

MINUTES OF THE SPECIAL PLANNING AND ZONING MEETING OF THE TOWN OF CHINO VALLEY

**September 16, 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, Arizona, on September 16, 2014.

1) CALL TO ORDER

Chair Rowitsch called the meeting to order at 6:01 P.M.

2) PLEDGE OF ALLEGIANCE

Commissioner Merritt led the pledge of allegiance.

3) ROLL CALL

Present: Chair Gwen Rowitsch; Commissioner Gary Pasciak; Commissioner Chuck Merritt;
Commissioner Corey Mendoza

Absent: Commissioner Florence Sloan

Staff Planner Ruth Mayday; Assistant Planner Elyse DiMartino; Lieutenant Vincent Schaan;

Present: Officer Cody Johnson; Deputy Town Clerk Liz Hart (recorder)

4) MINUTES

A) Approve minutes from the August 8, 2014 regular meeting.

MOVED by Commissioner Gary Pasciak, seconded by Commissioner Corey Mendoza to approve the August 8, 2014 meeting minutes.

Vote: 3 - 0 PASSED

5) STAFF REPORTS

6) PUBLIC HEARING

Chair Rowitsch requested moving item 6B before 6A. The Commissioners consented.

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).

Director Mayday presented an application for rezone 16.81 acres from AR-5 to CL-PAD and multifamily residential PAD. She advised that the residents living within 300 feet of area were notified.

Director Mayday summarized the process beginning in 2003 and presented a site map for the current rezoning application

2003 - Awarded Ordinance (ORD) 561

2005 - Construction of Windmill House completed in 2006

2006 - JC Estates technical review, which was to include a dedication of Right of Way (ROW)

2008 - JC Ranch retirement living center

2009 - Approval of ORD 09-719 rezoning property and Resolution (RES) 09-899 approved minor General Plan (GP) amendment.

2011 - GP amendment for the Windmill House

2011 - ORD 11-001 denied and Conditional Use Permit (CUP) 11-002 recommended for approval 11-752 Revert property to AR5, 11-753 rezone denied, 11-754 CUP granted for 15 years on predication of ROW, 11-966 reverse minor GP amendment approved

2012 - Change of operator, Still No dedication of ROW, ORD to revoke 11-002

2014 - 16.81 acres CL-PAD zoning, for nine different uses

Director Mayday explained the difference between Uniformed Development Ordinance (UDO) and GP, UDO regulates grouping of compatible uses or related land uses, specific uses. GP regulates broad land use districts and designations.

The 2003-CUP land use classification allowed the changes since then the changes need re-addressing.

Section 3.13 of UDO allows three permitted uses: Multifamily dwellings, customary accessory buildings, Churches and similar places of worship

CUP allows privately owned parks and recreation area, and group homes

Director Mayday explained the rezoning acceptance process, defining permanent use to the property, and conditions and changes, which the Town could require.

- The current plan requires setbacks of which staff, Planning and Zoning Commission and Council could recommend increased set back. A maximum of 95 units could be developed under 114,000 square feet of roofline with 1 1/2 parking stalls per one bedroom apartment.
- Defines the Windmill House as a Use by right vs a CUP
- Failure of applicant to comply would result in the business license revocation
- Upon Town Council approval document recorded with County recorder and permanent
- Business license is not issued until dedicated ROW is given and recorded with Yavapai County Recorder's Office.
- Filing of a development plan outlining current and future uses with review by staff confirming adherence to conditions and uses.
- Community cores concept can be applied to property.
- Staff proposes a minor general plan amendment which would allow for a senior living core or mixed use neighborhood core, pending approval of 2014 GP

Staff finds that these actions can resolve the long-standing conflict between LaVacara Trust, surrounding property owners and the Town providing opening of the Windmill House, expanding availably and variety housing.

Director Mayday explained the purpose of Section 1.9.4.1 PAD overlay district:

- orderly development of land consistent with the UDO
- flexibility of design in residential, commercial and industrial development

Staff finds that the proposed rezone meets the intent of the UDO and provides a mixed-use district within the neighborhood it serves.

Director Mayday recapped in the benefits of the proposed land uses, Infrastructure, Open space proposed uses and potential development. Also reported were the conditions of approval:

- Plan in conformance with Town Codes and requirement unless otherwise modified.
- No additional entitlements or rights to the owner
- Public structures shall be inspected by building official and conform to Town building codes
- Future additions require an amendment of development plan
- Construction of multifamily may require an extension of additional sewer and water service
- Dedication of ROW
- Minor GP amendment for compliance with land use designation
- Amplified noise not to exceed 60dB. at the property boundary
- Limited use listed on the
- Time restrictions on private and restaurant functions
- Pumpkin festival as an allowed use
- Western town activities subject to final building inspection and approval

The Commissioners presented questions regarding past and present zoning requests:

- Commissioner Mendoza – revocation of 2009 minor GP amendment

Director Mayday – reverted upon Resolution 11-9-68, currently land use is medium density residential with zoning AR5.

- Commissioner Mendoza radius of letters and number of residents affected

Director Mayday - 300 feet and seven (7) residents directly affected

- Chair Rowitsch – regarding Attorney letter clarification of allowable festivals the pumpkin festival is the only one at this time.

Director Mayday currently the pumpkin festival is the only one at this time

- Chair Rowitsch – latitude for other parks and recreation type activities and the need of staff approval

Director Mayday - must adhere to list generated by Mr. Cordovana and his counsel

- Commissioner Pasciak - 25-foot ROW dedication is it adequate for future road use.

Director Mayday – total roadway is 50 feet from center on each side.

- Commissioner Pasciak - Extension of municipality sewer and water service cost born by developer.

Director Mayday – yes

- Commissioner Pasciak – access gate seems to be on survey line and if developed the

access gate spacing need to be adequate for road traffic to adjacent parcel.

Director Mayday – preliminary plan for illustration only, access gate will be corrected if necessary.

- Commissioner Pasciak – potential land use, rezoning to a commercial zoning, which is $\frac{3}{4}$ mile from nearest commercial zoning. Is this Spot zoning? All permitted under commercial?

Director Mayday – Conditional use rezoning and PAD have been previously granted. Windmill house permitted as a Conditional Use, as a private park recreation facility. Applicant did not meet CUP and presented two other plans, which were granted by Town Council.

- Commissioner Merritt – problem caused by failure to receive ROW. Project met zoning requirements and fits with the GP land use. Would it also fit in projected GP land use?

Director Mayday – project revoked due to ROW failure and economy, past projects qualified GP land use and would fit in the projected GP land use with another minor GP amendment.

- Commissioner Pasciak item eight (8) regarding amplified noise, can a noise time limit be set and how will dB. levels be enforced?

Director Mayday – PD has equipment to record dB. Level

- Commissioner Merritt – clarified location of the 6.5 acres for development and proximity to surround residents.

Mark Svejda advised he the representative of LaVacara Trust and thanked Director Mayday and staff. He reported on the 16.1 acres PAD rezoning and getting the Windmill House reopened. It proved an economic boom to the Town when open and generated revenue for the Town and local businesses. The property is located with residence around it, which would enable residents to walk to the facility. After the Neighborhood meeting they did scale back the scope of property uses to nine items to include: events requiring amplification would be limited to indoor use; the development of the 6.5 acres along Road 4 North would probably be developed as multifamily use. LaVacara Trust submitted 666 signatures in support the project and allowing development. Respectfully request approval of rezone request.

- Commissioner Pasciak – Upon presentation to Council and their approval is there a time frame for the development and could the existing building could be inspected, permitted, and operated immediately.

Mark Svejda - Financing circumstances are an issue, no isn't a specific time frame but will work with planning department to set a schedule for submission of the development plan, and the existing building operate immediately.

Commissioner Mendoza – how long has property been owned?

Mark Svejda – the property has been in the LaVacara Trust since 2002

Chair Rowitsch opened the Public Hearing 6:58p.m.

Citizens expressed their concerns at the Public Hearing:

Lee Paul, Chino Valley resident

- Water – availability of water during power failure, failure to install tank and pumps for water pressure and fire control if electricity goes off.
- Congestion – island of commercial property in center of residential area would be out of context with rest of property around it
- Fire department and road traffic

Robert McCaullay Chino Valley resident

- Relationship of GP proposal with the requested rezone and prior staff's position.
- Reinstating a Windmill House CUP
- Failure to conformation of PAD ordinance 14-786 1.9.4.3 f the PZ
- GP proposal core design targets Highway 89 not residential area.
- Failure to abide with prior promises
- Proposal to get LaVacara Trust off of staff's back

Ronald Maines – Chino Valley resident

- Open the Windmill House on a PAD
- At the neighborhood meeting, no mention was made of multifamily residential (MFR) units, which is an overage on 6.5 acres.
- Approval would amount to spot zoning,
- UDO allows for a PAD overlay – to avoid undue concentration of population
- GP community vision true to its small town rural value and life style
- LU 1.4 assure the type and intensity of land 'shall' be consistent with its neighborhood
- Respectfully ask to vote no to request

Gary Grindstaff - Chino Valley resident

- Vehicles coming into Windmill House, and lights flash through his windows
- 95 apartments unit density would cause more light problems
- Alternative uses for land - agriculture crisis

Jay Bates - Chino Valley resident

- Upon direct question, Mr. Cordovana advised he wanted to open the Windmill House.
- Now commercial light area.
- Failure to comply on prior commitments since 2003 in every instance Cordovana did not perform. 5 denies 5 out of compliance
- Impact statement before a zoning change
- What structures are built first ignoring other commitments
- closest commercial zoning is on the highway a mile away
- Not a good thing hope it is denied

David Woodcock - Chino Valley resident

- a multifamily proposal is not compatible with the neighborhood nor enhance it
- Instances of loud music during Windmill House operation and the Town's unpreparedness to enforce restrictions.
- Use of access road on 4 ½ north and parking during Pumpkin festival.
- right of way dedication is just for the development property frontage
- Water issue

Allen Mell - Chino Valley resident

- Concern about business, multifamily housing, traffic impact, and water
- Increasing traffic
- Condition #5 regarding water says may not will,
- Appaloosa water has been out of compliance with fire flow issue by AZ commission
- Actions will not resolve the long-term conflict between **LaVacara** trust and the property owners.

Shamus Evans - Chino Valley resident

- His experience with decibel levels normal speaking level is 60-75 dB
- Parking lot lighting and noise issue
- Notification to 7 surrounding residents
- Sidewalk and curb only in front of proposed property
- Road 4 north visibility issues
- Extension of sewer and water line to property

Debbie Navelski - Chino Valley resident

- 300 feet is legal minimum 2 letters went out to Joes own property.
- Where did the 94-94 units come from is based on ½ acre lots
- Site plan for apartment units
- Access, style, impact on rural neighborhood
- Pumpkin festival was a disaster noise wise and people behavior
- Opposed to proposal

Ken Burkett - Chino Valley resident

- Specific plans for the property
- What kind of apartments, 3 story apartments, 55 and above, group 8 housing
- Review PAD for crime place PD call for services
- If GP gone through and special amendment - is Spot zoning
- This is right of way on demand, not necessary immediately
- Self-contained sewer system before construction
- Community Center that you can walk to, area is dark streets and no sidewalks
- Recommend deny concept and revisit plan

Frank Strassell - Chino Valley resident

- With history of not following through, why would support of approval of rezoning request.
- Not only Road 4 North and Road 4 1/2 North need to include Road 1 West
- 600 signatures for support came in the water bill, asking for support of Windmill nothing said about the zone change
- Money is in commercial development
- This should not be and he appreciates time allowed for everyone to speak.

Chair Rowitsch closed the public hearing 7:59 p.m.

Chair Rowitsch called for a 10-minute break

Session returned 8:11 p.m.

Chair Rowitsch recapped questions – Planner Mayday responses

- Where will the water come from – Appaloosa water company
- Is there city water in the area - Closest on State Route 89
- Mobile home housing and notification in the area - Larger project with greater impact
- Director Mayday commented on the 95 units as being the maximum amount allowed, building projects would need to go through a plan review process before final approval. Items discussed tonight will be mitigated in the final development plan.
- Can a development plan be presented along with the rezoning – Could be provided with the GP amendment
- How property is affected by the current and proposed GP - Both would require a minor GP amendment for project before the issuance of a business license, also required are the ROW and buildings being repaired.
- Time stipulation for the GP amendment - No later than November 10, 2014
- If denied zoning could the Windmill House operate under a CUP – Option is available.
- Is today's presented request different from neighborhood meeting - Multifamily residential was not on schedule.
- How would applicant address headlights shine into house - Code requires 3-foot landscaped berm.
- Does the Town require cost benefit analysis (impact statement) - Not done here.
- Enforcement of sound codes - 60 dB. is standard and can require more noise mitigation.
- Pumpkin festival how would applicant address parking, traffic, and people in area.
- Mark Svejda - property access on Road 4 ½ North and 100+ paved parking at Windmill House and willing to work with the planning department for utilization of parking.
- Why access 4 ½ North if zoning is on this parcel? - Mark Svejda to assist in traffic flow
- Is a traffic impact analysis required for development plan - Determined on number of dwelling units proposed, Town engineer determination, and/or ADOT requirements.
- Has a traffic impact analysis been done in the past – Unknown if reached that stage.
- Fire flow requirements not being met - He did a site plan review for expansion Appaloosa water but unknown if fire flow plan was done.
- Is water comp regulated ADWR – Unknown but is regulated by AZ Corporation Commission
- Is outdoor lighting at required or an option with construction of apartments – Town had dark sky ordinance so lighting must be shielded.
- Planner Mayday advised density is calculated on multifamily residential at 1 unit /3,000 square of gross land area, Mobile Home Park is calculated at 4 units to an acre.
- What kind of apartments are proposed? - Mark Svejda – whatever the code will allow the final configuration has not been determined.
- What is the housing type? - Mark Svejda – 55 and over.
- Sewer intention - Mark Svejda - would have to work with the Town it may be necessary to construct a treatment plant or the city to extend the sewer line.
- Commissioner Pasciak – remarked that the petition had some signatures that are out of Town limits and other irregularities, and expressed concern that signers did not know what they were signing as it focused on the reopening of the Windmill House, with one sentence inserted about PAD.
- Commissioner Merritt – by doing zoning does it give more authority and control to property development vs CUP?

Planner Mayday a CUP would not allow some of the discussed items, Rezoning would give Town better control on property development. Final development plan has to go through the same process as rezoning.

- Zoning change does not give property development authority – Correct, must have development plan in hand and approved before business permit issuance.
- Commissioner Pasciak –point of clarification - if zoning was approved could existing building be opened for business – Must adhere to the list of stipulation before opening for business, ROW and development plan and up to current code.
- Commissioner Mendoza advised that this seems to be a case of closing the door now that you are here, which is not right. Veterans fought for the rights of each individual, the right not to be infringed upon. Mr. Cordovana has the right to develop his property. Regarding traffic with the development of Appaloosa Meadows also created traffic. Commercial development will bring more tax revenue to the town. Leaning towards the Cordovana group.
- Chair Rowitsch advised she has been at most all of the Cordovana public hearings, of the plans brought in some she was for and others absolutely not. Windmill House is there and probably there to stay working under CUP or zoning. In the planning world multifamily residential is a great buffer between commercial and residential uses. Reservation in not knowing what Mr. Cordovana is going to build due to statement of building multifamily residential to the fullest extent that the UDO will allow and is it compatible with the neighborhood. Previous requests wanted 55+ mobile home park, which would have been great no matter the clustered lots. Not sure multifamily is the wrong answer but until sees more definitive development plan hesitant to approve rezoning, with past history of granting and denying rezoning plan, CUPs, and GP amendments due to failure to meet commitments. Understand that the development plan is the next phase but must still go through the process of reverting the zoning with a failure to perform. She believes that a development plan should come concurrent with zoning request so as to include automatic reversion on failure to perform. That action language was in a prior request, which reverted to original zoning. Not opposed but do not have the whole picture and uncomfortable moving forward with zoning. If something requires GP amendments is it significant or will it compromise the area. She expressed concern on using adjacent property for some of the uses. This proposal only required ROW dedication in front of the 16 acres. Without more information and a complete development plan vote on rezoning would be no.
- Commissioner Merritt advised the major comments heard tonight is the ability to follow through and not doing so. He believes the property should be able to be developed and unreasonable to expect that parcels this size not be developed, and owner has the right to do that. Also, believe folk bought property around this place had fully expected it to be similar uses. Road repair and who pays for repair is with Public Works supervisor. Chino Valley is going to dwindle away of cease to exist as an entity if continually slap down project which bring revenue to the Town. Revenue has to come into Chino Valley from the sources of new development. Understand noise issues. Do have a problem with giving zoning with the high density not locking Mr. Cordovana enough concur should have a development concurrently with the zoning not going to vote yes due to the person we are dealing with and not because I disagree with developing the property. Need to manage that growth and encourage it to our benefit. My vote will be no, because he does not feel that Mr. Cordovana is not locked into a position.
- Commissioner Pasciak expressed concerns as a spot zoning, also the lack of concern from city engineer putting in 96 units and other multi use area in this section that the roads will be able to handle it. He believes this type of an item needs a traffic impact study. He advised needing to see a development going in step with the zoning rather than after due to petition wording and public comments. more structure and a rigid definition of this is what is going to be developed and not so nebulous that Town has no say in what is going to happen. He will probably be supporting the chairperson.
- Chair Gwen asked about choices acting on request specifically presented or

recommending postponing the item until a development plan comes in.

- Commissioner Mendoza requested clarification on the past stipulation of requiring a development plan along with the zoning.
- Chair Gwen advised you could place condition on rezoning discussion that the development plan and the zoning come in concurrently so that if Mr. Cordovana does not follow through that the zoning could automatically revert as a condition of the rezone.
- Planner Mayday the language would also be added to the Council recommendation to amend or adds a stipulation that if there is not a development plan within a certain time the rezoning reverts.
- The Commission asked the applicant if 6 months was reasonable to act upon discussed stipulations. He agreed it was a reasonable time.
- Commissioner Pasciak reiterated based on history the zoning approval and development plan should go hand in hand. Chair Rowitsch recapped two possible options: approve rezone request with additional request that a development plan be approved by city council for passage of zoning or can deny zoning based on do not have development plan to consider as part of the development request.
- Chair Rowitsch advised that the Commission doesn't grant zoning just recommends in order for the Council to revert the zoning

Commissioner Merritt moved to deny the zoning change and if Mr. Cordovana wants to come back with another opportunity then that would be his decision. Chair Rowitsch requested an amendment to if he request a zoning that he include a development plan with his rezoning request.

Commissioner Merritt moved, seconded by Commissioner Pasciak to deny this zoning change and that if Mr. Cordovana decides to come back to us again for a zoning change that we have a development plan that would run concurrent with that zoning change.

Commissioner Mendoza made a statement that his vote would indicate that he is looking out for Mr. Cordovana rights and every other citizen that lives in this community as well.

MOVED by Commissioner Chuck Merritt, seconded by Commissioner Gary Pasciak

Vote: 4 - 0 PASSED

- 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.

Director Mayday recapped Dogkay LLC request for a steel building to cover the vehicle lift at the rear of the building, which qualifies as a legal non-conforming use. Due to the 2006 UDOs changing zoning districts, this property now requires Commercial Heavy zoning.

Commissioner Pasciak confirmed that no additional parking is required with the addition of a building.

Commissioner Merritt confirmed that the lifts are in compliance with the zoning.

Owner Doug Jones emphasized he did not expect an increase in business just functional use during the different seasons.

Chair Rowitsch opened the Public Hearing at 6:07 p.m.

Chair Rowitsch closed the Public Hearing at 6:07 p.m.

MOVED by Commissioner Gary Pasciak, seconded by Commissioner Corey Mendoza recommended approval to City Council.

Vote: 4 - 0 PASSED

- 7) **NON-PUBLIC HEARING ACTION ITEMS**
- 8) **DISCUSSION ITEMS**
- 9) **PUBLIC COMMENTS**
- 10) **ADJOURN**

MOVED by Commissioner Chuck Merritt, seconded by Commissioner Gary Pasciak to adjourn at 9:00 p.m.

Vote: 4 - 0 PASSED


Chair Gwen Rowitseh VICE CHAIR MERRITT

5-5-15
Date