

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

**TUESDAY, November 19, 2013
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 Tuesday, November 19, 2013.

Present: Chair Gwen Rowitsch; Vice-Chair Garland Miner; Commissioner Michael Edmonds; Commissioner Robert McCaullay; Commissioner Corey Mendoza; Commissioner Chuck Merritt; Commissioner Florence Sloan

Staff Present: Ruth Mayday, Planner
Liz Hart (recorder), Town Clerk Assistant

1) CALL TO ORDER

Commission Chair Gwen Rowitsch called the meeting to order at 6:03 P.M.

2) PLEDGE OF ALLEGIANCE

3) ROLL CALL

4) MINUTES

- A)** Consideration and possible action to approve the October 15, 2013 regular meeting minutes.

MOVED by Commissioner Chuck Merritt, seconded by Commissioner Robert McCaullay to approve the minutes as written.

Vote: 7 - 0 PASSED

- B)** Consideration and possible action to approve the October 15, 2013 joint work study session minutes.

MOVED by Commissioner Chuck Merritt, seconded by Commissioner Florence Sloan to accept the minutes from the October 15, 2013 joint work study session as written.

Vote: 6 - 0 PASSED

Other: Vice-Chair Garland Miner (ABSTAIN)

- C) Consideration and possible action to approve the November 5, 2013 joint work study session minutes.

MOVED by Commissioner Chuck Merritt, seconded by Vice-Chair Garland Miner to accept the November 5, 2013 joint work study minutes as corrected.

Vote: 6 - 0 PASSED

Other: Commissioner Florence Sloan (ABSTAIN)

5) STAFF REPORTS

Planner Mayday welcomed Commissioner Mendoza to the Planning and Zoning Commission.

6) PUBLIC HEARING

- A) Amendments to Section 2: Definitions of the Unified Development Ordinance (UDO) to provide for the addition and deletion of, as well as the modification of terms related to the regulation of medical marijuana dispensaries, infusion facilities, and cultivation sites, as well as Commercial Greenhouses.

Planner Mayday recapped the marijuana proposition 203, which was approved by voters in 2010 and Town Council who decided to operate by State Law guidelines set forth by the Department of Health Services. The regulating authorities are ARS 36-2801 Arizona Medical Marijuana Act and Title 9 Health Services Chapter 17, Medical Marijuana program.

Planner Mayday reported on the following items:

- How surrounding towns are following these rules.
- State law concerning 500 foot buffer around schools.
- Definition of a commercial greenhouse - Unified Development Ordinance (UDO) guidelines are regulating an activity not a structure.
- Disparity between commercial greenhouses vs other commercial businesses.
- Buildings already in existence being considered non conforming.
- Suggested language regarding cultivation, infusion, and dispensing of medical marijuana.
- Changes to commercial greenhouse regulations.
- Differences between industrial use vs agricultural use.

Commissioner Edmonds requested clarification on Conditional Use Permit (CUP) in agricultural and residential areas for a growing manufacturing business in a residential area. Planner Mayday advised the business has to be in an agricultural and residential area, must comply with State Law and CUP allows to set other parameters for that specific use. The CUP would have to go through the review process.

Planner Mayday presented the recommended changes in the definitions found in section 2.1. Commissioner Merritt confirmed the definitions are tied to State law. Planner Mayday advised that by tying to State law if the State changes the definitions the Town's

definitions would automatically change.

No public hearing comments were made.

MOVED by Commissioner Chuck Merritt, seconded by Vice-Chair Garland Miner to accept the meanings of the words in terms as amended.

Vote: 7 - 0 PASSED

- B)** Amendments to Section 4.30: Commercial Greenhouse Regulations of the Unified Development Ordinance, to regulate the manner and placement of Commercial Greenhouses in the AR-4, AR-5, AR-36, CL, CH, and I zoning districts.

Planner Mayday presented proposed commercial greenhouse regulations, from previously adopted standards, regulating all greenhouses as a regular commercial business.

Commissioner Edmonds requested clarification on movable containers and raised bed not connected to the land, Planner Mayday advised the section dealt only with water.

No public hearing comments.

MOVED by Vice-Chair Garland Miner, seconded by Commissioner Chuck Merritt to recommend to Town Council to approve Section 4.30: Commercial Greenhouse Regulations as present in staff report.

Vote: 7 - 0 PASSED

- C)** Amendments to Chapter 4, General Regulations of the Unified Development Ordinance (UDO) by adding Subsection 4.31 Medical Marijuana Dispensaries, Off-Site Cultivation Sites, and Infusion Facilities related to the standards for Medical Marijuana Dispensaries and Medical Marijuana Off-Site Cultivation Sites

Planner Mayday presented a set for rules governing the location and function of medical Marijuana dispensaries, off-site cultivation sites, and infusion facilities.

Section A. Comply with the regulations set forth in 4.31

Section B. Facility containment as defined in ARS 36-2801

Section C. Provide written evidence from the appropriate State regulatory agency

Section D. Dispensary facility separation requirements

Commissioner McCaullay mentioned the original requirements being set at 500 feet.

Section E. Retail sales, service, or activities within a cultivation facility

Section F. Minimized impact on surrounding properties from dust, fumes, odors, or vapors

Section G. Located in a permanent building or structure

Section H. Maximum square footage of dispensary

Section I. No consumption of medical marijuana on any medical marijuana facility

Section J. Limiting access within a medical marijuana facility to dispensary agents.

Section K. Infusion facilities restrictions

Section L. All cultivation shall be within an enclosed, locked structure.

Commissioner Gwen Rowitsch opened the meeting to Public hearing.

Duke Rodriguez, officer of Ultra Health, presented information on the history of marijuana growing and Ultra Health's site plan. The presentation mentioned the following items:

- Design and technology of the growing facility, Current and future
- Development of outdoor marijuana growth
- Opportunity to do research for medical benefits
- Security and safety of facility

The Commission requested Mr. Rodriguez clarify the following items:

- Hoop house – facility for starting infant plants
- Plans for adding an infusion facility – none at this time
- How plants are produced – through cloning and/or seed production
- Seed escaping from lot and growing in other areas – possibility but unable to address concern
- New industry and don't know how to grow – explore potential of growing effective medical marijuana
- Patients prefer plants grown outside – some patients state they will only use outdoor grown medical marijuana.

Michael Vanarton (?) advised he was in the marijuana industry in California. He advised there is research available on the plant. The growing plant smell should not go into the neighborhood; it is the drying plant that smells and carbon filters can cut down that smell. Outdoor growing plants could blow into neighborhood. An indoor environment is easier to regulate.

Cheri Romley advised as marijuana facilities are new to the community she has some concerns. She contacted the Department of Health Services, which regulates individual growth, but the local police and the Town regulate commercial growing issues. Some topics to consider are how many are facilities are we going to allow, how far apart are they going to be, odor regulations, security issues, illegal drugs, and screening issues around boundary walls? What is the benefit to the Town? She recommends keeping a 500-foot boundary from schools, parks, churches, and residential areas.

Ronald Maines advised he believes 500-foot standard regulation seems reasonable.

Mark Brannigan, Ultra Health, advised he believes in outdoor growing and stated the growing season for outdoor growing is six months out of the year.

Jeff Schaffer, Director of PARC Dispensary in Phoenix, AZ reported the flowers do not have seeds and the technology is already here it is not a new field. He reported smells are controllable with carbon filters before it leaves the building.

Co3 (gas) carbon trioxide, which controls the odor. Commissioner Edmonds asked about getting effects of marijuana by being next to it. Mr. Schaffer advised that he has never been under the influence by walking through a growing facility the tetrahydrocannabinol (THC) in the plant will not affect you by just smelling the air. The extracted chemical properties cannabidiol (CBD and CBN) of the plant are infused into a product. In extraction, you try to get as little as possible of the THC, which is the psychotic recreational use. He advised you could grow plants with low levels of THC and more CBN and CBDs.

Julie Jennings, Prescott, real estate agent advised that the proposed ordinance is necessary for the sale of a zone - CH commercial building. She recommends approval of the ordinance as would be beneficial to Chino Valley.

Commissioner Rowitsch closed public hearing.

Commissioner Rowitsch requested clarification on the original ordinance of 500 feet vs. 200 feet, what is staff recommending in this amendment, other cultivation facilities within the town, how far apart from each other they are, and the landscaping requirements.

Planner Mayday advised the 500 feet from a school is State law and can be greater but not lesser. The recommendation for other locations is 200 feet and can be made at any distance. There are at least two locations Perkinsville, and another at Road 1 East other companies are waiting for the hearing outcome. She advised when speaking with the police chief he would prefer them to be closer as it would be easier to control. The landscape requirements in Section 4 would be enforced.

Commissioner McCaullay, Commissioner Edmonds, and Commissioner Sloan proposed to recommend the 500 foot buffer in all circumstances.

Planner Mayday advised the 500-foot buffer was adopted by Prescott Valley.

Commissioner Merritt and Commissioner Rowitsch recommended the 500-foot separation rule and are not in favor of open air cultivation/outdoor grow facility.

Commissioner Mendoza confirmed the 500-foot rule applies only to marijuana growing facilities and not a regular greenhouse. He also confirmed that outdoor growing is not currently allowed.

Commissioner Rowitsch advised the 500-foot rules applies to all marijuana growing, dispensary, and infusion facilities.

MOVED by Vice-Chair Garland Miner, seconded by Commissioner Chuck Merritt to recommend to the Town Council to approve subsection 4.31 with the change to 500 feet, instead of 200 feet.

Vote: 7 - 0 PASSED

- D)** Proposed amendments to Section 3.7: Agricultural/Residential (4 Acre Minimum), Subsections 3.7.2 Permitted Uses and 3.7.3 Conditional Uses, of the Unified Development Ordinance (UDO) to provide for the manner and placement of Commercial Greenhouses and Medical Marijuana Cultivation Facilities (with or without infusion facilities)

Planner Mayday advised the section is adding commercial greenhouse with a minimum of 10 contiguous acres, as a conditional use and the medical marijuana cultivation facility with or without infusion facility subject to the regulations set forth in section 4.31. This section is for growing and infusion only.

Commissioner Rowitsch opened the public hearing.

A question was raised regarding the changing minimum acreage. Planner Mayday advise in AR-4, AR-5, and AR-36, the minimum is 10 acres because it is a residential area.

Commissioner Rowitsch closed the public hearing.

MOVED by Commissioner Chuck Merritt, seconded by Commissioner Florence Sloan to recommend for approval amendment to Section 3.7: Agricultural/Residential (4-Acre Minimum), Subsections 3.7.2 Permitted Uses and 3.7.3 Conditional Uses, of the Unified Development Ordinance (UDO) to provide for the manner and placement of Commercial Greenhouses and Medical Marijuana Cultivation Facilities (with or without infusion facilities).

Vote: 6 - 1 PASSED

NAY: Commissioner Michael Edmonds

- E)** Amendments to Section 3.6: Agricultural/Residential (5 Acre Minimum) of the Unified Development Ordinance (UDO) to allow for Commercial Greenhouses as a Permitted Use subject to additional requirements, and allowing Medical Marijuana Cultivation Facilities (with or without infusion facilities) as a Conditional Use.

Planner Mayday advised this is a minimum of 5-acres in the zoning classification as opposed to 4-acres.

Commissioner Edmonds and Commissioner McCaullay advised they do not believe medical marijuana should not be grown in a residential area.

No public hearing comments.

MOVED by Commissioner Chuck Merritt, seconded by Vice-Chair Garland Miner to recommend for the approval of Section 3.6: Agricultural/Residential (5 Acre Minimum) of the Unified Development Ordinance (UDO) to allow for Commercial Greenhouses as a Permitted Use subject to additional requirements, and allowing Medical Marijuana Cultivation Facilities (with or without infusion facilities) as a Conditional Use.

Vote: 5 - 2 PASSED

NAY: Commissioner Michael Edmonds

Commissioner Robert McCaullay

- F)** Amendments to Section 3.5: Agricultural/Residential (36 Acre Minimum) of the Unified Development Ordinance (UDO) to provide for the manner and placement of medical marijuana dispensaries, infusion facilities, and cultivation facilities as a Conditional Use; remove the ten (10) acre minimum required for Commercial Greenhouses; and allow for accessory uses to Commercial Greenhouses.

Planner Mayday advised this the same version just 36-acre minimum, the 10 acre minimum was not included, with conditional use in the zoning classification and the additional restrictions under section 4.3.1 would apply.

No public hearing comments.

Commissioner Edmonds went on record that he has a problem with it being in a residential area as it has a possibility of destroying neighborhoods.

MOVED by Vice-Chair Garland Miner, seconded by Commissioner Chuck Merritt to recommend to approve to the Town Council Section 3.5: Agricultural/Residential (36 Acre Minimum) of the Unified Development Ordinance (UDO) to provide for the manner and placement of medical marijuana dispensaries, infusion facilities, and cultivation facilities as a Conditional Use; remove the ten (10) acre minimum required for Commercial Greenhouses; and allow for accessory uses to Commercial Greenhouses.

Vote: 5 - 2 PASSED

NAY: Commissioner Michael Edmonds
Commissioner Robert McCaullay

- G)** Amendments to Section 3.15: Commercial Light of the Unified Development Ordinance (UDO) to allow for Commercial Greenhouses as a Permitted Use, and to add Medical Marijuana Dispensaries and Cultivation Facilities (with or without infusion facilities) as a Permitted Use.

Planner Mayday advised this amendment removes the requirement for a minimum 10 contiguous acres and allows commercial greenhouses in general as a permitted use and medical marijuana dispensaries and off site cultivation and infusion facilities as a permitted use subject to the regulations set forth in Section 4.3.1. this included the separation from the schools and parks.

Commissioner Edmonds and Commissioner McCaullay went on record that they believe that this is an appropriate use for this zoning.

No public hearing comments.

MOVED by Vice-Chair Garland Miner, seconded by Commissioner Chuck Merritt to recommend to Town Council to approve the amendment to Section 3.15: Commercial Light of the Unified Development Ordinance (UDO) to allow for Commercial Greenhouses as a Permitted Use, and to add Medical Marijuana Dispensaries and Cultivation Facilities (with or without infusion facilities) as a Permitted Use.

Vote: 7 - 0 PASSED

- H)** Amendments to Section 3.16: Commercial Heavy of the Unified Development Ordinance (UDO) to allow for Commercial Greenhouses as a Permitted Use, and adding Medical Marijuana Dispensaries and Cultivation Facilities (with or without infusion facilities) as a Permitted Use.

No commissioner comments or questions.

No public hearing comments.

MOVED by Commissioner Chuck Merritt, seconded by Vice-Chair Garland Miner to recommend to Town Council for approval Amendments to Section 3.16: Commercial Heavy of the Unified Development Ordinance (UDO) to allow for Commercial Greenhouses as a Permitted Use, and adding Medical Marijuana Dispensaries and Cultivation Facilities (with or without infusion facilities) as a Permitted Use.

Vote: 7 - 0 PASSED

- I)** Amendments to Section 3.17: Industrial of the Unified Development Ordinance (UDO) to allow for Commercial Greenhouses as a Permitted Use, and to allow Medical Marijuana Dispensaries and Cultivation Facilities (with or without infusion facilities) as a Permitted Use in the I:Industrial Zoning District.

No public hearing comments.

Commissioner Merritt stated that he would like to go on record that he would just as soon not have any of it in this town at all, but the State voted and State law is State law and we have to deal with it. Commissioner Edmond and Commissioner McCaullay went on record that they supported Commissioner Merritt's position.

MOVED by Vice-Chair Garland Miner, seconded by Commissioner Robert McCaullay to recommend to Town Council for approval Amendments to Section 3.16: Commercial Heavy of the Unified Development Ordinance (UDO) to allow for Commercial Greenhouses as a Permitted Use, and adding Medical Marijuana Dispensaries and Cultivation Facilities (with or without infusion facilities) as a Permitted Use.

Vote: 7 - 0 PASSED

7) DISCUSSION ITEMS

8) PUBLIC COMMENTS

9) ADJOURN

MOVED by Vice-Chair Garland Miner, seconded by Commissioner Robert McCaullay passed and closed at 7:59 p.m.

Vote: 7 - 0 PASSED

Chair Gwen Rowitsch

Date