Commercial Light (CL), for the property located north of 2625 S State Route 89, Chino Valley, Arizona, APN 102-01-219M

Bethan Heng, Planner, presented the staff report and shared that the Applicant was in attendance for this meeting. Heng added that after the concerns raised during the neighborhood meeting, the applicant redesigned his site plan to address those concerns and has shifted the parking further to the south. Staff is recommending **APPROVAL** with stipulations as stated in Attachment A.

Applicant **Glenn Daiutolo** addressed the commission and stated that they believe that this project will be beneficial to the kids. **Commissioner Somerville** asked for clarification about the “beach”. **Daiutolo** stated that the sand area will provide a different type of surface for soccer training and that the separate areas are geared in size to correspond to the various age groups playing field sizes. **Commissioner Switzer** asked about perimeter landscaping. **Daiutolo** shared that their architect is working with the town on the landscaping plan.

There were no comments from the public and no further questions for staff.

Vice-Chair Pasciak had concerns about ADOT's comments in the staff report regarding the access on S State Route 89. **Public Works Director Frank Marbury** answered that there will be no direct complex access from State Route 89 and that the existing driveway is for legal access to the Cell Towers. All complex entrances will be off of S Road 1 East.

A motion was made by Commissioner Pasciak and seconded by Commissioner Somerville to approve Z-21-18, as presented. The motion carried 6-0, with Welker absent.

Merritt made a comment regarding the commission having previously voted and approved the rezoning of this same parcel, and commented that perhaps there can be a sunset clause for properties that do not follow through with the intended project within that zoning district. He also asked about the CL to CH/PAD differences for the previous rezone. **Dingee** shared that the prior zoning of CL – limits RV parks to 25 or less spaces. If 26 or more spaces, the zoning district needs to be CH. The PAD was attached to that rezone so that the approved project type would be the only use placed on that property. **Lineberry** shared that a discussion regarding RV space numbers in both Commercial zones could be discussed at the next meeting.

CASE# T-2022-01 - *This is a request to amend the Town of Chino Valley Unified Development Ordinance, Chapter 154, by amending Chapter 3 Zoning Districts, by creating a Single Family Residential 12,000 square-foot lot District and a Single Family Residential 24, 000 square-foot lot District.*

Dingee presented the staff report identifying the SR-12,000 and the SR-24,000 new zoning districts. He added that there was a revision to the staff report that would remove the wording regarding guest houses, as they would not be allowed within either of these zoning districts. **Switzer** asked staff if each of the zoning districts could be voted on in separate motions. **Lineberry** stated that yes, each zoning district could be voted on separately.

Somerville requested clarification as to where these zoning districts would be allowed or would they just be all over the place. **Dingee** stated that any new requests for a zone change to the new zoning districts would have to come through the commission. **Lineberry** added that during the General Plan update areas will be identified as to where these densities should be placed.

Merritt opened up the discussion for any comments from the public.

Jay Bates spoke regarding the 12,000 square foot size lots, indicating that he felt a 10,000 or 11,000 square foot lot is more realistic considering easements and right-of-way areas that are unusable. He also shared that on a 20 acre parcel you will only be able to have 17 lots, which will create a loss of revenue for the town in reducing the number of connections to water and sewer utilities, at approximately \$10,000 per lot. He added that a 100' x 110' lot is still large enough for a home, garage and a good size rear yard. He stated that in Colonial Villas, the lots are only 60' wide.

Andy Haywood stated that he is working with Right Homes and also stated that on large projects the loss of utility revenue to the town could be \$90,000 because of the loss of lots on a large parcel. He shared that in Prescott, the urban sprawl or larger lots have also raised concerns about response times for firetrucks and ambulance, since they have a larger area to cover. He requested that the Commission go with a higher density.

There were no further public comments.

A motion was made by Commissioner Penn and seconded by Commissioner Somerville to approve the SR-12,000 new zoning district as part of Z-21-18, removing the allowance for a guest house. The motion carried 5-1, with Switzer voting "No", and Welker absent.

Switzer explained his "no" vote. He felt that the ½ acre lot size should be the smallest size lot the town has to offer, that the 12,000 square foot lots were too small.

Merritt continued the discussion with the second half of this case, the 24,000 square foot lot District.

Dingee provided a recap for the 24,000 square foot lot size with a 100' frontage and maximum coverage of 40%. This also had the correction of removing the guest house allowance. There were no questions of staff from the Commission.

Merritt opened up the discussion for the 24,000 square foot lot District for any comments from the public.

Rachel Fernow spoke to the commission regarding the motivation behind the urge to increase development in Chino Valley. She felt that people move to Chino Valley to get away from the small lots and to be able to see the stars at night. She is a realtor and understands people want to have a rural setting and a custom home. She also shared that she felt every citizen should have access to this Planning Commission case information, not just the people within the 300' radius. She stated people leave Chino Valley to shop at Walmart or Home Depot.

Switzer informed **Ms. Fernow** that the Commission always meets on the first Tuesday of every month and that she should share that information with others. **Merritt** closed the public comments.

Merritt shared a personal comment regarding the services lacking in this town, however, he added that in order to get new businesses, the town needs more people here to support those stores and the general growth in the community. He added that he has lived here since 1979. **Merritt** shared the current ease of finding Planning & Zoning Case information as provided by staff.

A motion was made by Commissioner Switzer and seconded by Vice Chair Pasciak to approve the SR-24,000 new zoning district as part of Z-21-18, removing the allowance for a guest house. The motion carried 6-0, with Welker absent.

CASE# T-2022-02 - This is a request to amend the Town of Chino Valley Unified Development Ordinance Chapter 154, by amending Chapter 2 Definitions, Chapter 3 Zoning Districts, and Chapter 4 General Regulations, as they relate to Recreational and Medical Marijuana.

Dingee presented the staff report including a public comment letter from Bob Chilton that was received prior to the meeting and was placed in front of each commissioner. This text amendment is to modify/create new definitions, fix discrepancies in separation requirements from 500 feet to 300 feet and address proposals adjacent to the Peavine Trail and Public utility facilities with residential zoning. Staff is recommending approval for the above modifications.

Penn asked if the separation was also for playgrounds and schools. **Dingee** said yes, and that the distance is measured from property line to property line.

Merritt opened up the discussion for any comments from the public.

Bob Chilton-Rain Strategies Cannabis Management and Development Company, spoke in support of the proposed ordinance. **Chilton** pointed out one area of confusion and suggested a recommendation of how the confusion could be removed. He shared a diagram on the overhead and discussed various license types. He stated that not all licenses were dual licenses and that all the licenses had the same rights. **Chilton** requested that the Commission use the proposed amendment and clarify it so it covers all licenses, keeping the goal of not having twice as many marijuana locations. He proposed the following amendment: **Section Permitted uses #9 *Medical marijuana facilities and Marijuana Facilities owned and operated by Dual Licensees (achieves the towns goal) , and off-site marijuana cultivation and manufacturing facilities, each as subject to the regulations set forth in Section 4.31.*** **Chilton** suggested that the goal should be to address all the licenses, bringing clarity to eliminate confusion.

Larry Holt – Chino Valley Resident stated that he was a retired law enforcement officer, of 34 years including 12 years in narcotics. He stated he supported moving the 300' vs 500' to make it uniform in the code. **Holt** opposed adding anymore sales locations. He added that in his job as a narcotics officer, he

had interviewed over 10,000 drug addicts and never interviewed one that didn't start with marijuana. **Holt** stated that he believes this county has a huge drug problem and was against adding any more marijuana dispensaries.

There were no further public comments.

Attorney Andrew McGuire stated that if the amendment with the proposed verbiage from Mr. Chilton was implemented, it would then be in conflict with the town code, and he had not been given direction by the Town Council to change the town code to provide for the type of non-dual licensing status that Mr. Chilton was advocating for. He directed the Commission to the Town Code Section 117. There is a specific prohibition in the code for operating any marijuana facilities unless it is operated by a dual licensee. That was a position adopted by many municipalities and the county. **McGuire** shared that jurisdictions in this area are all on the same page. The text amendment is trying to reconcile separation distances and areas along the Peavine Trail. Mr. Chilton's legitimate request, is a question for the Council and whether or not they support modification to Section 117 of the Town Code to match the UDO Code. **McGuire** concluded stating that the two codes needed to run consistently and that the discussion on this case is to match the two codes.

Merritt recapped the discussion with the attorney, identifying that making any changes to the Town Code is out of the jurisdiction of the Planning & Zoning Commission. The proposal tonight is just for the Unified Development Ordinance changes.

Switzer asked Attorney McGuire that if the Commission supports the proposed ordinances, would that create double dispensaries, one for medical and one for recreational. **McGuire** allowed that they can do either independently but it wouldn't expand the number of locations because they needed to hold the medical license too. **Somerville** asked how many marijuana growing facilities were located in Chino Valley. **Dingee** stated that the Town currently has five. **Somerville** followed up his question by asking if the same people who grow at these facilities can also operate a dispensary? **Chilton** shared that the cannabis rules are confusing and that cultivation locations can only sell wholesale to a dispensary that is already an operator. Medical licenses allow a retail dispensary only. Off-site licenses can only grow, extract, and infuse all in one facility. The five growing facilities in Chino Valley do not sell to anyone in the public. **Merritt** reminded Mr. Chilton that they were only considering the proposed staff report at this time.

Switzer asked if the town currently has a retail dispensary. **Dingee** stated that there had been a dispensary in the southern part of town, that was no longer operating.

Merritt asked for the alternate motion. **Switzer** made a motion to approve the Text Amendment T-2022-02 as reflected in Attachments A and B, subject to the staff report and information provided during this hearing, with the exception of the following items:

1. Amend Section 5 of the proposed Ordinance, Section 4.31 Marijuana Facilities, D.4 to remove the following language "~~UNLESS THE PROPERTY WITHIN THE RESIDENTIAL ZONING DISTRICT IS PERMANENTLY USED BY A PUBLIC UTILITY FOR NON-RESIDENTIAL PURPOSES.~~"
2. No Amendment to Section 5 of the proposed Ordinance, Section 4.31 Marijuana Facilities, D.1-5 Separation Requirements, leaving the distances as currently written in the Chino Valley Code of Ordinances, Section 117.04(B)(2) and (3), with the distance at 500' instead of the proposed 300'.
3. Amend Chino Valley Code of Ordinances Section 117.04(B)(2) to read: Shall not be located within 300 **500** feet of a residentially-zoned property.
4. Amend Chino Valley Code of Ordinances Section 117.04(B)(3) to read: Shall not be located within 300 **500** feet of a preschool; kindergarten; elementary; secondary or high school; place of worship; public park; or community center.

The motion was seconded by **Meadors**. **Merritt** opened up for commission discussion. Vice-Chair **Pasciak** mentioned a legal point, that it is outside the scope of the commission to amend the Chino Valley Code of Ordinances. **McGuire** concurred.

As the alternate motion was to keep the 500' separation in the UDO and have the Chino Valley Code of Ordinances increase to 500' from 300', and the commission was unable to move that motion forward, according to Attorney McGuire, **Merritt** asked if the commission could send this case to Town Council with no recommendation, since the commission would like to see the distance remain at 500'. **Lineberry** shared that the minutes of this meeting will be added to the Town Council report, for the Council to read and understand their concerns.

Switzer asked if the timing on this case was critical **Lineberry** stated that it should be moved to Town Council.

Merritt mentioned that he would like to table this item. **Lineberry** shared that it would be better to forward this case to Council with 'no recommendation". **Dingee** informed the Commission that they needed to vote on the open motion. **Switzer** amended his motion to rescind the current motion. **Pasciak** seconded the rescinded motion. The rescinded motion passed by a vote of 6-0, with Welker absent.

Another motion was made by **Switzer** to forward "No Recommendation" with a notation that the Commission would like to keep the separation distance at 500'. **Pasciak** seconded the motion. The motion passed by a 6-0 vote, with Welker absent.

ACTION ITEMS: THERE WERE NO ACTION ITEMS

INFORMATION ITEMS – FROM STAFF: Town Council heard two items from the January 1, 2022 Planning & Zoning Meeting. Both cases, the zone change for Roskopf and the Perkinsville-44 CUP were approved as recommended by Planning Commission.

INFORMATION ITEMS – FROM COMMISSION: None

INFORMATION ITEMS – FROM THE PUBLIC: None

ADJOURN – A motion and second were made to adjourn the meeting at 7:23 p.m.



Charles Merritt
Chair



Dee Dee Moore
Prepared By