

## Planning and Zoning Commission Meeting Minutes October 4, 2022

A regular meeting of the Town of Chino Valley Planning and Zoning Commission was held on Tuesday, October 4, 2022, at the Town of Chino Valley Council Chambers, 202 N. State Route 89, Chino Valley, Arizona.

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

**STAFF MEMBERS** present were Laurie Lineberry, Development Services Director; Will Dingee, Senior Planner; Bethan Heng, Planner; Dee Dee Moore, Process Coordinator; Lawrence Digges, Audio/Video Technician.

**CALL TO ORDER:** Acting Chair Pasciak called the meeting to order at 6:00 p.m. Commission began with the Pledge of Allegiance.

**CONSENT CALENDAR – A motion was made by Meadors and seconded by Zamudio to approve the minutes with the revisions to page two which included the Commissioners discussion. This motion passed unanimously by a 6-0 vote.**

**CASE# ZC-2022-06:** - *This is a request by Jason Nance to rezone approximately 2.09 acres of land from Commercial Light (CL) to Commercial Heavy (CH) for relocation of B&M Painting Inc, a business that specializes in painting, concrete coating, and powderblasting, and Raw Customs LLC, a business that specializes in motorcycle, vehicle, and ATV repairs, to a property located at 1383 South State Route 89, Chino Valley, Arizona.*

**Bethan Heng, Planner,** presented the staff report and shared that the Applicant was in attendance for this meeting. The applicant did outreach to the neighbors regarding the proposed rezone and was met with approval. However there was one neighbor in opposition, and after the applicant talked with that neighbor, the neighbor retracted her opposition. Staff is recommending **APPROVAL**

**Switzer** mentioned that the Commercial Heavy zoning is not an isolated parcel. **Somerville** stated that Ace Hardware, to the south, is also zoned Commercial Heavy. **Switzer** did have concerns that some Commercial Heavy uses may not be compatible with the surrounding neighborhood. **Lineberry** shared that this property is right up to the highway where most of the road noise in the community is generated. **Switzer** shared concerns that there may be some uses within the Commercial Heavy Zoning that may need to be moved to a different zoning classification. **Somerville** asked if the applicant planned to build a wall along the rear property line and how he intended to dispose of paints and associated compounds. **Heng** stated that the applicant could address those questions.

**Jason Nance, Owner B&M Painting and Raw Customs,** explained that his product is a powder coat. There are no flammable materials. The product is sprayed on and then placed in an oven. He added that there will be fire extinguishers and an air filtration system that is cleaned out each Friday. He added that their varnishing and painting work is performed off-site at the clients' location, not on this property.

**Acting Chair Pasciak** opened the meeting for public comments.

**Matthew Fish, Realtor,** shared that he was the listing agent for the property. He felt that the rezone was appropriate for this property. He added that he believed there was not enough commercial heavy property

opportunities on the highway and that there is a demand for property to build businesses, which will help with the tax revenue for the Town. He added that B&M Painting is a very clean business and this would continue to be a good business to have in Chino Valley.

**Acting Chair Pasciak** closed the public comments portion of the meeting for this case.

**Jason Nance** returned to the podium and stated that he has been at his current location on S State Route 89 for 5 years. He added he is very conscientious about running a clean business both inside and outside with landscaping maintenance.

**A motion was made by Commissioner Meadors and seconded by Commissioner Somerville to approve ZC-2022-06, as presented by staff and subject to the conditions of approval. This motion passed with a 6-0 vote.**

***CASE# CUP-2022-01*** –*This is a request by Derek and Luiz Pereira for a Conditional Use Permit for an Equine Rescue Center on a 5-acre parcel zoned SR-2.5, located at 680 S. Firesky Lane, Chino Valley, Arizona.*

**Will Dingee, Senior Planner**, presented the staff report and shared that the Applicant was in attendance for this meeting. This case originated as a series of code enforcement complaints. Since Hay Sales & Horse Rescue centers are not allowed uses in the SR 2.5 zoning district, the use request is coming to Planning and Zoning and Town Council through the C.U.P. Process. Dingee described the location and the site, along with activities and animal types and numbers on-site.

Dingee described what a CUP is and how it works in the zoning district. Dingee went into detail about the original CUP application and how it evolved from that original submittal, to what the Commission received in their packet.

The neighborhood meeting was noticed within 600' of the property. The meeting was held on-site and 13 people were in attendance. Their complaints included: excessive flies; inadequate property maintenance.; the quantity of horses, cows, and swine on subject property; proper keeping of livestock; traffic activity and related noise in the evening with deliveries; and animals trespassing onto neighboring properties. Discussion between staff and the applicant reached the compromises and conditions that have become part of this case. The applicant has made improvements since the beginning of this process. The only large animal limitation in Town Code is a restriction of one swine per acre. **Dingee** shared limits from other rural jurisdictions, and Chino Valley is the only one that does not have a capacity restriction on large hooved animals.

After the Neighborhood Meeting, staff and the applicants met numerous times to try and find compromise site conditions acceptable to the applicant, and that would address the concerns of the neighbors. An equine expert from Yavapai College helped staff with the conditions. This property is within the Angus Acres Subdivision which was platted in 1978, ad a CC&R provision to limit large animals to 2 per acre. That provision expired in 2008.

**Dingee** stated six letters of opposition were received from the surrounding properties. Staff is recommending **APPROVAL** of CUP-2022-01 with the conditions as stated in Attachment A.

**Switzer** asked (not counting the driveways, home and other structures) what portion of the site was being used by the animals. **Dingee** stated he did not have that calculation, but it was not the whole five acres. **Zamudio** asked if there was a fixed schedule for county probation workers, since the clean-up was needed daily, and, if manure disposal was happening now. **Dingee** stated that the clean-up and disposal, if not happening currently, is a requirement of conditions of approval. Staff will be monitoring the site monthly to make sure all physical conditions are met by the end of the first six months.

Switzer asked how long the monthly inspections would occur. Dingee replied affirmatively for the first 5 years. The commission discussed the inspection in more detail and inquired about whether the well was private and which direction the on-site water flowed. **Dingee** stated that the water is from a private well and the natural water flows to the north and then into the culverts along Firesky.

**Derek Pereira, Owner**, shared with the Commission their compromises since this process has begun. They have reduced the number of animals on-site (removed steers, pigs and chickens). He added that the weather has played a part in hindering the completion of some work, including the break-down of his tractor. He stated that he and a volunteer loaded two full loads of wet manure that day. He said the work is hard and constant. His tractor gets stuck in the mud a lot, with all the rain. There is a lot of work. He stated that with the out-buildings and their home, he felt that the animals were using about three and one-half acres of the five-acre parcel.

**Zamudio** asked the applicant if he felt he would be able to continue the maintenance requirements for the property and the animals with the help he currently has. **Mr. Pereira** shared that before the pandemic there were a lot more volunteers to help. Currently, it is just him and his Dad, and any community workers when they are available. He also shared that when the weather is dry the upkeep is much easier. He added that he is waiting on parts for the tractor and hopes to have them in the next couple of weeks. In the meantime they have to use shovels to move the manure. With all the rain and fewer workers, he said it was very challenging to keep the site clean.

**Mr. Pereira** also shared that the cost to feed the animals has doubled over the last year, and all workers time is volunteered. He did state that if there were less animals the tasks would be more manageable. He added that some manure spread back into the ground will help bring it back to life, but the excess needs to be moved out. He pointed out that the 70 animals they were asking for was for emergency situations. They currently have adoptable horses. With fewer horses it is easier to manage. Pereira stated he understood about an excessive amount of manure and moving it from the site.

**Switzer** spoke up commending them for the service they provide and what they are trying to do, stating he felt it is a worthy cause. He had several questions for the applicant regarding: approximately how many acres he thought were being used for the animals, if they were opposed to lowering the limit from 70 to 30, if the animals were rehomed or long-term stay, and added that he felt an additional condition for emergency situations. **Mr. Pereira** answered that he felt it was about three to three and one-half acres being used for the animals, stated that 70 was a number they chose because of emergencies, five horses are available to be rehomed and then there are some horses that are family horses, and some sanctuary horses. **Lineberry** stated that there could be something stating that for a natural disaster then the limit can be increased for two to three weeks, or a reasonable time frame that it takes to get the horses back to where they belong.

**Somerville** asked the applicant if this was a non-profit organization, about fund raising and veterinarian care, and felt that he would like to see them work with the Yavapai College Agricultural school here in town. **Mr. Pereira** stated that both himself and his father were on the board for the 501C3, the sale of hay and other donated items help fund the effort. Dr. Kelstom was identified as the veterinarian. He uses a local Farrier. He was not aware of the Yavapai College resource. **Somerville** felt having the school information would help them become more efficient. The operation is an honorable cause and could be a real boost for this town. **Somerville** stated he would like to see this effort better funded and better organized. **Mr. Pereira** said he was not opposed to a reasonable amount of animals on the property, and understood fewer animals were easier to manage and take care of.

**Switzer** brought up the question of changing the hours of operation to 7am to 7pm. **Mr. Pereira** agreed with the hour limitations, and felt the Sunday restriction could also be something they could work with. **Pasciak** expressed concern over the number of animals and the ensuing manure; 70 horses is 2 tons of manure each day.

**Penn** felt strongly that perhaps this was the wrong property for this type of project and perhaps a different location would be better suite. **Mr. Pereira** shared that they are using this property as best they can and do not have the funds to purchase another property.

**Zamudio** asked about the photos in the staff reports showing stacks of pallets. **Mr. Pereira** stated he was given direction by David Jaime, Code Enforcement Officer, to reorganize the stacks and to remove part of them, which is what they did during the Paulden Dump Days.

There were no further questions from the Commissioners. **Acting Chair Pasciak** opened the meeting up for public comment with a 3-minute time limit per speaker.

**Uziel Sotalo** spoke about when it rains, the manure runs onto his property and shared that there were excessive flies because of the animals. He commented about the number of animals and apparent lack of care for the animals saying they moan and groan at night because they are hungry. He felt that the areas that are fenced and used for the animals were closer to two acres in size, not three and one-half acres as the applicant estimated. **Sotalo** shared about the machinery noise in the night, disturbing neighbors sleep and the piles of manure. He was concerned that they don't have enough help to keep up the property and to care for the animals. He stated that they are advertising a business to sell hay but didn't have a business license to do so. **Sotalo** told the commission he had photos and videos of these issues on-site. He feels this location is not the right place for this business.

**Ana Sotalo** stated she lives next door and has lived at this location for 21 years and never had any problems with the neighbors until this neighbor moved in. Her fence was destroyed by his animals and so they removed the fence. There is trash that blows into her yard from the neighbors' yard. She stated that Luiz promised to take care of it, but never did. They used to have about 300 chickens and 17 pigs. She is concerned about the lack of help on-site. She shared that it is hard to enjoy her yard because of the flies. She has no peace. She also had concerns about them selling hay and the trucks that deliver it.

**Nathan Moses** stated he agrees with prior speakers. He feels the neighbors are forced to bear the brunt of his inability to manage the horse rescue adequately. The stench is awful and disrupts enjoyment of their property. He is concerned that there is too much work for the people to keep up. He likes the idea of helping the animals but doesn't like the way they are doing it. He thinks that they should wait until they are capable of maintaining the site, maybe 6 months, maybe next year.

**Anahi Sotalo** stated that she is concerned about all the hay stacked up and the fire hazard. She stated that when the winds blow the hay blows over into their yard and should be covered. She thinks that if they can't take care of the animals now, she didn't know how they were going to take care of them later. The care of the animals required water, food and regular vet care.

**Martha Anderson** spoke on behalf of the CUP, sharing that she wanted to address the current state of the property. She added that perhaps they could contact the boy scouts as they use different projects to earn badges. She added that she has seen progress on site showing that the applicant has addressed a lot of the issues being presented. There are a lot of personal issues between neighbors, but this case is about what is required for a CUP and those are the facts we need to stick to. She shared that the rain has been awful and with all that moisture the flies are worse. In closing she added that this case needs to move forward using the conditions indicated, and if the applicant can meet and achieve those conditions, this should be approved.

**Christian Tanner** stated that he lives two houses over from this property. It is a touchy situation between neighbors and that he gets along with all of them so he isn't going to comment on neighbor issues. He stated that he has seen horses abandoned at the front gate. The applicant and his father provide a service to the public. They work very hard on this property. He added that he buys hay from them and keeps goats and sheep on his property. He commended them for their work in the community.

**James Anderson** shared he was not going to talk about flies and mud. He wanted to stress that this is a service to the community. Regarding the applicant not having a business license, that is not a planning and zoning commission issue. If the neighbors have a complaint about the trucks or property damage, that is a civil issue that needs to go through the court, so they need to take the issue to the police. He personally knows Derek and his dad and there are some issues. He feels that by lowering the number of horses and cattle, that an agreement can be reached to satisfy everything. Bottom line is they are doing good things and these issues can be resolved through compromise. He added that he uses the same Farrier as the Pereira's.

**Mr. Pereira** responded to the public comments stating that there were other things going on that had nothing to do with this request. He added that there have been various issues regarding the fences and who they belong to. He stated that all the animals that are rehomed have health checkups before leaving their property. He added that he is always on the property, watching and caring for the animals, and added that right now there is a manpower issue, but to make the situation manageable there could be compromises that will make this a more agreeable situation.

There were no further comments from the public and **Acting Chair Pasciak** closed the public comments period.

**Switzer** stated he would hate to deny this application if a compromise regarding the hours, number of animals, etc., could be made. He suggested staff meet with the applicant to try and work through those issues. **Lineberry** shared that staff has met a number of times and those meetings did not resolve the current issues on-site. **Lineberry** added that there could be alternate conditions added to this case if the commission was not yet ready to make that decision tonight. **Switzer** added that it was the commissions' job to make sure this is a compatible use and not adversely impact the neighbors. He felt the amount of property contributing to horses and their care is 2.5 to 3 maximum, and should result in a maximum of 30 animals on-site, nowhere close to 70 animals. He applauded his efforts, but the Commission was tasked with making this use compatible with the neighbors, even with the CUP that is not happening. **Penn** felt that this was not a good place for this business. He added that all the neighbors knew the zoning when they purchased their home and that he should not be able to disrupt the neighborhood so much that the other property owners can't enjoy their homes. **Zamudio** asked staff if the property upkeep has improved since the photos in the staff report. **Dingee** stated that the property looks much better and added that there is a current Code Enforcement case on this property.

Before making a motion, **Lineberry** asked if the commission would like to hear alternate conditions based on what the discussion had been. Condition 4, if reworded to state: "the applicant shall limit the number of horses and cows on site to 30, in a declared national disaster or declared state or county emergency, the number of animals can be increased for a maximum of 3-weeks post declared disaster emergency, after the 3-week period the combined number of horses and cows must be reduced back to a maximum of 30. Condition 5, instead of dawn to dusk, the time changes to 7:00am to 7:00pm, for both a and b. **Switzer** asked about the days of work being Monday through Saturday. **Lineberry** answered that in 5a the workdays are defined, however, a horse rescue may take place on Sunday.

**Somerville** asked if the number of cows would decrease if the number of horses increased. **Dingee** stated that the maximum number of animals could be any combination of horses and cows. **Pasciak** asked if there would be a cap of the maximum animals during a disaster. **Lineberry** mentioned that if you looked at Florida, that number of rescues could vary. **Somerville** asked about a time limit and **Lineberry** felt that generally it is within 3 weeks, the animals are either back at home or at an alternate location. **Switzer** shared that he would like to see a cap on the emergency rescue at an additional 20 animals. **Zamudio** agreed to a maximum of 50 animals, because of the limited number of staff and manpower to care for the animals. **Somerville** shared he would like for the community, college and neighbors to get involved and reiterated that this is a good thing for the community. **Penn** asked about statistics in the report about other agencies limiting the number of animals and why Chino Valley doesn't have those types of restrictions in

place. **Dingee** answered that that is how the zoning code has always been written and **Lineberry** added that it is a missing piece in the code.

**Zamudio** express concern about the existing fencing, stating that it wasn't proper for the type of animals being kept. **Switzer** asked how often during the first 6-month period staff was going to check on this facility. **Dingee** stated that the current condition review is set up for once a month, but if the commission wanted something more frequent, like every two weeks, that condition could be changed. **Switzer** wanted clarification on whether the CUP was issued during the first 6 months or only after all the conditions were met. **Dingee** stated the CUP only takes effect after all the conditions are met within the first 6 months. **Meadors** shared that conditions change and would like to see an additional 6 months added to the review after council approval to see if they are still in compliance and if there are any complaints, then it could come back to planning and zoning. She has seen a horse in extremely bad condition and they are now healthy, but it takes time to heal and the neighbors may not be aware of how long that animal has been in the Pereira's care. She would like to see regular checkups by a vet and medical records on each animal. Some may not recover and may need to be put down. She also stated, regarding the fencing, it needs to be cattle panels or welded fencing, and put it on his property, then there is no question as to who it belongs to or who needs to maintain it. **Penn** asked if the Vet donated his time, **Dingee** did not have an answer, however, **Meadors** stated that that was not relevant to the commission.

**Switzer** asked how they address the smell regarding the manure removal. **Dingee** stated that it would be by removing the manure weekly. **Meadors** shared that she was aware that tractor parts are backordered at this time and thought there might have someone local to donate equipment at this time. **Switzer** asked what their best step might be at this time regarding this case. **Lineberry** stated there were two ways the commission could take this case. The first, to take the wording that she provided earlier, or second, to continue to the next commission meeting for discussion by the commission only, no public comments would be heard at that time. Conditions could be reworded and addressed at the next meeting. **Dingee** added that the next date would November 1, 2022, continuing the commissions' discussion and decision. **Lineberry** recapped changes for Condition 3, it would be valid for an initial 1-year period for completion of physical improvements of the site, the CUP would be reconsidered by the Planning and Zoning Commission at that point. The Planning and Zoning Commission may extend the CUP for 5 years if all physical and conditional improvements have been met. **Switzer** felt that all physical improvements needed to be met before the CUP is issued. **Lineberry** shared that the condition could state that the CUP was under a 1-year review. **Meadors** felt there should be a temporary approval for the first 6-months and only if all physical improvements are met and then an addition 6-months for upkeep to make sure this will work out.

**Lineberry** shared that the commission will be provided a set of draft conditions of approval to review each conditions line by line and approve or deny those conditions, looking at the impact and the compatibility with the neighbors. **Dingee** stated that staffs' recommendation is for approval as long as all the conditions are met and the project is compatible with surrounding properties. **Switzer** added that this list of conditions is going to be a challenge to maintain.

**Meadors** made a motion to continue the decision of CUP-2022-01 to the Regular Meeting of the Planning & Zoning Commission on November 1, 2022 for commission discussion and decision, the motion was seconded by **Zamudio**. Motion passed 6-0.

**ACTION ITEMS:** There were no Action Items

**INFORMATION ITEMS – FROM STAFF: COUNCIL ACTION ON PRIOR P&Z CASES:** **Dingee** shared that he would have updates available at the next Planning and Zoning Meeting.

**INFORMATION ITEMS – FROM THE COMMISSIONERS:** **Pasciak** had a couple of comments because of this CUP. First, he wanted staff to look into the Town's noise regulation which is only allowing a 5-hour window of quiet. He felt this allotment of time should be 8-hours. Secondly, he requested staff research the number

of animals per acre allowed in the current code. **Somerville** asked if there was a maximum fence height allowed. **Dingee** stated the height can be six-feet, however the fence cannot restrict water flow.

**INFORMATION ITEMS – FROM THE PUBLIC:** There were no Information Items from the public.

**ADJOURN** – A motion was made by **Switzer** and seconded by **Meadors** to adjourn the meeting at 7:54 p.m.



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Gary Pasciak  
Acting Chair



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Dee Dee Moore  
Prepared By