

Planning and Zoning Commission Meeting Minutes August 1, 2023

A regular meeting of the Town of Chino Valley Planning and Zoning Commission was held on Tuesday, August 1, 2023, 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 Robert Switzer, Commissioner William Welker; Commissioner Richard Zamudio. Alternate Commissioner Rachelle Fernow was in attendance.

STAFF MEMBERS present were Laurie Lineberry, Development Service Director; Will Dingee, Assistant Director; Frank Marbury, Public Works Director; Jessica Barragan, Senior Planner, Dee Dee Moore, Process Coordinator; Laurence Diggs, Audio/Video.

CALL TO ORDER: Chair Merritt called the meeting to order at 6:00 p.m. Commission meeting began with the Pledge of Allegiance led by Commissioner Switzer.

CONSENT CALENDAR – Due to addition information regarding case ZC-2023-02 Antelope Valley Apartments, Merritt requested that this item C.5 be removed from the Consent Calendar and continued to the next regularly scheduled Planning and Zoning Commission meeting on September 5, 2023. A motion was made by Commissioner Meadors to accept the consent agenda as presented with the continuation of C.5 to September 5, 2023. The motion was seconded by Commissioner Pasciak and passed unanimously by a 7-0 vote.

PUBLIC HEARING #D.1 – Case# CUP-2023-03 – *This is a request by Brian Greathouse, on behalf of Stor It Arizona LLC, for a Conditional Use Permit for a Mini-Storage and RV Storage Facility with a commercial component, on a parcel zoned Commercial Light (CL). The property is located on the east side of State Route 89, approximately a quarter mile north of the intersection of State Route 89 and Road 2 North, Chino Valley, Arizona.*

Chair Merritt asked if anyone on the commission had a disclosure to declare regarding this project. There were none.

Assistant Director Will Dingee presented the staff report with a recommendation of approval. He stated he had received one letter of opposition, and that the letter of opposition was for a different property, not the one identified for this project.

Chair Merritt restated that the opposition letter was not for this case. He added that this project was similar to the storage/retail use proposed on the site near Olsen's Grain. Dingee shared that this project has unique architectural style for the area, as required by the 2014 General Plan.

Madison Leake, project representative, wanted to express her thanks to staff for their dedication to this project, which has been on-going for about two years.

Merritt opened the meeting for public comments.

Larry Holt shared that he believed that an individual has the right to develop their land. He expressed concern about all the storage facilities and the proliferation of storage building sales within the Town and felt that they did not make Chino Valley look rural, but rather, made the town look like a slum. He questioned whether these businesses were doing any type of market research since they would be competing with all the other storage businesses in town. He felt the whole town was just going to be storage businesses.

There were no other comments from the public and **Merritt** closed the public hearing.

Zamudio asked how many storage facilities were currently in the town. **Dingee** believed that there were about seven established storage facilities including this proposed one. **Dingee** shared that a public records request was recently made by a mini storage company, inquiring about the number of existing and proposed facilities within the Town. **Merritt** asked if that information could be used for other people if they were deciding whether to build a similar facility in Town. **Dingee** stated that it could. **Penn** asked how many units this project would have. **Dingee** responded in terms of square footage, approximately 63,350 in the first phase, and referred the question on number of units to the applicant.

Vice-Chair Pasciak mentioned that in the report there was discussion of a well and mentioned the City of Prescott Water line in the right-of-way. **Dingee** responded that staff cannot stipulate any connection to the City of Prescott water. That decision would be at the developers' discretion. **Switzer** asked if the water usage would only be for landscaping and on-site restroom. **Leake** stated that was correct and the development would have a low water usage. **Switzer** asked if there was outdoor type RV storage behind the units. **Leake** responded that there was no outdoor storage in this facility. They were only proposing storage units. **Merritt** mentioned that the title of this case mentions Mini & RV Storage. **Dingee** stated that a CUP allows for both, however this project is just mini-storage. **Merritt** asked if this project was similar to the one they own, across the street. **Leake** shared that this includes more modern architecture and the office component. **Merritt** added that the water from City of Prescott comes from Chino Valley. **Zamudio** asked if the project across the street was also owned by them. **Leake** answered yes, and the current business was close to 100% occupancy so there was a demand for storage.

Merritt closed the public hearing.

Motion was made by Switzer, seconded by Meadors to approve CUP-2023-03, as presented, subject to the staff report and information provided during the hearing, and the Conditions of Approval in Attachment A. A roll-call vote was taken and the motion passed with a 7-0 vote. No explanations of the votes were requested by the Chair.

PUBLIC HEARING #D.2 – CASE# ZC-2023-03 – *This is a request by Luis Pescador, on behalf of Equity Trust Company, to rezone approximately 1.5 acres from Commercial Light (CL) to Multiple Family Residential (MR) for the construction of an apartment complex containing 14 units. The property is located at 443 West Palomino Road, Chino Valley, Arizona.*

Chair Merritt asked if anyone on the commission had a disclosure to declare regarding this project. **Merritt** disclosed that the estimator working for his company owned property within the notification radius and attended the neighborhood meeting, brought up the project to him, but they had no discussion about the case itself.

Dingee presented the staff report, identifying concerns from the neighborhood meeting. The applicant was in attendance.

Switzer clarified that the current zoning and surrounding multi-family uses do not meet the current UDO. **Dingee** confirmed that the existing multi-family uses are non-conforming with the current zoning code. Discussion regarding the 2014 and the 2040 General Plan ensued and how they relate to this project. **Switzer** felt that the area was over the maximum 25% residential allowed in the HMU of the 2040 General Plan. Staff did not agree.

Luis Pescador, applicant, identified that the town needs this type of project. That it will be like the apartment complex across the street to the west. These apartments will be Market Rate apartments. He stated he would emulate the Manneken Apartments to the west.

Merritt opened the public portion of the hearing.

Virginia Foster has lived on the single-family parcel to the west of the Manneken Apartments for 28 years. She voiced concerns about the roads, the growth of the town, the conditions of the roads and the lack of infrastructure. She was concerned about approving a high-density project in a rural area. Her well is not far from the Manneken Apartments septic field. She stated she was not happy about the potential increase in noise and congestion and inquired about adequate water flow in case of fire. This project would not help alleviate any of those issues.

Sharon Nance of 580 Butterfield Road three houses away from the site. She reflected that current code only allowing apartments in Commercial Light with a CUP. The new General Plan designation of HMU will allow a maximum of 8 dwelling units per acre. This project could only build 12 units, not 14 as proposed. With 2.2 people per unit, this project would generate 30.8 people living on 1.5 acres. The surrounding area is zoned SR-1 equating to 2.2 people per acre. She read Land Use Policy 8.3 from the 2040 General Plan and stated that this project was not consistent in intensity and lacks sidewalks or walking paths. Land Use Policy 9.2 suggests that Old Home Manor (OHM) would be used for multi-family density residential. She believed that OHM would be a better location for this dense project. For the reasons she previously stated and because of the increased traffic on already deteriorated streets, the potential degradation to the surrounding SR-1 community and increased water usage, Nance asked the Commission to deny the project.

Merritt closed the public comment portion of the hearing.

Merritt asked about development standards if this project develops. **Dingee** listed landscaping, parking, equipment placement, building architecture and lighting as areas of review by staff. **Frank Marbury**, Public Works Director, stated that he works off the current codes, and added that this is considered a single property and no sidewalks are required by current code. He added that 14 apartments would generate about 90 trips per day, which is less than what the trips could be if this site was commercial, such as medical, restaurant, etc. He also stated that water usage would probably be less than a restaurant or other commercial use.

Merritt added that well and septic would be required to meet the agency requirements. Fire also has requirements that would be addressed during the next step in the process. He added that this location provides all the amenities within walking distance, shopping, banking, restaurants, etc.

Penn asked if current code allows 12 or 14 dwelling units. **Dingee** stated that under the current zoning of multi-family, one unit is allowed per 3,000 square feet of lot area, or 20 units.

Merritt stated that this is only two units over the 2040 General Plan standards.

Merritt closed the public comment period. He added that the concerns heard at each meeting regarding traffic, fire, septic, water are all legitimate, however without voters' approval for road bonds, they will remain as is.

Pescador responded to the public comments. **Merritt** asked if he would be willing to consider installing sidewalks with his project. **Pescador** responded he would if it penciled out financially.

Motion was made by Pasciak, seconded by Meadors to approve ZC-2023-03, as presented, subject to the staff report and information provided during the hearing, and the Conditions of Approval in Attachment A. A roll-call vote was taken and the motion passed with a 6-1 vote.

Merritt asked each of the commissioners to explain their vote. They are as follows:

- **Welker** – Voted yes, and stated he felt this project was compatible with other uses in this area.
- **Penn** – Voted yes, and said it would be hard to say no, considering the surrounding areas, but he would be more comfortable if the project contained 12 units instead of the proposed 14 units.

- **Meadors** – Voted yes, stating that traffic would not be going through the existing neighborhood, that the apartment complex would be within walking distance to multiple businesses, and felt it was a good location for the project.
- **Switzer** - Voted no, expressing his concern that the project didn't conform to the current UDO. He said the 2040 general plan HMU land use designation required buffer zones and didn't feel that multi-family next to commercial was appropriate. He did not feel that this was the proper location for the project.
- **Zamudio** – Voted yes and felt that the rezone was in compliance with the General Plan and that the buffer is within reason. He noted that the commission cannot currently use the new 2040 General Plan and stated that this proposal met the current General Plan.
- **Pasciak** - Voted yes and stated that this rezone was consistent with the current general plan, as multi-family commercial. The developments surrounding this location are on well and septic, so he did not have an issue with this project being on well and septic also. He stated he understood that the 14 units might change depending on what is approved with the septic, so it might end up being 12 units. He reiterated about the public expressing concerns about the road conditions within the town, at every Planning Commission meeting, and reminded everyone that in 2019 the public chose to not approve the road initiative that was on the ballot to generate a tax for roadway improvements.
- **Merritt** - Voted yes and said he agreed with the yes votes and understood the no vote. He shared that this location and the folks that live there have the opportunity to walk every place they would need during everyday living. He felt the traffic generated would most likely head east to the highway or they would walk around the neighborhood to reach what they needed. The traffic would probably not be going to the west, as a general rule. He also shared that the town continues to do what it can to bring infrastructure to other areas within the town. He mirrored Pasciak about the road tax that went to a vote to fix the roads, but people voted no as they did not want to pay for it. This project fits the area and it helps create a walkable area for people to live.

PUBLIC HEARING #D.2 – CUP-2022-01 – *This is the reconsideration of Planning Commission action on July 18, 2023 for the six-month review of the Conditional Use Permit, CUP-2022-01, for an Equine Rescue Center owned and operated by Derek and Luiz Pereira on a 5-acre parcel zoned SR-2.5, located at 680 S. Firesky Lane, Chino Valley, Arizona.*

Chair Merritt asked if anyone on the commission had a disclosure to declare regarding this project. **Zamudio** talked to the neighbors about evidence and how to preserve and use evidence to show discrepancies in what they had witnessed in the past, of potential violations by the applicant. **Meadors** had discussions with staff and **Merritt** had discussions with staff and with the applicant about continuing to improve his facility.

Dingee presented the staff report including issues identified from the last meeting and shared photos of the operation. He added that the cattle have been removed and will not be allowed back on the property, the north property line fence was reinforced with railroad ties and a tighter mesh to mitigate drainage to the neighbor to the north, a shade structure was added and fly control items were increased in number. **Pereira** has also added a water truck to address the neighbors concerns about fire and has reaffirmed that they will adhere to the 7am-7pm hours for hay sales. He also has two ranch hands on-call, if needed. **Switzer** shared that he watched the last meeting in its entirety and was at all the previous meetings and is up to date with this case. **Penn** asked how long the CUP would be in effect. **Dingee** stated that it was for 5-years from Town Council approval in December 2022.

Zamudio shared that based on NFPA 45.7 (Fire Code) that the storage of hay complied with that code. **Merritt** asked about a possible stepped inspection process over the next 6 months and asked if that was possible for this case. **Dingee** stated that the Code Enforcement Division is familiar with this location and would respond if a complaint was submitted to the town. **Zamudio** asked if there are new violations, would this CUP come back to the commission. **Dingee** stated that after approval by the commission, all violations would be handled per the town code. **Lineberry** added that if the Commission wanted a specific inspection frequency, that would need to be stipulated during the approval of the case.

Merritt asked the applicant if he would like to add anything at this point. **Pereira** stated not at this time.

Merritt opened the public portion of the hearing.

Kathy Middlested addressed the commission and spoke in favor of this CUP. She stated that the applicant has done everything that the commission and council has asked of him. She feels that this is a win/win situation for everyone. If there was no CUP then they could have 30-40 horses and the owners would not have to worry about any of the other stipulations. She asked the commission to ask all their questions before the vote, so they can approve the CUP.

Larry Holt stated that he missed the last meeting but watched it on the feed. He stated that it was his understanding that the applicant was currently under compliance, and he has personally watched **Pereira** since December and knows that they are hard at work to comply with all the stipulations. He felt that to continually change the conditions of approval appears to be moving the goal posts. He is working hard on this business and has done everything that the town has asked of him. I believe that the commission should approve this CUP tonight.

Anna Sotalo, a neighbor who has lived next door for 22 years, stated she follows the rules. She stated she didn't understand why her neighbor doesn't have to follow the rules. She claimed **Pereira** was not following the rules. She stated she had sent proof of his violations to the Town but the Town had done nothing. He should have checked with the rules before he established his business. She expressed frustration at having to come to these meetings since he doesn't comply. **Sotalo** shared past history of issues and violations that did not get resolved. She also shared about a drone flying in the neighborhood.

Marcy George stated that she agreed with almost everything the previous speaker said. She said that the upkeep has improved. He moved the cows down the street to another neighbor's house. They were later moved again. She expressed concern that the cows would be moved back. She feels he only moved the cows because he was asked to. She said that the pigs were supposed to go away but understood they had returned. **George** declared that the applicant had not done well with the fly situation. **Pereira** has made an effort to shade the horses but there is a red work truck parked under that shade most of the time. **George** added that people won't come to visit her at her house because of the flies and the smell. Nobody would want to live next door to that property. She stated she wants to support this effort, but she wants it to be right. She also had noticed a drone flying around the neighborhood.

James Anderson stated that a lot had been said, but this business was a good thing. **Pereira** has worked hard to comply with everything that the town has requested of him. He stated that the lights people are seeing at 3:00 in the morning is Derek's brother coming home from work. The shade has increased with the new cover and the **Pereira's** don't own a red truck. He felt things were looking and going great on this property. He added that if this CUP is not approved, the animals can all come back onto the property, but he felt that Derek wouldn't do that even if he could. He asked for the commission to approved this CUP so that the town has the ability to have control over the property, the advantage is all for the town and the neighborhood.

Uziel Sotalo shared that **Pereira** had improved the property a lot. **Sotalo** was frustrated that **Pereira** never came over and asked his neighbors what their concerns were. **Sotalo** stated that he believed this was not the proper location for this use. **Sotalo** was not convinced that **Pereira** was going to continue to work towards his use being compatible with the neighborhood. He stated that he could not even have a bar-b-que outside because there were too many flies. He added that **Pereira** needed to spray or figure out a way to reduce the flies.

Uziel Sotalo then translated for **Luis Fuentes**.

Luis Fuentes felt that the **Pereira's** were just spreading the manure with the tractor. **Fuentes** felt they needed to pick it up and dispose of the manure. He also stated they needed to reinforce the fence. The

fencing that was added was not strong enough to hold a 4,000 pound animal. He shared that at one point the **Pereira's** agreed to put in a proper fence, but they have not. **Fuentes** feels that **Luiz Pereira** should be at the meetings if he wanted the Equine Rescue use.

Rachelle Fernow, Alternate Planning & Zoning Commissioner, and was part of the vote at the last meeting, stated that she is happy to see the improvements that have been made. Neighbors should not have their daily lives disrupted by other neighbors. She stated that each side is calling the other side liars. She felt that the applicant should do the neighborly thing and reach out to his neighbors to discuss how he can have his use without negatively impacting his neighbors. **Fernow** recommended another 6-month review of this project, to see how maintenance holds up through the winter months. She stated that it was important for all the neighbors to respect each other's quality of life.

Merritt asked if the Town had received reports of any animals that had escaped from the property. **Dingee** stated no. **Merritt** asked that since the case was continued to this meeting, if the applicant's ability to sell hay carried forth to this meeting as well. **Lineberry** stated that since there was no final decision at the last meeting, the applicant was allowed to continue with the hay sales. **Zamudio** asked why the sales of hay were still ongoing. **Lineberry** stated that because the vote at the last meeting was not a final decision, as it was being reheard within a 2-week time frame, the hay sales were allowed to continue between the hours of 7am-7pm. She added that tonight would be the end of this case and the public hearings, with a final decision by the Commission. **Merritt** shared that there was a lot of history and accusations between neighbors. The commission needed to focus on whether or not the property was compliant with town requirements. **Switzer** shared that as a commission their job is not to mediate a war between neighbors and asked if any civil violations had been reported. **Dingee** shared that during the last 6-months that there had been four complaints submitted through the on-line portal. Each complaint was investigated and determined that no violations had occurred. **Dingee** added that there had not been any civil judgements made.

Penn asked about another 6-month review. **Dingee** said that would be the prerogative of the Commission. **Lineberry** stated that staff can monitor any complaints filed and provide an update during each planning and zoning monthly meeting. **Merritt** asked for updates on all code enforcement issues, not just this property. **Switzer** stated that without a CUP in place there would be no limit to the number of animals on-site, except for swine. The CUP was for the sale of hay, in conjunction with the horse rescue. **Switzer** felt that the improvement on the property since the beginning of the CUP process had been substantial. He added that everyone has neighbors and some they don't get along with, but it is up to the neighbors to work things out between themselves. **Merritt** said he saw no need to continue with a further 6-month review period.

Merritt asked **Pereira** to approach the podium. He stated that he would be asking direct questions and would like **Pereira** to answer each one. **Merritt** asked **Pereira** about the following:

1. Drone – Did the drone belong to him? **Pereira** stated that is not his drone and he also has noticed it around the neighborhood.
2. Manure – was **Pereira** spreading the manure or hauling it away? **Pereira** stated it is being loaded and hauled away.
3. Fencing – have any animals escaped from the property not reported to the Town? **Pereira** stated no. **Merritt** felt that the fence could use more work to make it stronger.
4. Neighbors – The commission cannot become involved in neighbor compatibility issues, but encouraged **Pereira** and his neighbors both to continue to make attempts to work things out.
5. Volunteers – **Pereira** stated he paid two ranch hands to help with the fencing and the shade cover. He stated he had the ability to pay for help to take care of the place, if needed, to meet the CUP requirements.
6. Authority – Did Derek have full authority to act on behalf of his father? **Pereira** stated that he did. He shared that his father was a veteran of Brazil and the USA and suffered from PTSD and that the hearings are not good for him to attend. He added that he had been in contact with his dad via texting, during the meetings.
7. Cows – **Penn** asked if there were plans to bring the cows back to his property. **Pereira** answered no.

Merritt closed the public hearing.

Merritt shared that the property had improved tremendously since the beginning of the process. Without the CUP, the **Pereira's** could go back to as many animals as they choose to have (except swine). The approval of the CUP was the best solution, with measures in place, to continue inspection and make sure that the rules of the CUP were met. **Switzer** encouraged staff and town council to look at the current code that addresses maximum animal counts in the town, as soon as possible.

Motion was made by Pasciak, seconded by Zamudio to approve CUP-2022-01, as presented, subject to the staff report and information provided during the hearing, and the Conditions of Approval in Attachment A with the additional condition that staff would perform weekly inspections for the next three months and monthly inspections until the 2½ year re-evalutaion by the Commission. A roll-call vote was taken and the motion passed with a 7-0 vote.

ACTION ITEMS: There were no action items for this meeting.

INFORMATION ITEMS – FROM STAFF: COUNCIL ACTION OF PRIOR P&Z CASES: **Dingee** informed the Commission that the Red Cinder Rezone would be presented at the August 22, 2023 Town Council Meeting.

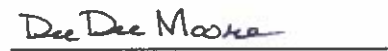
INFORMATION ITEMS – FROM THE COMMISSIONERS: There were no comments from the Commissioners.

INFORMATION ITEMS – FROM THE CHAIRMAN: **Merritt** shared that the decisions the Commission makes were not taken lightly. He thanked the commissioners for listening and hearing and dealing with the facts, and ignoring the emotions seen and heard, as much as possible. He added that at every meeting the public brings up the roads, grocery stores, water, and septic systems. However, he felt it was time for the public to step up and help pay for the roads in the town. He reflected that it seemed that the long-time folks were okay with the way the roads were, they accept that as part of the rural environment.

INFORMATION ITEMS – FROM THE PUBLIC: **MARTHA ANDERSON** thanked the Commission for putting the Equine Rescue issue to bed after so long. She also added that **Luiz Pereira** has not been at the meetings because he was ill, but he has watched the meetings.

ADJOURN – A motion was made by Meadors and seconded by Pasciak to adjourn the meeting at 7:47 p.m.


Charles Merritt - Chair


Prepared By: Dee Dee Moore