

1. Agenda

Documents: [AGENDA SEPTEMBER 16.PDF](#)

2. Packet

Documents: [PACKET SEPTEMBER 16.PDF](#)

3. Action Taken

Documents: [ACTION TAKEN SEPTEMBER 16.PDF](#)



Town of Chino Valley
MEETING NOTICE
PLANNING AND ZONING COMMISSION

SPECIAL MEETING
September 16, 2014
6:00 P.M.

Council Chambers
202 N. State Route 89
Chino Valley, Arizona

AGENDA

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. MINUTES**
 - A.** Approve minutes from the August 8, 2014 regular meeting.
- 5. STAFF REPORTS**
- 6. PUBLIC HEARING**
 - A.** Rezone approximately 16.81 acres from Agricultural/Residential - 5 acre minimum (AR-5) to Commercial Light, Planned Area Development (CL-PAD) and Multiple Family Residential, Planned Area Development (CL-PAD).
 - B.** Rezone approximately 1.53 acres from Commercial Light (CL) to Commercial Heavy (CH). The applicant would like to add a 30' x 34' steel building for the purpose of providing cover for two (2) existing car lifts.
- 7. NON-PUBLIC HEARING ACTION ITEMS**
- 8. DISCUSSION ITEMS**
- 9. PUBLIC COMMENTS**
- 10. ADJOURN**

Dated this SIXTEENTH day of SEPTEMBER, 2014.

By: Ruth Mayday, Development Services Director

A copy of the agenda and background material provided to the Commissioners is available for public inspection at the Marion Lassa/Chino Valley Library, 1020 W. Palomino Road, Chino Valley, Arizona. Further details may be obtained by contacting Development Services Department at 1982 Voss, Chino Valley, Arizona (928) 636-4427.

The Town endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call 636-2646 (voice) or use the AZ Statewide Relay Service at 1-800-367-8939 (TDD) to request an accommodation to participate in this meeting.

In accordance with Chapter 3, Title 38, Section 38-431.02 Arizona Revised Statutes, public notice is hereby given that four (4) or more members of the Mayor and Town Council may be present at this meeting.



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P&Z Planning Commission Regular

4. A.

Meeting Date: 09/16/2014

Approve Minutes from 08/05/2014 Regular Meeting

CASE DESCRIPTION:

Approve minutes from the August 8, 2014 regular meeting.

FACTS:

1. Applicant:.....
2. Owner:.....
3. Parcel Number.....
4. Site Area.....
5. Existing zoning:.....
6. Intended Use.....

ANALYSIS:

RECOMMENDATION

Attachments

Draft Minutes 08/05/14

**MINUTES OF THE REGULAR MEETING
OF PLANNING AND ZONING COMMISSION
OF THE TOWN OF CHINO VALLEY**

**Tuesday, August 5, 2014
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.

Commissioner Rowitsch called the meeting to order at 6:00 P.M.

Members present: Commissioner Gwen Rowitsch (Chair), Commissioner Michael Edmonds, Commissioner Robert McCaullay, Commissioner Corey Mendoza, Commissioner Chuck Merritt, Commissioner Gary Pasciak, Commissioner Florence Sloan
Staff Present: Development Services Director Ruth Mayday, Assistant Planner Elyse DiMartino, General Services Director Cecilia Gritman, Deputy Town Clerk Liz Hart (recorder)

Commissioner Florence Sloan led the pledge of allegiance.

4. MINUTES

A. Consideration and possible action to approve the June 3, 2014, minutes.

Commissioner Pasciak moved, seconded by Commissioner Merritt to approve the June 3, 2014 minutes. Commissioner Florence Sloan abstained. Motion passed.

5. STAFF REPORTS

6. PUBLIC HEARING

A. Application by Cortez Enterprises to rezone 438 Acres (+/-) from Single Family Residential, 2 Acre Minimum (SR-2) to Industrial (I)

Commissioner Chuck Merritt excused himself as he and Mr. Roberts have held business in the past.

Planner Mayday reported as part of the pre annex development agreement, Section 6, Township 15N Range 1 West, included a rezone commitment to industrial from 2-acre residential for the purpose of mining and operating a gravel pit and processing sand and gravel. Town Council approved PADA and rezoning in 2001. The extension of Road 4 South was in litigation and an agreement reached in February 2014 obligating Cortez to apply for zoning.

This application is rezoning 438 acres from single family to industrial for sand and gravel mining operation, a batch plant for the manufacturing of concrete, and a portable hot mix and asphalt plant. The asphalt plant is the only non-permitted use and is under Conditional Use Permit (CUP) consideration.

Planner Mayday sent letters of intention to Arizona State Land Department and surrounding landowners and did not receive comments from recipients.

Staff supports zoning request and provided list of facts to support recommendation

- Location provides generates minimal dust and noise
- Impact of activities minimal convenience, safety and welfare of the citizens due to remote location

Commissioner Robert McCaullay asked if notification was made to citizen living along Highway 89 and the solar farm about the potential increased of heavy traffic along road way? Planner Mayday advised only people in the statutory limit were notified.

Commissioner Edmonds questioned about question marks on the agenda. Planner Ruth Mayday advised they were pasting errors with Agenda Quick.

Some Commissioners confirmed the rezone is to comply with the Town's pre annex agreement in early 2000 and that the meeting was not just a formality. Development Services Director Mayday confirmed the need to comply with the pre annex agreement and that it is not a formality but it is part of the process. The Commissioners questioned the timeliness of the rezoning procedure. Mr. Roberts, Prescott, advised it was a joint agreement to continue the terms and the property is now available for rezoning.

Some Commissioners expressed concerns about provisions for road deterioration maintenance and how many truck trips are anticipated. Mr. Roberts advised he is unable to answer the number of traffic trips anticipated and the responsibility of the public road is with the Town. The Commissioners mentioned the deterioration on the roadway would cause an increase in the roadway budget and the revenues from the gravel facility might offset the extra funds needed to keep the road maintained.

6:18 p.m. open public hearing – No public comments

6:19 p.m. closed public hearing

Commissioner Edmonds moved, seconded by Commissioner Mendoza to forward the application for rezoning approximately 438 acres located in Section 6, Township 15 North, Range 1 West from Single Family Residential, 2 Acre Minimum (SR-2) to Industrial (I). Passed unanimously.

B. Consideration of a Conditional Use Permit to operate a Portable Asphalt Batch Plant in an Industrial Zoning District.

Development Services Director Mayday presented the CUP to operate a portable asphalt batch plant in an industrial zoning district. The portable asphalt batch plant is smaller than a fixed asphalt batch plant and follows the mining operation as it goes along. Also due to the remote location of the plant will have minimal impact to the surrounding property owners.

Staff recommends approval as it meets the pre annexation and settlement agreement and recommends the following conditions of approval:

- The areas disturbed on the site of the asphalt hot mix plant will be remediated upon cessation of the manufacture of asphalt by removal or reuse, as appropriate, of all materials, waste, and fine piles, and disturbed areas will be graded to maintain positive drainage. Reseeding areas of disturbance will be required only for those areas that have not reverted to natural vegetation.
- Completion of a Phase 1 Environmental Impact Assessment upon same to ensure that the site of the asphalt hot mix plant is not contaminated.
- The term of the Conditional Use Permit shall be 50-years from the date of approval.

- The Town will not require any reclamation that is contrary to the rules and regulations of any other agencies with regulatory jurisdiction over Cortez's mining activities within the State of Arizona.
- Prior to the commencement of mining activities, Cortez will provide to the Town of Chino Valley evidence of any required regulatory approval for said activities.

The Commissioners discussed the proposed hours of operation, the 50-year lease vs a 10-year with a review, the conditions of use being on remediation after the cessation, and the environmental requirement for operation.

Development Services Director Mayday advised the plant would have to comply with code. 7:00 a.m. to 7:00 p.m.?

Development Services Director Mayday advised this is standard for gravel mining operation and can be stopped at any time if they not in compliance with the CUP, Town codes, or by the mining laws of the State of Arizona.

Development Services Director Mayday advised they have to provide a Phase 1 Environmental at the conclusion.

Mr. Roberts advised that the ADEQ permits hot asphalt plant and is regulated by State of AZ.

Commissioner Pasciak requested modifying mining activities to specify hot plant mix.

6:30 p.m. open public hearing

Pat McKee, Chino Valley, how often with the inspector be checking to see if they are following the criteria.

Development Services Director Mayday advised this is treated as any other business, on an as need basis approximately twice a year.

Marilyn Maines, Chino Valley, asked if water usage and dynamite were addressed in the request for the permit. How much water will be used and if dynamite will be used?

Mr. Roberts advised generally aggregate is washed and if a well is drilled, it will be under the commercial setting through ADWR the State of Arizona. He does not anticipate drilling a well is at this time so water need trucking. No dynamite as they will use the same type of process as at Hansen Materials.

Commissioner Edmonds asked about tonnage per day.

Mr. Robert advised the operation is driven by events i.e. State Route 89 widening not as a retail supplier. Commissioner Mendoza but not impossible and he does not believe 50 years is unreasonable amount of time.

6:34 p.m. closed public hearing

Commissioner Pasciak moved, seconded by Commissioner Mendoza to forward application requesting a Conditional Use Permit to operate a Portable Asphalt Batch Plant in an Industrial (I) zoning district with the condition E modified to change the first section that says prior to commencement of mining activities to be modified to say prior to commencement of mining and asphalt batch plant activities. Passed unanimously.

7. NON-PUBLIC HEARING ACTION ITEMS

8. DISCUSSION ITEMS

9. PUBLIC COMMENTS

10. ADJOURN

Commissioner McCaullay moved, seconded by Commissioner Sloan to adjourn, passed at 6:36 P.M.

Dated this 11th day of August, 2014

By: ***Liz Hart, Deputy Town Clerk***

DRAFT

Meeting Date: 09/16/2014

ZC14-001 La Vacara Trust AR-5 to CL-PAD and MR-PAD (with conditions)

CASE DESCRIPTION:

Rezone approximately 16.81 acres from Agricultural/Residential - 5 acre minimum (AR-5) to Commercial Light, Planned Area Development (CL-PAD) and Multiple Family Residential, Planned Area Development (CL-PAD).

LOCATION:

1420 West Road 4 North, Chino Valley, AZ

FACTS:

1. Applicant: Joseph Cordovana for La Vacara Trust
2. Owner: Same as Applicant
3. Parcel Number 306-05-030Z
4. Site Area 16.81 Acres
5. Existing zoning: Agricultural/Residential, 5 acre minimum (AR-5)
6. Intended Use: Commercial Light, Planned Area Development (with conditions) (CL-PAD) and Multiple Family Residential, Planned Area Development (with conditions) (MR-PAD)

ANALYSIS:

Staff Brief – Windmill House

The applicant is requesting rezoning of approximately seventeen acres (16.81) from Agricultural/Residential 5 Acre Minimum (AR-5) to the following: 10.26 acres to Commercial Light Planned Area Development (CL-PAD), and 6.55 acres to Multiple Family Housing, Planned Area Development (MR-PAD). Applicant LaVacara Trust also proposes to restrict the number and type of uses that would be allowed by right in the CL-PAD zoning district.

History

Initial approval for the Windmill House was granted in November of 2003 upon the approval of Ordinance No. 561, which allowed the use as a conditional use as a “privately owned and operated park and recreation facility”; commercial agricultural sales were allowed as an accessory use. The permit was valid for a five (5) year period and set forth a number of conditions related to mitigating any impact on surrounding neighbors. The building permit for the clubhouse (Windmill House) was issued in January of 2005 and finalized in May of 2006.

A Technical Review Meeting was held on September 26, 2006 to review the proposed JC Estates, an adult retirement living community, comprised of independent living and assisted living residential units. The project encompassed both the subject property and the adjacent parcel to the east, and covered approximately 80 acres (79.9) near North 1 West and West 4 North. At the same time, replacement of the existing Zoning Code with the Unified Development Ordinance (UDO) was underway; upon the adoption of Ordinance No. 06-678 and its companion Resolution No. 06-812 on November 6, 2006, the current UDO replaced the previous zoning code. Included in the UDO were requirements for road construction, maintenance, and dedication of rights-of-way.

In October of 2008, the applicant returned with a larger project covering 170 acres and expanded the uses to include apartments, a skilled nursing facility, and offices for doctors. The concept was to provide a senior living community for those 55 years of age and over. Among the many requirements listed in the notes from the meeting was dedication of right-of-way along the frontage on West Road 4 North.

As amended upon the adoption of Ordinance NO. 08-707 on October 23, 2008, the UDO Section 2 Definitions sets forth the following as the definition of arterial street:

“Means a street with the principal function to serve as a part of a major network for the through traffic flow separate from local traffic, to and from areas of principal traffic generation, of adequate design, capacity and construction to provide for the safe and rapid distribution and collection of through traffic and to provide limited ingress and egress to and from collector and local streets (See section 4.28 for a list of arterial streets).

Statutorily, ARS 9-462.01 A (7) states that a legislative body of any municipality by ordinance may “require as a condition of rezoning public dedication of rights-of-way as streets, alleys, public ways....as are reasonably required by or related to the effect of the rezoning.” As the commercial and residential uses proposed in October 2008 as a part of the JC Ranch Master Planned Retirement Community (“JC Ranch”) would increase the number and frequency vehicle trips per day as well as turning into and out of the subject property, requiring dedication of additional Right-of-Way for future road expansion was made a condition of rezoning in order to mitigate increased traffic flows on West 4 North, Road 1 West, and Road 4 ½ North resulting from the proposed project.

To accommodate the uses proposed in the JC Ranch project, the applicant requested a zoning change from Agricultural/Residential 5 Acre Minimum (AR-5) to Planned Area Development with underlying zoning of Commercial Light (CL), Multifamily Residential (MR-1) Single Family Residential, 1 Acre Minimum (SR-1), and Open Space (OS). A parallel application for a Minor General Plan Amendment (mGPA) was submitted at the same time. Both applications encompassed approximately 170 acres generally located near the northwest corner of West Road 4 North and North Road 1 East, south of Road 4 ½ North.

Included in Ordinance No. 09-719 were numerous stipulations, two of which are critical to the case now before Commission. First, development of the property was conditioned upon review and approval of a Final PAD within two (2) years of approval of the Preliminary PAD. Second, dedication of Right-of-Way was required prior to filing the Final PAD. These stipulations were referenced in Resolution 09-899 which approved the Minor General Plan Amendment. The Resolution also established a two year deadline for compliance with the stipulations set forth in the PAD Ordinance, and authorized Town Council to hold a public hearing to determine compliance with the stipulations, or take further action to revert the Land Use designation from Commercial to Medium Density Residential, 2 acres or less. Both items were considered by the Planning and Zoning Commission during a public hearing on April 2, 2009. After a presentation by the applicant’s Agent and Town Staff, the Commission took comment from members of the general public. The Planning and Zoning Commission voted to deny the application; that recommendation was advanced to Town Council.

During its regular meeting on June 9, 2009, Town Council heard the requests for the Zoning Change and Minor General Plan Amendment, and approving both items, thereby changing the zoning districts and land use designations for the project. In May of 2011 (prior to the expiration of the previously approved Ordinance No. 09-719 and Resolution No. 09-899), the LaVacara Trust submitted parallel applications for a Minor General Plan Amendment (MGPA11-001), a Zone Change (ZC 11-003), and a Conditional Use Permit (CUP11-002). These applications encompassed approximately 28 acres of the area included in Ordinance No. 09-719 and Resolution No. 09-899, and constituted the area within which The Windmill House, a nursery, and the Western Town were located. The intent was to reduce the size and scope of the project to a more manageable and financially feasible size, given the rapidly declining economy.

After said applications were received by the Town but before the requisite public hearings were held, the property owner was notified by first class mail, return receipt on August 17, 2011 that the two year deadline for compliance with the stipulations in the above referenced ordinance and resolution had passed. Because the stipulations had not been satisfied, Town Council would hold a Public Hearing to take further action to extend, terminate, or determine compliance with Ordinance No. 09-719 and Resolution 09-899.

The Planning and Zoning Commission heard all three applications on September 6, 2011 during its regularly scheduled meeting. The Commission first considered the Minor General Plan Amendment (MGPA11-001), hearing first from staff, then the applicant, and then took comments from the general public. Upon closing the public hearing, the Commission discussed their concerns with the application, and agreed that they did not think a General Plan Amendment or a Rezone were appropriate. Commissioners Rice and Owen commented on the deficiencies in the General Plan; Commissioner Owen further commented that the town would need some commercial nodes throughout town and that the issue would be addressed in the updating of the General Plan. The Commission then voted unanimously to recommend denial of MGPA11-001, and subsequently declined to hear the Zone Change request. (ZC 11-003 was heard by the Commission on October 18, 2011; a recommendation of denial was forwarded to Town Council.)

Issuance of a Conditional Use Permit (CUP11-002) to allow continued operation of the Windmill House and associated uses was then considered. As with previous ordinance, permits, and resolutions associated with the subject property, CUP11-002 included a number of conditions, limiting the hours of operations and the nature of the events to be held, among other things. The sole engineering condition was the dedication of Right-Of-Way as set forth in Sections 4.23 and 4.28 of the Unified Development Ordinance (UDO) along the full frontage of West Road 4 North. After a presentation by staff and taking comments from the general public, the Commission voted unanimously to forward CUP11-002 to the Town Council with a recommendation of approval.

The recommendations made by the Planning and Zoning Commission in regards to MGPA11-001, ZC11-03, and CUP11-002 as well as the previously approved Ordinance No. 09-719 and Resolution No. 09-899 were heard by Town Council on November 8, 2011.

1. Ordinance No. 11-752: This ordinance reversed the rezoning action taken in Ordinance No. 09-719, reverting the zoning district back to Agricultural/Residential, 5 Acre minimum (AR-5). *Approved by Town Council.*
2. Ordinance No. 11-753: This ordinance would have actuated ZC11-003, rezoning approximately 28 acres in the general area of the northwest corner of North Road 1 East and West Road 4 North, south of Road 4 ½ North from AR-5 to CL. *Denied by Town Council*
3. Ordinance No. 11-754: This ordinance approves the issuance of CUP11-002, allowing the applicant to continue operation of the Windmill House and related uses. The Town Attorney provided an alternative to the language recommended for approval by the Commission, which set a 15-year horizon for the CUP, required dust mitigation, set forth a process by which the CUP could be revoked in the event of non-compliance by the applicant, and included the stipulations previously recommended by the Commission. These stipulations limited uses and hours of operation, and required dedication of Right-of-Way along West Road 4 North. *Approved by Town Council.*
4. Resolution 11-968: This resolution caused the reversion of the Minor General Plan Amendment set forth in MGPA09-899, and changed the land use designation from Commercial to Medium Density Residential, 2 acres or less. *Approved by Town Council.*
5. Resolution 11-969: This resolution would have actuated Minor General Plan Amendment 11-001, allowing a change of land use designation for the Windmill House site, encompassing approximately 28 acres. *Denied by Town Council.*

As a result, the LaVacara Trust had been granted a Conditional Use Permit (CUP11-002) to continue operation of the Windmill House, the nursery, western town, and casita for a period of fifteen years, provided that all stipulations were met, and the applicant abided by all restrictions and conditions governing use of the property and nature of the events held.

The Windmill House and other uses on the approximately 28 acres to which the CUP had been attached continued to operate, until the lessee left the facility and Mr. Joe Cordovana applied for a new business license to operate the Windmill House in mid-2012. Mr. Cordovana, in his capacity as Trustee for the LaVacara Trust, had not yet dedicated the Right-of-Way required in the most recently approved CUP, and that had been consistently required since the inception of the JC Ranch Master Planned Retirement Community and Ordinance No. 08-707.

The operation of the Windmill House and related uses was granted contingent upon Mr. Cordovana's compliance with the conditions and stipulations set forth in the CUP. Despite staff's attempts to bring Mr. Cordovana into compliance with the terms of the permit, no Right-Of-Way dedication was received by the Town. During a meeting on August 16, Mayor Marley and staff met with Mr. Cordovana; he stated that he would not dedicate the Right-of-Way unless the Town agreed to process a new zone change application for CL zoning, waive fees for said application, and ensure the application was approved by Town Council. As staff could not agree to the terms of his request, Mr. Cordovana continued to refuse to dedicate the Right-of-Way.

Staff had no other option than to initiate action to revoke CUP11-002. On September 4, 2012, the Planning and Zoning Commission considered Ordinance 12-762 to revoke CUP11-002 due to the lack of compliance with the stipulations therein. After a presentation by staff and taking comments from the general public, the Commission voted to forward Ordinance No. 12-762 to Town Council with a recommendation of approval, which Town Council granted on September 25, 2012, effectively shutting down all activity at the Windmill House.

On February 6, 2014, Mr. Joe Cordovana, in his capacity as Trustee for the LaVacara Trust, submitted a zone change application, requesting Commercial Light, Planned Area Development (CL-PAD). The request is for an approximately 28 acre parcel of land situated in the general area of the intersection of West Road 4 North and North Road 1 West. This area includes the Windmill House and associated uses that have been the subject of previous actions by the Town Council. It is the applicant's intent to reopen the Windmill House and associated uses to the public.

Rationale

In 2003 when the initial CUP was issued allowing the construction of this facility with a conditional use as a "privately owned and operated park and recreation facility" in the Agricultural/Residential, 5 Acre minimum (AR-5) zoning district. The adopted Zoning Code at that time provided the following definitions:

Park: A public or private parcel of land developed and used for passive or active recreation.

Recreational Facilities: Includes buildings, structures, or areas built or developed for the purposes of entertaining, exercising, or observing various activities participated in either actively or passively by individuals or organized groups other than the immediate families of the owners or proprietors and their personal guests, or any such facility which involves twenty-five (25) or more attendees and participants, more often than twice in any one calendar month. This excludes schools and churches.

Restaurant: an establishment which serves food or beverages. This includes cafes, tea rooms, drive-ins, and similar establishments.

While the proposed use did include some potential park-like or recreational features, the nature of the business was largely the food services made available to the general public by the Windmill House. This facility was also intended to serve as a “clubhouse” of sorts, providing a common area for activities in which residents of the proposed residential component could partake without having to drive an automobile. When became evident to the applicant that the residential component would not materialize in the short term, the use of the facility for food service to the general public increased. Construction of the Western Town further expanded the services offered to the general public.

A Zoning Ordinance, or in the case of Chino Valley, a Unified Development Ordinance, sets forth zones that provide for the grouping of compatible or related land uses, and applies regulations to properties located within each zoning classification or district. It regulates height, density, lot size, and specifies uses (Single Family Residential, Industrial) among other things, rather than broad classifications such as High Density Residential or Commercial.

The purpose of a General Plan is to set forth land use designations that broadly describe the uses in a given area, but do not set forth specific regulations regarding uses. A land use designation of “Commercial” can include all uses in CL and CH, but does not specify lot size or development standards, nor does it differentiate between or specify a particular CL or CH use. In reviewing the 2003 General Plan (03 GP), the Future Land Use Map (as amended) refers to zoning districts and specific uses rather than land use designations. For instance, the map designates current and future school sites; schools are a specific use rather than a broad land use designation such as “community commercial” or “high density residential”. Zoning overlays are included, despite the fact that they are zoning districts and not Land Use Designations.

In 2003 when the initial CUP was issued for the subject property, the applicable zoning district was AR-5, while the Land Use Designation was Medium Density Residential, 2 Acres or Less. The CUP was issued predicated on the assumption that the clubhouse use would serve as an accessory use to a larger residential development, and was allowed as a “privately owned and operated park and recreation facility” and was a conditional use in all zoning districts that would have been included in the Land Use Designation of MDR-2 Acres or less. Based on this set of circumstances, the applicant invested a significant amount of money in developing the Windmill House; the subsequent expansion of uses to include a casita and Western Town are in keeping with the recreational uses originally contemplated with the initial CUP and subsequent rezoning and General Plan amendments. The cycle of conditional use permits, failure to abide by conditions of zoning or use permits, and reversion of land use designations and zoning districts that have transpired over the past ten (10) years with the LaVacara Trust need to be resolved with finality, for the welfare of the applicant, the neighbors, and the community at large.

Recommendation

On February 6, 2014, Mr. Joe Cordovana, in his capacity as Trustee for the LaVacara Trust, submitted a zone change application, requesting Commercial Light, Planned Area Development (CL-PAD). This request was expanded in August of 2014 to include a request for Multifamily Residential, Planned Area Development (MR-PAD). The Planned Area Development overlay (PAD) is ideal for regulation of the manner and placement of uses in this case for a number of reasons.

First, it allows for the modification of underlying uses, thereby permitting staff to disallow those uses most objectionable to the surrounding neighborhood. The applicant has limited his request to the following uses for this site:

1. Restaurants, cafes and coffee shops
2. Business and professional offices, banks and similar
3. Business, trade, dancing, art, music and other educational facilities
4. Indoor and outdoor sales of nursery stock
5. Public utility buildings, structures, or appurtenances thereto for public service use
6. Indoor theaters, assembly halls
7. Casita to be used in conjunction with weddings
8. Commercial greenhouses may be permitted with a minimum of ten (10) contiguous acres. (See Subsection 4.30 Commercial Greenhouse Development Standards)(Amended Ord. 13-779 12/10/13)
9. Multiple Family Residential (MR-PAD) in accordance with UDO 3.13 and limited to the 6.55 acre parcel identified on the Development Plan

Section 3.13 of the Unified Development Ordinance sets forth the regulations governing the manner and placement of Multiple Family Residential dwelling units in the Town of Chino Valley. The UDO defines a Multiple-Family Dwelling thusly: “A building designed exclusively for occupancy by or occupied by three (3) or more families living independently of each other.”

There are three (3) permitted uses in this zoning district: Multiple Family dwellings, customary accessory buildings, and churches or similar places of worship. Conditional uses allowed with a Conditional Use Permit are as follows: Privately owned and operated parks and recreation areas and centers; Group Homes; Nursing and Convalescent homes; Temporary home and land sale offices located within the same subdivision as that land which is offered for sale; Public utility buildings; Schools,

and Residential facilities for the developmentally disabled.

The corresponding development standard requires a fifty foot (50') setback from the property boundary along the front; upon dedication of the Right-of-Way parallel to West Road 4 North, the setback would be 75' from the existing property boundary, and approximately 100' from the centerline of the road. The required side- and rear yard setback are a minimum of twenty feet (20') and ten feet (10') respectively; the maximum lot coverage (under roof) is 40%.

When applied to the subject parcel, the maximum allowed square footage under roof would be 114,127 square feet (6.55 acres x 40%). Because the UDO requires a minimum of 3,000 square feet of raw land area per dwelling unit, a maximum of 95 units can potentially be developed (6.55/3,000). The UDO further requires a minimum of 1.5 parking stalls per one bedroom apartment; assuming a maximum of 95 units, the required number of parking stalls would be 143, which would require approximately 25,700 square feet of area to accommodate the parking required in this zoning district. Further, Section 4.22 Off-Street Parking and Loading requires a minimum of a three foot (3') landscaped berm or wall to screen parking areas from public view.

Resolution of this matter by approving the zoning change request will meet the needs of both the applicant and the community in several ways. First, it grants a permanent zoning district that establishes the use of the Windmill House as a use by right on the property, rather than allowing operation of the Windmill House by Conditional Use Permit. Similar to the previously issued CUP's, the permitted uses can be further conditioned to mitigate impact on the surrounding area. In addition, adherence to all requirements of the UDO and Town Codes would still apply; if the applicant fails to meet the conditions of the rezoning or comply with Town Code, his business license would not be issued, or once issued, revoked.

Second, it requires filing of a Development Plan that outlines current and future uses. The Development Plan must be reviewed by staff to ensure it is in compliance with underlying zoning district requirements. Only when staff is satisfied that the plan meets all development standards and regulations of the underlying zoning district is it forwarded to the Planning and Zoning Commission for consideration and recommendation, and then to Town Council for final approval. The Development Plan is then recorded, binding the uses and arrangement set forth in the recorded plan to the land. In order to increase the number buildings, commercial square footage, or open space area by greater than 9% requires a revision to the Development Plan, triggering an additional series of public hearings as required by UDO Section 1.9.4: Planned Area Development Overlay. Review and approval of the Development Plan will be required prior to issuance of a business license.

Finally, a Town of Chino Valley business license would not be issued unless and until a dedication of Right-Of-Way was made by the applicant, accepted by Town Council, and recorded at the Yavapai County Recorder's Office. As a result, no business could be conducted on the subject property until the Right-of-Way dedication was irrevocably completed. The submittal of a Development Plan setting forth the manner and placement of the allowed uses in addition to the dedication of Right-of-Way have been the long-standing issues that have precluded finalization of this project. Approving the request for the Planned Area Development (PAD) overlay for the Commercial Light (CL) and Multiple Family Residential (MR) will require a fully vetted Development Plan reviewed and approved by Town Council.

The General Plan 2014 sets forth a new concept in land use planning for the Town of Chino Valley: Community Cores. These areas are intended to offer mixed-use, pedestrian oriented developments that can offer alternatives to the automobile-centric development patterns currently found in Chino Valley. This same concept can be applied to the subject property by use of a PAD overlay. A designated "senior living core" or "Senior Living Planned Area Development" could offer uses such as restaurants, recreational facilities, medical services, enrichment classes and other activities that specifically serve an aging population and are within walking distance of the proposed multiple family residential use and surrounding neighborhood.

Staff proposes initiating a Minor General Plan amendment upon the ratification of the General Plan 2014 that would provide for a "Senior Living Core", or alternatively, a "mixed use neighborhood core" that would provide neighborhood service related uses at the subject site. Should the voters of Chino Valley fail to ratify the General Plan, the applicant would be required to complete the mGPA process in compliance with the existing General Plan.

Findings of Fact

Staff finds that these actions can resolve the long-standing conflict between the LaVacara Trust, surrounding property owners, and the Town, and provide a means by which the Windmill House can be reopened, providing the public with an additional activity and entertainment facility in the Town. The addition of the Multifamily Housing component will expand the availability of a variety of housing choices in the Town.

Section 1.9.4.1 Planned Area Development Overlay District: Purpose sets forth the following as the purposes of a PAD Overlay District:

§§A: Provide for the orderly development of land consistent with the Unified Development Ordinance of the Town of Chino Valley (UDO) to permit flexibility in the design of residential, commercial, and/or industrial developments in conformity with the intent and purpose of the General Plan and Unified Development Ordinance.

Staff finds that the proposed rezoning meets this purpose as follows:

- 1) The Development Plan required as a result of the PAD Overlay will provide staff with the tools necessary to mitigate impacts that the proposed project may have on the neighborhood, including modification of required setbacks and separations, landscaping, lighting plans, and the like;
- 2) The proposed zoning and uses meet the intent of the UDO as it provides for the social, physical, and economic advantages resulting from comprehensive and orderly planned use of land resources (§1.2 Administration; Purpose)
- 3) It provides an opportunity to develop a mixed-use district in a concentrated area that is within walking distance of the neighborhoods and populations it serves.

§§B: Modify underlying zoning district regulations to permit flexibility and innovation in developmental design and provide opportunities for unique or mixed-use development.

Staff finds that the proposed rezoning meets this objective as follows:

1. Reduces the number and manner of allowed uses in the Commercial Light (CL) zoning district
2. Provides additional Multiple Family housing opportunities
3. Provides an opportunity to develop a neighborhood services core that is within walking distance of the community it serves, and provides opportunity for future development as a mixed-use development.

§§C: Promote economical construction and maintenance of streets and utilities without compromising public safety and welfare.

Staff finds that the proposed rezoning meets this objective as follows:

- 1) Dedication of Right-of-Way will allow for future expansion of roads, should the traffic generated by the proposed uses interfere with the flow of traffic on West Road 4 North.
- 2) The location utilizes existing arterial streets to carry traffic rather than require the construction of new lane miles for perpetual maintenance by the town.
- 3) Any required infrastructure improvements are the full responsibility of the applicant to construct to Town standard and dedicate for perpetual maintenance.

§§D: Preserve and utilize open space and offer recreational opportunities close to residential uses.

Staff finds that the proposed rezoning meets this purpose as follows:

- 1) Among the applicant's proposed uses for the Windmill House are offering recreational classes such as yoga to the public, meeting space for service clubs, and movie nights for families; the lakes and area offer a privately maintained park-like setting. The enrichment classes would benefit the community without expenditure of taxpayer dollars to support the activities offered.
- 2) The potential development of multiple family housing provides a mixed-use development in a contained area that does not rely on taxpayer-funded recreational amenities.

Conditions of Approval

Staff recommends conditioning the Planned Area Development as follows:

- 1) The Development Plan shall be in substantial conformance with all applicable Town Codes, building codes, and engineering requirements unless otherwise modified herein.
2. The property owner agrees that the approval of this action confers no additional entitlements or rights to the owner or applicant other than those that are specifically vested herein.
3. All structures open to the public or in close proximity to public/common areas shall be inspected by the Building Official (or his designee) and conform to currently adopted Town of Chino Valley Building Codes. No business license shall be issued until said inspections have been performed and all deficiencies have been corrected.

4. Any future additions to or expansions of existing structures shall require amendment of the Development Plan.
5. Construction of multifamily housing may require extension of municipal sewer and water service from its closest termination point to the site, depending upon the number of dwelling units and will require submittal of an Amended Development Plan.
6. Prior to issuance of any business license or building permit, LaVacara Trust will dedicate and convey right-of-way in compliance with the standards set forth in section 4.23 and 4.28 of the UDO for the full frontage of West Road 4 North.
7. No later than November 10, 2014, LaVacara Trust will initiate a Minor General Plan Amendment to address the underlying Land Use Designation, in full compliance with the General Plan in effect at the time of application.
8. Any amplified music or other noise associated with the uses subject to this CUP shall not exceed 60 decibels at the property boundary.
9. Uses are limited to the following:
 - a. Restaurants, cafes and coffee shops
 - b. Dancing, art, music and other educational facilities
 - c. Indoor and outdoor sales of nursery stock
 - d. Public utility buildings, structures, or appurtenances thereto for public service use
 - e. Indoor theaters, assembly halls
 - f. Commercial greenhouses may be permitted with a minimum of ten (10) contiguous acres.
 - g. Catering services for off-site events
 - h. Casita to be used in conjunction with weddings
 - i. Multiple Family Residential (MR-PAD) in accordance with UDO 3.13 Multiple Family Residential and limited to the 6.55 acre parcel identified on the Development Plan attached hereto and made a part herewith
10. Weddings and other private events shall end no later than 12:00 am (midnight)
11. Buffet and restaurant service shall end no later than 8:00 pm Monday through Thursday night
12. Pumpkin Festival
13. Western Town activities, subject to final inspection and approval of all structures by Building Official (or his/her designee) prior to initiation of public activities.
14. Family Movie nights

RECOMMENDATION

Staff recommends forwarding ZC14-001 to Town Council with a recommendation of approval.

MOTION: Motion to forward Zoning Change 14-001, changing the zoning classification of approximately 16.81 acres generally located at 1420 West Road 4 North from Agricultural/Residential, 5 Acre minimum (AR-5) to Commercial Light, Planned Area Development (CL-PAD) and Multiple Family Residential, Planned Area Development (MR-PAD).

Attachments

Application

Location and Zoning Map

Site Layout Map

Draft Ordinance



ZONE CHANGE APPLICATION

1.	PROPERTY OWNER NAME	La Vacara Trust, Joseph Cordovana, Trustee
	MAILING ADDRESS	P.O. Box 3150 Chino Valley, AZ 86323
	TELEPHONE NUMBER	928-237-6128
	FAX NUMBER	call first
2.	APPLICANT NAME	Same as above
	MAILING ADDRESS	
	TELEPHONE NUMBER	
	FAX NUMBER	
3.	ENGINEER NAME	Keogh Engineering
	MAILING ADDRESS	141510 West McDowell, Goodyear, AZ 85395
	TELEPHONE NUMBER	623-535-7260
	FAX NUMBER	623-535-7262
4.	ARCHITECT/DESIGNER	Same as No. 3
	ADDRESS	
	TELEPHONE NUMBER	
	FAX NUMBER	
5.	SITE LOCATION (Major Cross Streets)	West Road 4 North and Road 1 West
6.	ASSESSORS PARCEL NUMBER(S)	APN 306-05-030Z
7.	SITE DIMENSIONS	See survey attached.
8.	SITE AREA (GROSS)	16.81 acres, more or less
9.	EXISTING STRUCTURES	Windmill House, Casita, Gazebo, Corral
10.	DESCRIBE ACCESS TO THE SITE (STREET FRONTAGE OR EASEMENT)	Street Frontage
11.	UTILITIES PROVIDED BY	ELECTRIC: SRP
		GAS: Unisource Gas
		WATER: Appaloosa Water Company
		SEWER: Septic Tank
12.	FLOOD ZONE DESIGNATION	Property is not located in a flood plain
13.	EXISTING ZONING	AR-5
14.	REQUESTED ZONING	CL - PAD
15.	<u>ADJACENT ZONING</u>	<u>ADJACENT LAND USE</u>
	NORTH: AR-5	NORTH: Undeveloped
	SOUTH: SR-1	SOUTH: Single Family Residential
	EAST: AR-5	EAST: Undeveloped
	WEST: AR-5	WEST: Undeveloped
16.	TOPOGRAPHY	Flat

17. INTENT OF THE ZONE CHANGE REQUEST:

Applicant desires to change the zoning on the designated 16.81 acre parcel from AR-5 to CL-~~PAD~~
The request is more fully outlined in the letter from Attorney Mark Svejda submitted with this application.
The request is consistent with the Applicant's prior use of the property pursuant to the terms of a conditional use permit.

The Applicant believes that the rezoning, once approved will enhance the Town of Chino Valley by increasing the number of employment opportunities, enhance economic growth and increase the real property and sales tax base.

OWNER'S SIGNATURE: Joe L. S. DATE: 7/21/14

APPLICANT'S SIGNATURE: Joe L. S. DATE: 7/21/14

(Office Use Only):

Date of Meeting: _____ Time of Meeting: _____

Agency's Notified: _____

Log #: _____

LAW OFFICES OF
MARK D. SVEJDA

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

14300 N. NORTHSIGHT BLVD., SUITE 224
SCOTTSDALE, ARIZONA 85260

Mark D. Svejda

Telephone (480) 991-9561
Facsimile (480) 991-9563

August 22, 2014

Ms. Ruth Mayday
Planning Director
Town of Chino Valley
1982 Voss Drive, #203
Chino Valley, AZ 86323

Re: Rezoning Request

Dear Ruth:

The purpose of this letter is to follow up on the Zoning Change Application which I previously submitted on behalf of La Vacara Trust (the "Trust"). I have already provided you with the Zoning Change Application and applicable documents. The \$730 fee has already been paid. The Trust has signed and submitted to you the Agreement to Waive Claims. We have also previously submitted to your office evidence of ownership of the Property. Please advise if you need additional copies of the Application. If so we will provide them. We have also submitted to your office the Development Plan for J.C. Ranch prepared by Welker Land Surveying,

I. NATURE OF THE REQUEST FOR REZONING

The Trust seeks to have the zoning changed on a 16.81 acre parcel of improved real property legally described on Exhibit "1" to the application (the "Property") and identified by Yavapai County Assessor's Number 306-05-030Z. This parcel has been improved over the years with the "Windmill House," an attached casita, a Western corral and a nursery. As you know, this property previously was operated on a commercial basis by means of a conditional use permit and also pursuant to a Planned Area Development that was approved on June 11, 2009 (Ordinance No. 09-719). The Ordinance approving the Planned Area Development changed the zoning on the Property to CL. Because of the economic downturn, the property subject to the PAD reverted to

AR-5 (Ordinance No. 11-752) on November 8, 2011. The critical point is that the Property has been utilized for light commercial uses for a substantial period of time. The Windmill House previously provided amenities to the citizens of Chino Valley that are otherwise not available in Yavapai County. The rezoning of the Property will once again allow the citizens of Chino Valley to enjoy the Windmill House and the beautiful surrounding area.

Specifically, the Trust seeks to change the zoning on the Property from AR-5 to Commercial Light ("CL") – PAD and to Multiple Family Residential ("ML") - PAD. The multifamily use would be confined to the 6.55 acre parcel designated on the Development Plan. Commercial Light uses as set forth on Exhibit "2" below could also be developed on this 6.55 acre parcel. As noted on the attached Exhibit "2," the number of uses has been reduced to only nine. The types of uses have also been limited in order to satisfy the neighbors' noise and traffic concerns.

II. CURRENT STATUS OF THE SURROUNDING PARCEL AND FUTURE DEVELOPMENT.

We previously discussed the options available to the Trust with respect to reopening the Windmill House. We discussed options that included seeking to have the entire 70 acres currently owned by the Trust re-engineered into a Planned Area Development (PAD) or alternatively seeking rezoning on part of the 70 acre parcel.

Unfortunately, my client does not have the ability to proceed with a PAD on the 70 acres parcel. First, the Trust does not at this time have the financial capacity to build out the entire 70 acres, even over a long period of time. Second, Mr. Cordova, the Trustee of the Trust, is 77 years old and does not have the energy to develop the 70 acre parcel. As a result, the Trust has entered into a listing agreement with Prudential Realty to attempt to sell the 70 acres (less the 16.81 acres that are subject to this Zone Change Application). I previously submitted a copy of the Listing Agreement to you. The person or entity that buys the balance of the 70 acres will need to seek development approvals from the Town should it decide to develop the remaining property.

Therefore, given the current status of the Property, the Trust seeks a zoning change on the 16.81 acre parcel designated on Exhibit "1" to CL-PAD and MR - PAD.

III. DEVELOPMENT STIPULATIONS

In order to facilitate the approval of the zoning change request, the Trust will agree to the following requirements:

A. The Trust will agree that the Property will be used only for those purposes set forth on Exhibit "2" attached hereto and incorporated herein. Multiple Family

Residential would only be developed on the 6.55 acre parcel identified on the Development Plan. If the Trust or any subsequent owner of the Property desires to use the Property for other use, an application, would have to be made to the Town of Chino Valley to allow the use.

B. The Trust will agree to reasonable uses for the Windmill House. My client envisions more community use for the Windmill House. This may include fitness classes for adults and children, activities for seniors, neighborhood group meetings like Rotary and community use of the conference room and business facilities. Further, the Windmill House would offer restaurant services in conformance with the CL zoning designation. The Windmill House will also continue to offer wedding and event planning services, the Pumpkin Festival and other festivals, as well as banquets, farmers markets and other outdoor events.

C. The Trust shall dedicate an additional 25 foot right of way along the frontage of the Trust's 16.81 acre parcel of property. The dedication of the ROW shall be consistent with Section 4.23 and 4.28 of the UDO.

D. Events with amplification equipment shall be limited to indoor use.

E. There shall be no loud, excessive or unusual noises associated with the uses on the Property in accordance with Town Code § 131.02.

IV. BENEFITS TO THE TOWN OF CHINO VALLEY

Rezoning the Property to CL and MFR will benefit the Town of Chino Valley in the following ways:

- Increase the number of jobs available for community residents. While in operation, the Windmill House employed as many as 25 persons.
- Create additional sales tax and property tax revenue.
- Provide a community facility that residents of the Town can utilize and enjoy.
- Generate revenue for other Town businesses. Wedding and event planners will benefit from the Windmill House venue. Employees of the Windmill House will have additional income that will be spent in part at local businesses.

- Attract business from Prescott, Prescott Valley and other parts of Yavapai County to use the Windmill House, thus promoting economic growth for the Town of Chino Valley.

V. PREVIOUS ZONING CHANGES FROM RESIDENTIAL TO COMMERCIAL LIGHT.

The Town of Chino Valley has a history of approving a zoning change from residential to commercial use. These cases include the following:

Ordinance No. 10-733. Approving a zoning change from AR-5 to Commercial Light on a three acre parcel.

Ordinance No. 09-711. Approving a zoning change from SR-2 to Commercial Light on a 5.5 acre parcel on the corner of Rolling Hills and State Route 89.

Ordinance No. 09-712. Approving a zoning change from SR-2 to Commercial Light on a 15.8 acre parcel on the corner of Rolling Hills Road and State Route 89.

Ordinance No. 07-685. Approving a zoning change from AR-5 to Commercial Light for property located generally at 3385 Bacon Drive.

Ordinance No. 07-687. Approving a zoning change from AR-5 to Commercial Light for property located generally in the area west of Highway 89 and accessed by Choctan Lane.

Ordinance No. 07-693. Approving a zoning change from AR-5 to Commercial Light for a 12.36 parcel of property located on the south side of Road 4 North about 1700 feet west of SR 89.

Ordinance No. 06-638. Approving a zoning change from SR-1 to Commercial Light for a parcel located generally at 931 East Road 2 North.

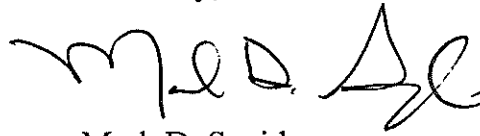
Ordinance No. 06-639. Approving a zoning change from SR-1 to Commercial Light for a parcel located generally at 899 East Road 2 North.

These ordinances demonstrate that my client's request for a zoning change from residential to light commercial is regularly approved by the Town of Chino Valley.

VI. CONCLUSION.

The Trust respectfully requests that the Town of Chino Valley approve the Trust's amended rezoning request from AR-5 to CL-PAD and MR-PAD on the Property.

Sincerely,

A handwritten signature in black ink, appearing to read 'M.D. Svejda', written in a cursive style.

Mark D. Svejda

MDS/cw

cc: The LaVacara Trust

EXHIBIT “1”

PRACEL A
March 5, 2014

All that portion of Section 4, Township 16 North, Range 2 West, Gila and Salt River Meridian, Yavapai County, Arizona, described as follows:

Beginning at the South One Quarter corner of said Sec. 4;

Thence N00°50'25"W 25.03 feet along the N-S mid-sec. line to the

Thence S87°52'55"E 113.11 feet to the TRUE POINT OF BEGINNING;

Thence N01°34'14"W 367.00 feet;

Thence Northerly 110.75 feet on a curve to the right, said curve having a delta of 48°48'48" and a radius of 130.00 feet and a cord of N23°36'09"E 107.43 feet;

Thence N18°31'18"W 102.60 feet;

Thence Northerly 224.59 feet on a curve to the right, said curve having a delta of 79°20'28" and a radius of 162.19 feet and a cord of N19°32'28"E 207.08 feet;

Thence N15°09'53"E 269.77 feet;

Thence N78°27'22"E 191.18 feet;

Thence N15°08'20"E 368.36 feet;

Thence N74°35'56"E 195.73 feet;

Thence S01°24'26"E 1488.36 feet;

Thence N87°52'55"W 649.42 feet to the true point of beginning, containing 16.81 acres more or less.

Together with and subject to an easement for Ingress, Egress and Utilizes, said easement being 50.00 feet in width, 25.00 feet each side of the following described center line:

Beginning at the South One Quarter corner of said Sec. 4;

Thence N00°50'25"W 25.03 feet along the N-S mid-sec. line;

Thence S87°52'55"E 113.11 feet;

Thence N01°34'14"W 367.00 feet;

Thence Northerly 110.75 feet on a curve to the right, said curve having a delta of 48°48'48" and a radius of 130.00 feet and a cord of N23°36'09"E 107.43 feet;

Thence N18°31'18"W 102.60 feet;

Thence Northerly 224.59 feet on a curve to the right, said curve having a delta of 79°20'28" and a radius of 162.19 feet and a cord of N19°32'21"E 207.08 feet;

Thence N15°09'53"E 269.77 feet;

Thence N78°27'22"E 191.18 feet;

Thence N15°08'20"E 368.36 feet;

Thence N74°35'56"E 146.75 feet to the TRUE POINT OF BEGINNING;

Thence N04°43'14"E 195.58;

Thence N01°35'34"W 1034.22 feet to the South Right-of Way Road 4 1/2 North.

Together with and subject to an Easement for Ingress, Egress, Utilities and Landscaping located in Sec. 4, T16N, R2W, G. & S.R.M., Yavapai County, Arizona, said Easement being over and across the following described parcel.

Beginning at the South One Quarter Corner of said Sec. 4

Thence N00°50'25"W 25.03 feet to the TRUE POINT OF BEGINNING;

Thence N00°50'25"W 13.84 feet;

Thence N53°52'28"E 137.98 feet;

Thence N84°20'04"E 47.97 feet

Thence S50°15'20"E 36.44 feet;

Thence S37°55'24"E 109.05 feet;

Thence N87°52'55"W 254.20 feet to the point of beginning.



EXPIRES 12-31-16

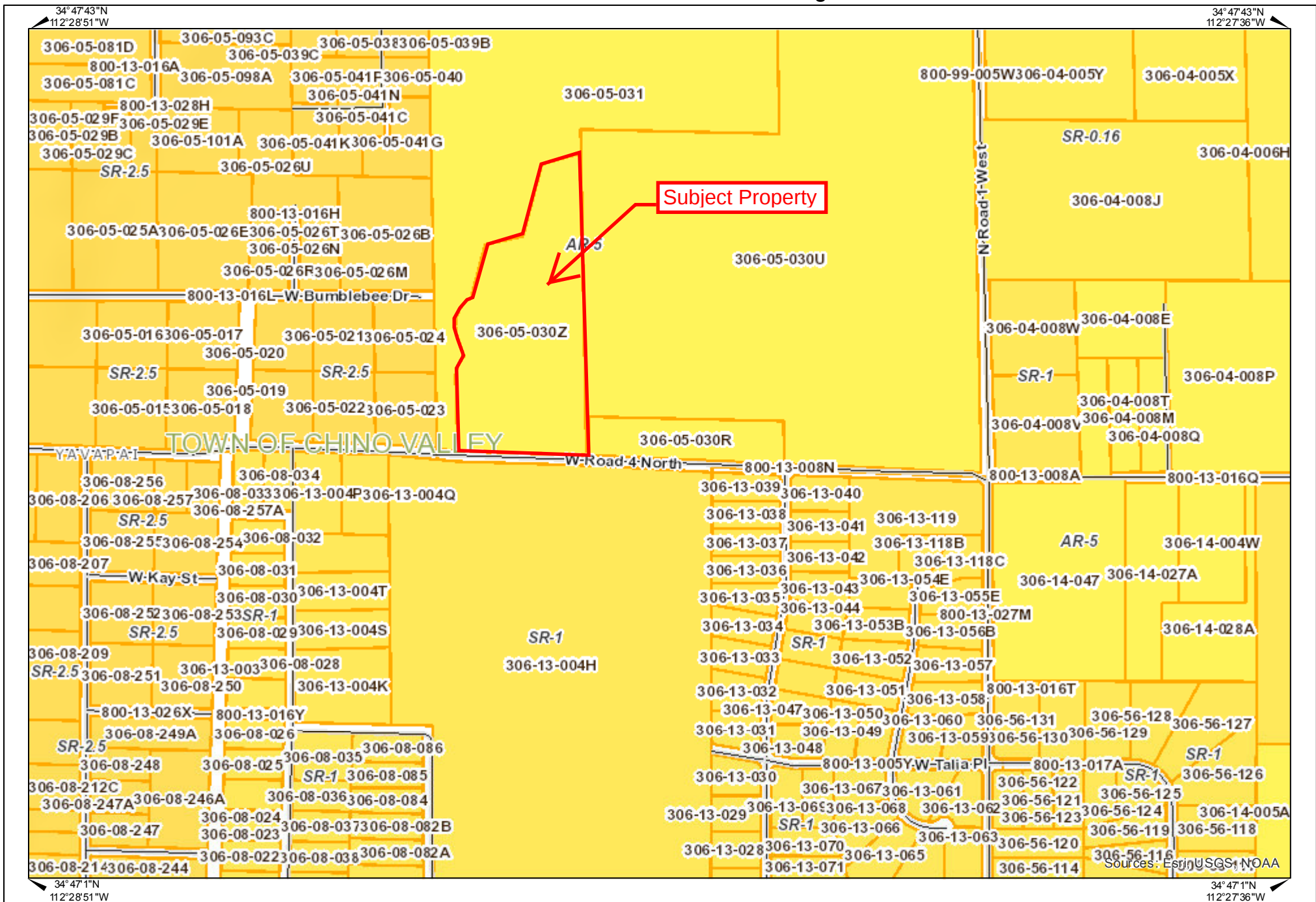
EXHIBIT “2”

EXHIBIT '2'

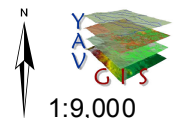
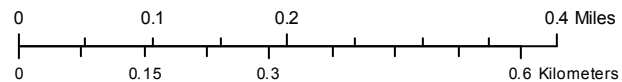
PERMITTED USES TO BE ALLOWED ON THE PROPERTY

1. Restaurants, cafes and coffee shops
2. Business and professional offices, banks and similar
3. Business, trade, dancing, art, music and other educational facilities
4. Indoor and outdoor sales of nursery stock
5. Public utility buildings, structures, or appurtenances thereto for public service use
6. Indoor theaters, assembly halls
7. Casita to be used in conjunction with weddings
8. Commercial greenhouses may be permitted with a minimum of 10 contiguous acres. See Subsection 4.30 Commercial Greenhouse Development Standards (Amended with Ord. 09-424/Res. 09-921).
9. Multiple Family Residential (MR-PAD) in accordance with UDO 3.13 and limited to the 6.55 acre parcel identified on the Development Plan.

ZC14-001 Cordovana Rezoning



Disclaimer:
Map and parcel information is believed to be accurate but accuracy is not guaranteed. No portion of the information should be considered to be, or used as, a legal document. The information is provided subject to the express condition that the user knowingly waives any and all claims for damages against Yavapai County that may arise from the use of this data.



1:9,000

WELKER LAND SURVEYING INC.
1109 EAST ROAD 1 SOUTH
CHINO VALLEY, ARIZONA 86323
(928) 636-4080

ORDINANCE NO. *Windmill House*

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA, APPROVING A CHANGE OF ZONING FOR APPROXIMATELY 16.81 +/- ACRES OF REAL PROPERTY LOCATED AT 1460 WEST ROAD 4 NORTH, FROM AGRICULTURAL/RESIDENTIAL, 5 ACRE MINIMUM (AR-5) TO THE COMMERCIAL LIGHT-PLANNED AREA DEVELOPMENT (CL-PAD) AND MULTIPLE FAMILY RESIDENTIAL-PLANNED AREA DEVELOPMENT (MR-PAD) ZONING DISTRICT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, PROVIDING FOR NON-SEVERABILITY; AND PROVIDING PENALTIES.

WHEREAS, Upon the adoption of Ordinance No. 561 on November 13, 2003 the initial Conditional Use Permit (CUP) was issued that permitted the development of the Windmill House as a “privately owned park and recreation facility” for a term of five (5) years; and

WHEREAS, Maurice Lee, agent for Joe Cordovana filed an application for rezoning the subject property and additional lands surrounding it from AR-5 to Planned Area Development with underlying zoning districts of Commercial Light (CL); Multiple Family Residential, One Acre Minimum (MR1); Single Family Residential – One Acre Minimum (SR-1); and Open Space (OS) encompassing one hundred and seventy acres (170 acres) and;

WHEREAS, During its regular meeting on June 11, 2009 Town Council adopted Ordinance 09-719 approving said development plan with numerous stipulations and required compliance with all stipulations within a two (2) year period as well as Resolution 09-899 approving the Minor Amendment to the Future Land Use Plan in the General Plan, and;

WHEREAS, Among the stipulations were requirements for the applicant to submit and complete the approval process for a Final Development Plan, and dedicate Right-Of-Way along the West Road 4 North frontage; and

WHEREAS, On or about August 17, 2011, Development Services Director Pat Clingman caused a letter to be mailed by registered mail, return receipt, notifying Joe Cordovana that the two (2) year compliance period had expired on July 11, 2011 and advising him that Town Council would hold a Public Hearing to take administrative action as set forth in Section 3 of Ordinance 09-719 and Resolution 09-899; and

WHEREAS, After proper notice in compliance with ARS§9-462.04, The Planning and Zoning Commission held Public Hearings to consider MGPA11-001 requesting a Minor General Plan amendment to Future Commercial; ZC11-003 requesting a change

in zoning to Commercial Light (CL); and CUP11-002 requesting a Conditional Use Permit; and

WHEREAS, During said meeting the Commission voted unanimously to recommend denial of MGPA 11-001; declined to consider ZC 11-003, and forwarded CUP to Town Council with a recommendation for approval with stipulations, including dedication of Right-of-Way along Road West 4 North; and

WHEREAS, the Planning and Zoning Commission reheard ZC11-003 during its regular meeting on October 18, 2011, voting unanimously to forward the item to Town Council with a recommendation for approval; and

WHEREAS, During the regular meeting of the Town Council on November 8, 2011, Council followed the recommendations of the Planning and Zoning Commission, approving Ordinance 11-752, effectively rezoning the property to AR-5; adopting Resolution 11-968 effectively assigning a Land Use Designation of Medium Density Residential; 2 Acre Minimum; and approving Ordinance 11-754 granting a Conditional Use Permit with stipulations, entitling the Windmill House to continue operations as long as it was in compliance with the stipulations set forth in the permit; and

WHEREAS, the applicant, Joe Cordovana, refused to dedicate the requisite Right-of-Way, causing staff to initiate a Public Hearing at the Planning and Zoning Commission for the purpose of making a recommendation to Town Council with regards to Ordinance 12-762 repealing Ordinance 11-754 and terminating the Conditional Use Permit; and

WHEREAS, after proper notice in accordance with applicable state and local laws, the Planning and Zoning Commission held a Public Hearing to consider Ordinance 12-762 on September 4, 2012, at which the Commission voted unanimously to forward the Ordinance to Town Council with a recommendation for approval; and

WHEREAS, During its regular meeting on September 25, 2012, Town Council upheld the Planning and Zoning Commission's recommendation for approval thereby terminating the Conditional Use Permit issued upon adoption of Ordinance 11-754; and

WHEREAS, in February of 2014, Joe Cordovana, trustee for the LaVacara Trust, filed an application to rezone a portion of his property from AR-5 to Commercial Light, Planned Area Development (CL-PAD);

WHEREAS, the applicant held a Neighborhood Meeting on August 7, 2014 at the Windmill House, at which public comment regarding the proposed rezoning was heard; and

WHEREAS, all required public notice was provided and all required public meetings and hearings were held in accordance with applicable state and local laws; and

WHEREAS, the Planning and Zoning Commission ("Commission") conducted a Public Hearing on September 16, 2014 during which testimony was presented by Town staff, the property owner and others; and

WHEREAS, the Commission voted to forward the application to Town Council with a recommendation of approval/denial;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. In General.

1. The zoning classification of real property consisting of approximately 16.81 acres, located at 1460 West Road 4 North in Section 4, T16 N R 2 W G&SRBM legally described in Exhibit 1 of the Application and shown on the Development Plan (Exhibit 2), both of which are attached hereto and incorporated herein by this reference, also known as Yavapai County Assessor's Parcel No. 306-05-030Z (the "Property"), is hereby changed from Agricultural/Residential; 5 Acre Minimum (AR-5) zoning district to the Commercial Light, Planned Area Development (CL-PAD) and Multiple Family Residential, Planned Area Development (MR-PAD) zoning district.

2. The Property described in Paragraph 1 of this Section shall be used and developed in accordance with the Town of Chino Valley Unified Development Ordinance for the Industrial (I) zoning district. Development of the Property shall also be subject to the following conditions:

A) The Development Plan shall be in substantial conformance with all applicable Town Codes and adopted codes unless otherwise modified herein;

B) The property owner agrees that the approval of this action confers no additional entitlements or rights to the owner or applicant other than those that are specifically vested herein.

C) All structures open to the public or in close proximity to public/common areas shall be inspected by the Building Official (or his designee) and conform to currently adopted Town of Chino Valley Building Codes. No business license shall be issued until said inspections have been performed and all deficiencies have been corrected.

D) Any future additions to or expansions of existing structures shall require amendment of the Development Plan.

E) Construction of multifamily housing may require extension of municipal sewer and water service from its closest termination point to the site, depending upon the number of dwelling units and will require submittal of an Amended Development Plan.

F) Prior to issuance of any business license or building permit, LaVacara Trust will dedicate and convey right-of-way in compliance with the standards set forth in section 4.23 and 4.28 of the UDO for the full frontage of West Road 4 North.

G) No later than November 10, 2014, LaVacara Trust will initiate a Minor General Plan Amendment to address the underlying Land Use Designation, in full compliance with the General Plan in effect at the time of application.

H) Any amplified music or other noise associated with the uses subject to this CUP shall not exceed 60 decibels at the property boundary.

I) Uses are limited to the following:

- i. Restaurants, cafes and coffee shops
- ii. Dancing, art, music and other educational facilities
- iii. Indoor and outdoor sales of nursery stock
- iv. Public utility buildings, structures, or appurtenances thereto for public service use
- v. Indoor theaters, assembly halls
- vi. Commercial greenhouses may be permitted with a minimum of ten (10) contiguous acres.
- vii. Catering services for off-site events
- viii. Casita to be used in conjunction with weddings
- ix. Multiple Family Residential (MR-PAD) in accordance with UDO 3.13 Multiple Family Residential and limited to the 6.55 acre parcel identified on the Development Plan attached hereto and incorporated herewith.

J. Weddings and other private events shall end no later than 12:00 am (midnight)

K. Buffet and restaurant service shall end no later than 8:00 pm Monday through Thursday night

L. Pumpkin Festival

M. Western Town activities, subject to final inspection and approval of all structures by Building Official (or his/her designee) prior to initiation of public activities.

N. Family Movie nights

Section 2. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. Providing for Non-Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then this entire ordinance is invalid and this ordinance shall have no force or effect.

Section 4. Providing for Penalties.

Any person found responsible for violating this Ordinance shall be subject to the civil sanctions and habitual offender provisions set forth in Sections 1.10 and 1.11 of the Town of Chino Valley Unified Development Ordinance. Each day a violation continues, or the failure to perform any act or duty required by this zoning ordinance, the Unified Development Ordinance or by the Town of Chino Valley Town Code continues, shall constitute a separate civil offense.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this NUMBERed day of MONTH, 2014 by the following vote:

AYES: _____

NAYES: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____.

APPROVED this ____ day of _____, 2014.

Chris Marley, Mayor

ATTEST:

APPROVED AS TO FORM:

Jami C. Lewis, Town Clerk

Curtis, Goodwin, Sullivan, Udall &
Schwab, PLC, Town Attorney

I, JAMI C. LEWIS, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE COMMON
COUNCIL OF THE TOWN OF CHINO VALLEY ON THE ____ DAY OF
_____, 20__, WAS POSTED IN THREE PLACES ON THE ____ DAY OF
_____, 20__.

Jami C. Lewis, Town Clerk

The following exhibits are attached hereto and incorporated herein:

1. Legal Description
2. Development Plan (map)

Exhibit 1: Legal Description

PRACEL A
March 5, 2014

All that portion of Section 4, Township 16 North, Range 2 West, Gila and Salt River Meridian, Yavapai County, Arizona, described as follows:

Beginning at the South One Quarter corner of said Sec. 4;

Thence N00°50'25"W 25.03 feet along the N-S mid-sec. line to the

Thence S87°52'55"E 113.11 feet to the TRUE POINT OF BEGINNING;

Thence N01°34'14"W 367.00 feet;

Thence Northerly 110.75 feet on a curve to the right, said curve having a delta of 48°48'48" and a radius of 130.00 feet and a cord of N23°36'09"E 107.43 feet;

Thence N18°31'18"W 102.60 feet;

Thence Northerly 224.59 feet on a curve to the right, said curve having a delta of 79°20'28" and a radius of 162.19 feet and a cord of N19°32'28"E 207.08 feet;

Thence N15°09'53"E 269.77 feet;

Thence N78°27'22"E 191.18 feet;

Thence N15°08'20"E 368.36 feet;

Thence N74°35'56"E 195.73 feet;

Thence S01°24'26"E 1488.36 feet;

Thence N87°52'55"W 649.42 feet to the true point of beginning, containing 16.81 acres more or less.

Together with and subject to an easement for Ingress, Egress and Utilizes, said easement being 50.00 feet in width, 25.00 feet each side of the following described center line;

Beginning at the South One Quarter corner of said Sec. 4;

Thence N00°50'25"W 25.03 feet along the N-S mid-sec. line;

Thence S87°52'55"E 113.11 feet;

Thence N01°34'14"W 367.00 feet;

Thence Northerly 110.75 feet on a curve to the right, said curve having a delta of 48°48'48" and a radius of 130.00 feet and a cord of N23°36'09"E 107.43 feet;

Thence N18°31'18"W 102.60 feet;

Thence Northerly 224.59 feet on a curve to the right, said curve having a delta of 79°20'28" and a radius of 162.19 feet and a cord of N19°32'21"E 207.08 feet;

Thence N15°09'53"E 269.77 feet;

Thence N78°27'22"E 191.18 feet;

Thence N15°08'20"E 368.36 feet;

Thence N74°35'56"E 146.75 feet to the TRUE POINT OF BEGINNING;

Thence N04°43'14"E 195.58;

Thence N01°35'34"W 1034.22 feet to the South Right-of Way Road 4 1/4 North.

Together with and subject to an Easement for Ingress, Egress, Utilities and Landscaping located in Sec. 4, T16N, R2W, G. & S.R.M., Yavapai County, Arizona, said Easement being over and across the following described parcel.

Beginning at the South One Quarter Corner of said Sec. 4

Thence N00°50'25"W 25.03 feet to the TRUE POINT OF BEGINNING;

Thence N00°50'25"W 13.84 feet;

Thence N53°52'28"E 137.98 feet;

Thence N84°20'04"E 47.97 feet

Thence S50°15'20"E 36.44 feet;

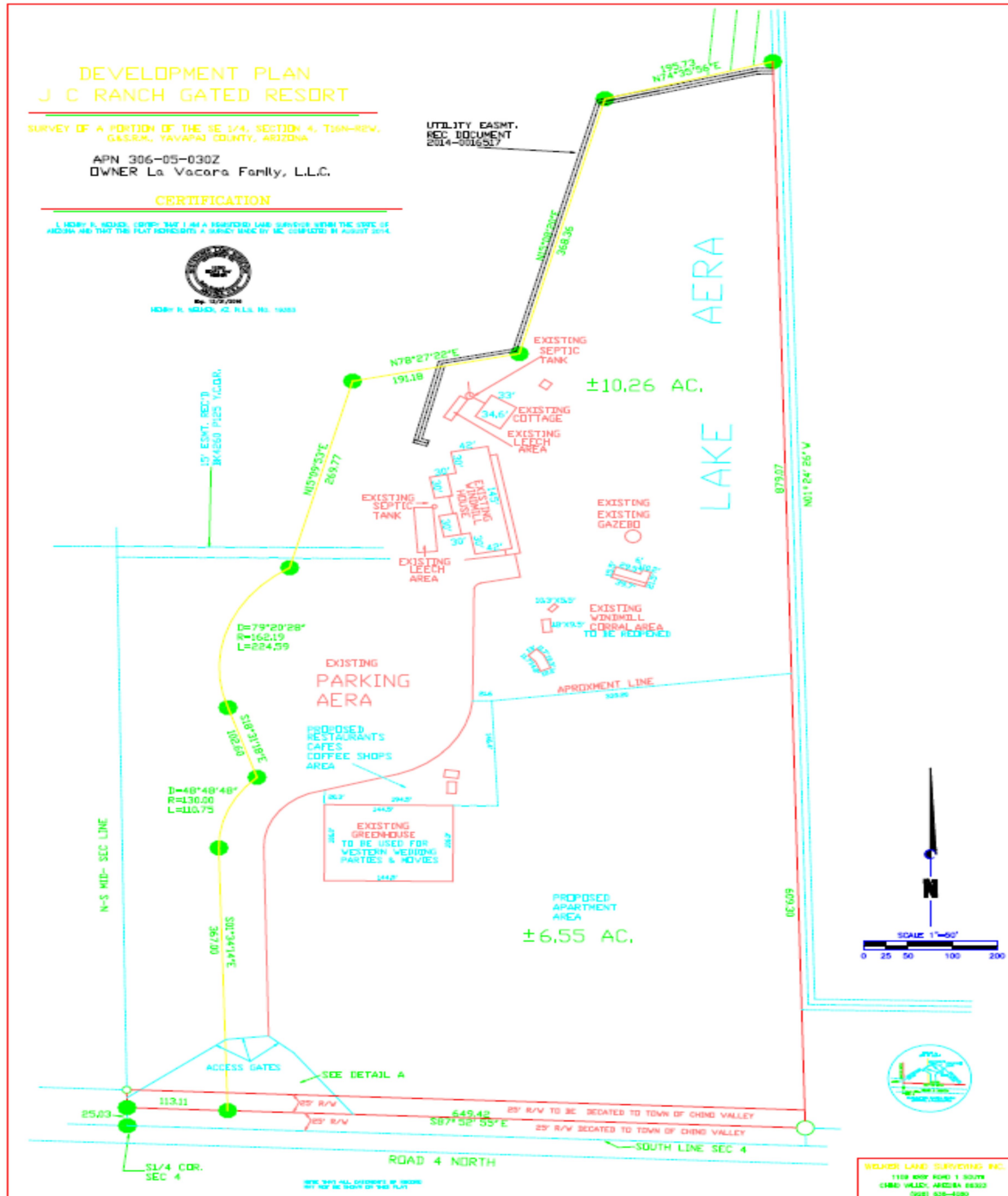
Thence S37°55'24"E 109.05 feet;

Thence N87°52'55"W 254.20 feet to the point of beginning.



EXPIRES 12-31-14

Exhibit 2: Development Plan (for identifying existing uses and Zoning Districts only)



Meeting Date: 09/16/2014

Rezoning 14-005 CL to CH Dogkay LLC

CASE DESCRIPTION:

Rezone approximately 1.53 acres from Commercial Light (CL) to Commercial Heavy (CH). The applicant would like to add a 30' x 34' steel building for the purpose of providing cover for two (2) existing car lifts.

LOCATION:

The APN is 306-23-021V, and the physical address is 734 N. State Route 89. The subject parcel is located in the North half of Section 22, Township 16 North, Range 2 West. It encompasses 1.53 acres.

FACTS:

1. Applicant:.....Dogkay, LLC.
2. Owner:.....Doug and Anita Jones
3. Parcel Number.....306-23-021V
4. Site Area.....1.53 acres
5. Existing zoning:.....Commercial Light (CL)
6. Intended Use.....Auto Repair Shop

ANALYSIS:

The purpose of the applicants request is to rezone from Commercial Light (CL) to Commercial Heavy (CH) in order to add a steel commercial building. Utilities are accessible and readily available. The request to rezone from Commercial Light to Commercial Heavy is in conformance with the Town of Chino Valley's General Plan, as well as with the surrounding uses.

TECHNICAL REVIEW:

A Technical Review Meeting was held on July 30, 2014, to review the proposed zone change from Commercial Light to Commercial Heavy.

RECOMMENDATION

Staff recommends forwarding the application on to Town Council with the recommendation of approval.

Attachments

Staff Report

Location Map

Site Plan



Planning and Zoning Commission Staff Brief

Date: September 9, 2014

Agenda Item: ZC14-005 DOGKAY LLC

Location: 734 N. State Route 89

Summary

The purpose of this request is to rezone from Commercial Light (CL) to Commercial Heavy (CH). The applicant would like to add a 30' x 34' steel building for the purpose of providing cover for two (2) existing car lifts. According to the Town of Chino Valley Unified Development Ordinance, the auto repair shop is an existing non-conforming use in a Commercial Light zoning district. The applicants are requesting a change of zoning to Commercial Heavy in order for the auto repair shop to be a permitted use according to the Unified Development Ordinance. The subject parcel is located in the North half of Section 22, Township 16 North, Range 2 West. It encompasses 1.53 acres. Surrounding uses include: CH, CL, PL, and CL/ AR-5.

History

Doug's Total Auto Repair has been in business in Chino Valley since 2007. The applicants requested to add a commercial steel building for the purpose of providing cover for two (2) existing car lifts. A Technical Review Meeting was held on July 30, 2014, to review the proposed zone change from Commercial Light to Commercial Heavy.

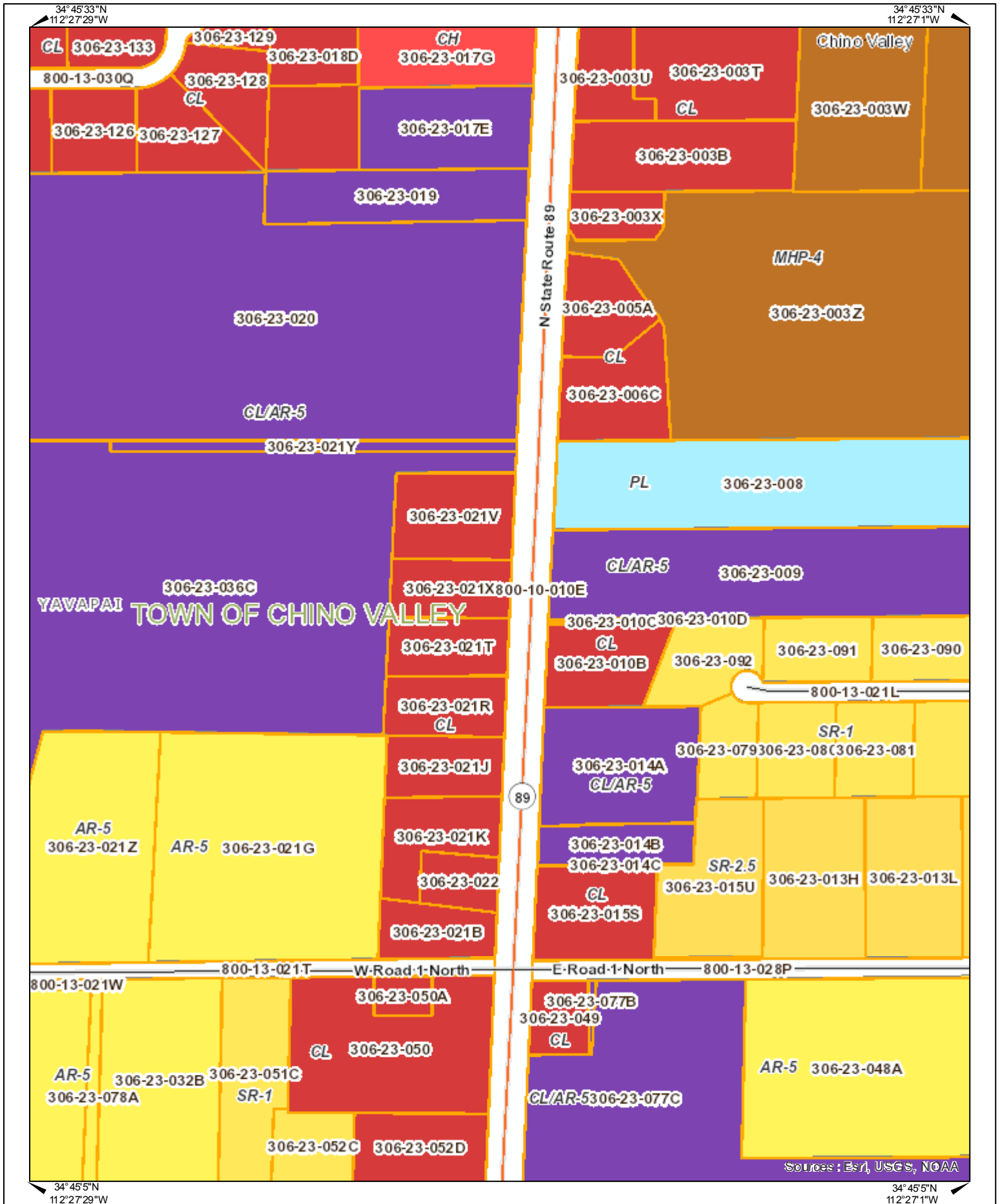
On July 30, 2014, a neighborhood meeting was held at the Town Council Chambers. The applicant described the proposal and was available to answer any questions interested parties had.

Findings of Fact

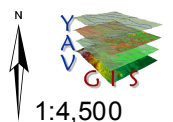
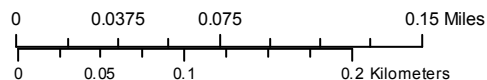
The purpose of the applicants request is to rezone from Commercial Light (CL) to Commercial Heavy (CH) in order to add a steel commercial building. Utilities are accessible and readily available. The request to rezone from Commercial Light to Commercial Heavy is in conformance with the Town of Chino Valley's General Plan, as well as with the surrounding uses.

Recommendation

Staff recommends forwarding the application on to Town Council with the recommendation of approval.

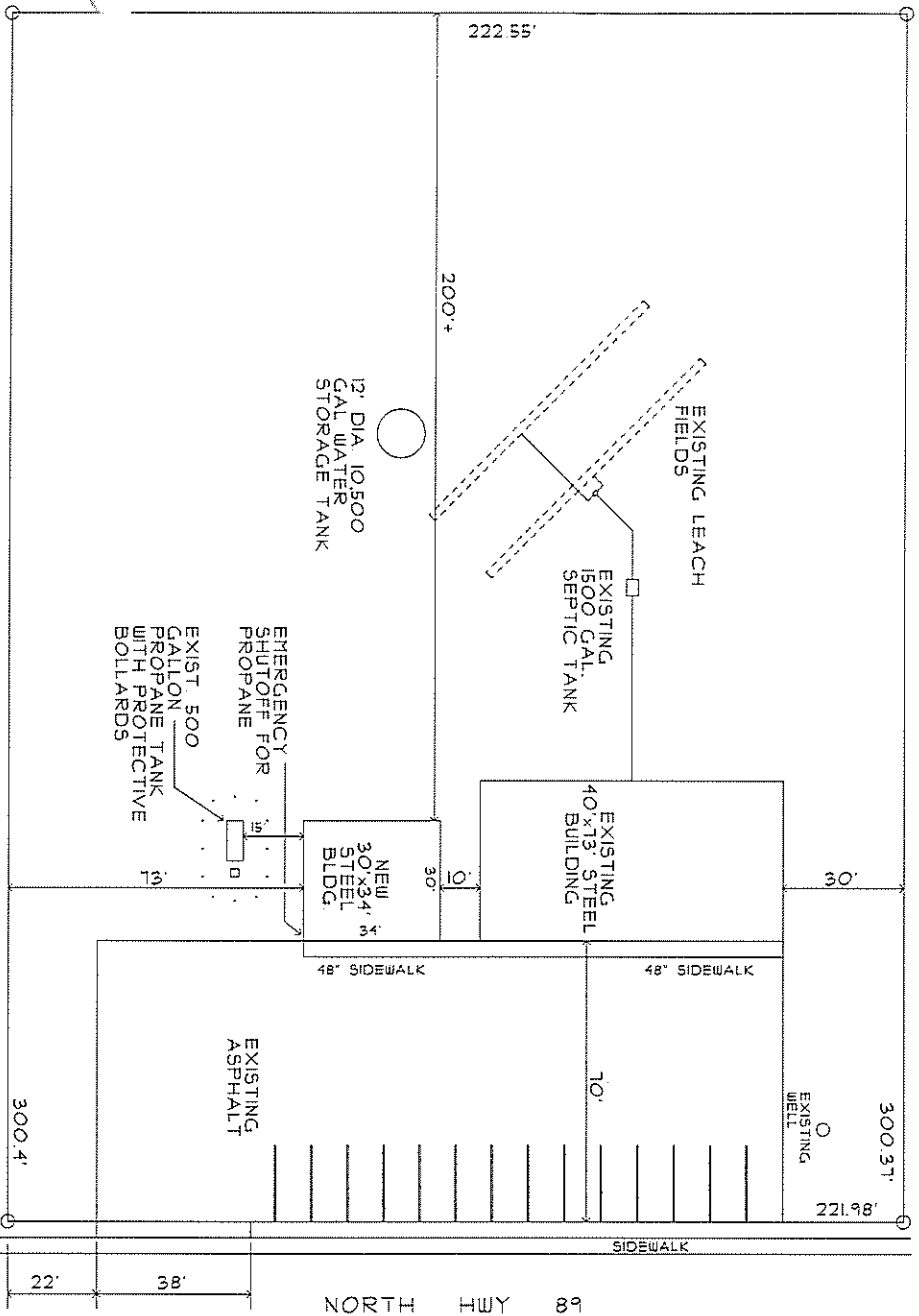


Disclaimer:
Map and parcel information is believed to be accurate but accuracy is not guaranteed. No portion of the information should be considered to be, or used as, a legal document. The information is provided subject to the express condition that the user knowingly waives any and all claims for damages against Yavapai County that may arise from the use of this data.



Map Created 9/9/2014

Yavapai County assumes no responsibility for errors, omissions, and/or inaccuracies in this mapping product.



134 N. HWY 89
CHINO VALLEY
P.N. 306-23-021V
1" = 30'

Commercial Project for Mr. JONES
Stazenski Construction
(928) 636-2633
Job #2614
1 July 2014



Town of Chino Valley
MEETING NOTICE
PLANNING AND ZONING COMMISSION

SPECIAL MEETING
September 16, 2014
6:00 P.M.

Council Chambers
202 N. State Route 89
Chino Valley, Arizona

AGENDA		ACTION TAKEN
1.	CALL TO ORDER	
2.	PLEDGE OF ALLEGIANCE	
3.	ROLL CALL	
4.	MINUTES	
A.	Approve minutes from the August 8, 2014 regular meeting.	APPROVED
5.	STAFF REPORTS	
6.	PUBLIC HEARING	
A.	Rezone approximately 16.81 acres from Agricultural/Residential - 5 acre minimum (AR-5) to Commercial Light, Planned Area Development (CL-PAD) and Multiple Family Residential, Planned Area Development (CL-PAD).	DENIED
B.	Rezone approximately 1.53 acres from Commercial Light (CL) to Commercial Heavy (CH). The applicant would like to add a 30' x 34' steel building for the purpose of providing cover for two (2) existing car lifts.	APPROVED
7.	NON-PUBLIC HEARING ACTION ITEMS	NO ACTION
8.	DISCUSSION ITEMS	NO ACTION
9.	PUBLIC COMMENTS	NO ACTION
10.	ADJOURN	APPROVED

Dated this SIXTEENTH day of SEPTEMBER, 2014.
(Action Taken dated September 18, 2014)

By: Liz Hart, Deputy Town Clerk

A copy of the agenda and background material provided to the Commissioners is available for public inspection at the Marion Lassa/Chino Valley Library, 1020 W. Palomino Road, Chino Valley, Arizona. Further details may be obtained by contacting Development Services Department at 1982 Voss, Chino Valley, Arizona (928) 636-4427.

The Town endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call 636-2646 (voice) or use the AZ Statewide Relay Service at 1-800-367-8939 (TDD) to request an accommodation to participate in this meeting.

In accordance with Chapter 3, Title 38, Section 38-431.02 Arizona Revised Statutes, public notice is hereby given that four (4) or more members of the Mayor and Town Council may be present at this meeting.