



A G E N D A

Town of Chino Valley
Planning & Zoning Commission

July 18, 2023



Commissioner's Agenda
Planning & Zoning Commission – Special Meeting
Chino Valley Town Hall
202 N. State Route 89
July 18, 2023, 6:00 p.m.

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE
- C. PUBLIC HEARINGS – ONE
 - C.1. **CUP-2022-01** – This is the six-month review of the Conditional Use Permit, CUP-2022-01, for an Equine Rescue Center owned and operated by Derek and Luiz Pereira on a 5-acre parcel zoned SR-2.5, located at 680 S. Firesky Lane, Chino Valley, Arizona
- D. INFORMATION ITEMS
 - D.1 Staff - Status of General Plan
 - D.2 Commission
 - D.3 Chairman
 - D.4 Public
- E. ADJOURN

Zoom Instructions: Please use the link to join the webinar: <https://us02web.zoom.us/j/87259196175>, or by phone: 1 888 788-0099 (Toll Free) or 1 877 853-5247 (Toll Free); Webinar ID: 872 5919 6175

A copy of the agenda packet is available for viewing 12 days prior to the Planning Commission Public Hearing date, at the Marion Lassa/Chino Valley Library, 1020 W. Palomino Road, Chino Valley, Arizona.

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 711 (Telecommunications Arizona Relay Service) to request accommodation to participate in this meeting.



TOWN OF CHINO VALLEY
Planning Commission Staff Report
July 18, 2023
File Number CUP-2022-01
Review of Conditional Use Permit

PROJECT DESCRIPTION

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

OVERVIEW

On December 13, 2022, Town Council gave a six-month approval to CUP-2022-01 with its associated conditions. During this period the applicant was to bring their property into compliance. The six-month time period concluded on June 13, 2023, at which time staff conducted a walk through inspection and determined that the property was in compliance with the approved conditions.

COMPLAINTS

Staff has received four complaints regarding the subject property since Town Council gave the six-month approval, three of which came in on one day from the same neighbor, all of which came in during mid-May. The subjects of the complaints were as follows:

- Deliveries to and from the property between the hours of 7pm and 8pm
- Improper cleanup of animal waste.
- Dust and hay blowing/washing into adjacent properties.
- Blocking South Firesky Lane for deliveries
- Inadequate fencing.
- Inadequate fly control.

During the time that these complaints were received, staff was already conducting daily drive by inspections of the property. Following the complaints and relaying them to the property owner, staff increased their inspections from once to twice a day. Staff has not received any new complaints since the one from Mid-May.

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Commission **APPROVE** the Pereira Conditional Use Permit for an Equine Rescue on a Residential Property with Conditions of Approval found in Attachment A.

SUGGESTED MOTION:

Move to **APPROVE** Conditional Use Permit CUP-2022-01 as presented, subject to the staff report and information provided during this hearing, and the Conditions of Approval in Attachment A

ATTACHMENT A
CONDITIONS OF APPROVAL – COUNCIL APPROVED DECEMBER 13, 2022

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

Development Services Comments: Laurie Lineberry, Director, 928 636-3471

1. The conditions listed below are in addition to Town codes, rules, fees, and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate "Waiver of Claims" document.

Development Services Comments: Will Dingee, Assistant Director, 928 636-3472

3. The Conditional Use Permit (CUP) shall be valid for an initial 6-month period in order to allow the applicant to complete required physical improvements to the site. If all required conditions for physical improvements are met within the 6-month period, the CUP shall extend to 5 years from the date of original approval by Town Council.
4. The applicant has agreed to a self-imposed maximum limit of 70 livestock (horses, cows, or other split-hooved animals) on-site.
5. Hours of operations:
 - a. Hay fundraising sales and bulk deliveries of hay to and from the subject property – Monday through Saturday, dawn to dusk.
 - b. All associated Equine Rescue activities as identified in condition #6 – Monday through Sunday, dawn to dusk
 - c. Veterinarian emergencies are considered exempt from set hours of operations.
6. The applicant shall maintain the on-site livestock (horses, cows, or other split-hooved animals), swine, and poultry by meeting the following requirements 365 days a year:
 - a. The applicant shall feed and remove animal manure from enclosures daily.
 - b. The applicant shall place animal manure in an enclosed waste area until it is removed off-site each week. Manure cannot be spread on site.
 - c. The applicant shall provide water to livestock on site at all times.
 - d. The applicant shall provide shade for the cattle and horses through shade structures in each grazing area.
 - e. The applicant shall maintain security of livestock enclosures with a wrapped-wire, welded fence or an equivalent, to keep livestock from wandering off the subject property.
 - f. The applicant shall maintain adequate fly control on site through the use of bagged fly traps or other biological methods.
7. The applicant shall provide parking to volunteers of the Equine Rescue.
8. The applicant shall provide bathrooms or a portable toilet on site for volunteers of the Equine Rescue.
9. The site shall be inspected once a month by the Town to ensure required conditions are being met.
10. Any onsite property identification signs will need to follow the residential sign code.
11. The applicant shall maintain the 501C3 status for the Equine Rescue for this CUP to remain valid.
12. The applicant shall obtain a Town Business License for the Equine Rescue.

ATTACHMENT B
TOWN COUNCIL STAFF REPORT PRESENTED DECEMBER 13, 2022

Public Works/Engineering: Frank Marbury, Director, 928 636-3401

13. The applicant shall not block natural overland flows from storm water runoff with obstructions including, but not limited to, material stockpiles / storage.

ATTACHMENT B
TOWN COUNCIL STAFF REPORT PRESENTED DECEMBER 13, 2022



TOWN OF CHINO VALLEY COUNCIL AGENDA ITEM STAFF REPORT

Town Council Regular Meeting

6. c.

Meeting Date: 12/13/2022
Contact Person: Will Dingee, Senior Planner
 Phone: 928-636-4427 x-1233
Department: Development Services
Estimated length of staff presentation: 5 minutes
Physical location of item: 680 South Firesky Lane

AGENDA ITEM TITLE:

Public hearing, consideration, and possible action to approve a conditional use permit for applicants Derek and Luiz Pereira to operate Equine Rescue on residential property located at 680 S. Firesky Lane. (Will Dingee, Senior Planner)

RECOMMENDED ACTION:

- i. Hold public hearing
- ii. Approve Conditional Use Permit CUP-2022-01 as presented, subject to the staff report, the information provided during this hearing, and the Conditions of Approval in Attachment 1.

SITUATION AND ANALYSIS:

Staff Analysis

The applicant is requesting a CUP to continue the use of an Equine Rescue on his residential property. The Equine Rescue is not allowed by right within the SR-2.5 zoning district, but has been in operation un-permitted. The activity on this property was discovered through a series of code enforcement complaints from neighbors regarding: odor, flies, livestock that had escaped from the equine rescue and trespassed on neighboring properties, and increased traffic and noise from donations and fundraising sales. The original CUP application was submitted to the Town at the end of May 2022. From that original submittal date, staff has had multiple conversations with the applicant, surrounding neighbors and local equine experts in an effort to help craft the conditions of this CUP with the guidance of Town Code.

Zoning

The subject property, and all surrounding properties, are zoned Single Family Residential 2.5-Acre Minimum (SR-2.5), which permits the keeping of livestock on site. Section 3.8.B.6 of the Unified Development Ordinance (UDO) lists “the keeping of cattle, horses, swine [limited to one (1) per acre], sheep, goats, fowl, but not feed lots, slaughterhouses, fertilizer yards or plants for the reduction of animal matter” as a Permitted Use. However, while the UDO permits the unrestricted keeping of livestock, “Equine Rescue” is not listed as a permitted use or conditional use. The UDO states:

“Because no list of uses can be complete, the interpretation of whether a use not specified is consistent with the intent of this zoning district and may be allowed as a conditional use...”

Livestock Limits of other Communities

While the Town of Chino Valley does not limit the quantities of hooved animals, with the exception of swine at one per acre, staff felt that it was pertinent to inform the Commission of restrictions on livestock in similar communities in Arizona. It is important to note, that through staff's research, the Town of Chino Valley is the only community that does not have capacity restrictions on large-hooved animals. An overview of the animal restrictions in similar Arizona communities is below:

Bullhead, AZ	Two (2) hooved animals per acre.
Florence, AZ	Three (3) hooved animals per acre on ranchette properties, two hooved animals per acre on residential lots of 42,000 square feet or greater. All livestock keeping shall be limited to the side and rear yards.
Holbrook, AZ	Requires a 600 square foot containment area per animal. Animals are not to be kept closer than 40 feet from any property line.
Clarkdale, AZ	Two (2) animals per acre on no less than one (1) acre. Required to have a yearly Animal Permit.
Coolidge, AZ	One (1) animal per 10,000 square feet, all animals must be kept 50 feet away from all property lines.
Camp Verde, AZ	Two (2) cattle/horses for the first acre, then one additional cow/horse for every half-acre after that.
Winslow, AZ	One (1) livestock per 22,000 square feet. All structures or fences containing livestock has a minimum property line setback of 25 to 100 feet.
Yavapai County, AZ	Farm animals on lots 1.6 acres or larger, limited to two (2) full-sized hooved animals per acre or fraction thereof. Utilizes a point system.
Coconino County	Three (3) hooved animals for the first (1) acre and one animal for every half (1/2) acre thereafter.

Case History

This item was intended to be heard by the Planning and Zoning Commission on August 2nd. However, the staff and applicant were not able to reach an agreement on the conditions of approval in time for the item to be included in the August 2nd Planning and Zoning packet. Therefore, staff continued the item to the October 4th Planning and Zoning Meeting.

The item was presented before the Planning and Zoning Commission on October 4th. The item was continued by the Commission to the November 1st Planning and Zoning meeting so staff could revise the Conditions of Approval based on feedback from the Planning Commission. Minutes of that meeting can be found in Attachment 2.

On November 1st, staff presented the revised conditions to the Commission. The Commission had several questions for the applicant, however, the applicant did not attend the meeting. The Commission modified the Conditions of Approval with a reduction in the amount of live stock on site to 20 maximum and forwarded a recommendation of approval to the Town Council with a 5-1 vote. Minutes of that meeting can be found in Attachment 2.

Fiscal Impact

Fiscal Impact?: N/A

If Yes, Budget Code:

Available:

Funding Source:

Attachments

Attachment 1 - Conditions of Approval

Attachment 2 - P&Z Minutes

Attachment 3 - P&Z Memo Nov 1

Attachment 4 - P&Z Staff Report Oct 4

**Attachment 1
Conditions of Approval
CUP 2022-01
Town Council
December 13, 2022**

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

Development Services Comments: Laurie Lineberry, Director, 928 636-4427- x1217

1. The conditions listed below are in addition to Town codes, rules, fees, and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate "Waiver of Claims" document.

Development Services Comments: Will Dingee, Senior Planner, 928 636-4427- x1233

3. The Conditional Use Permit (CUP) shall be valid for an initial 12-month period in order to allow the applicant to complete required physical improvements to the site. The CUP shall be reconsidered by the Planning and Zoning Commission at 12 months after the Town Council's approval date. The Planning and Zoning Commission may extend the Use on the property for an additional five (5) years if all physical improvements have been made and all conditions of approval have been met.
4. The applicant shall limit the total number of horses and cows on site to 20. In a state, county or town declared natural disaster or emergency, the total number of horses and cows may be increased to a maximum of 50 animals, for a maximum of three (3) weeks from the date of the initial declared disaster or emergency. After that 3-week period, the number of horses and cows must be reduced to the maximum number of 20 total animals on site.
5. Hours of operations:
 - a. Hay fundraising sales and bulk deliveries of hay to and from the subject property – Monday through Saturday, 7:00 a.m. to 7:00 p.m.
 - b. All associated Equine Rescue activities as identified in condition #6 – Monday through Sunday, 7:00 a.m. to 7:00 p.m.
 - c. Veterinarian emergencies are considered exempt from set hours of operations.
6. The applicant shall maintain the on-site livestock (horses, cows, or other split-hooved animals), swine, and poultry by meeting the following requirements 365 days a year:
 - a. The applicant shall feed and remove animal manure from enclosures daily.
 - b. The applicant shall place animal manure in an enclosed waste area until it is removed off-site each week. Manure cannot be spread on site.
 - c. The applicant shall provide water to livestock on site at all times.
 - d. The applicant shall provide shade for the cattle and horses through shade structures in each grazing area.
 - e. The applicant shall maintain security of livestock enclosures with a wrapped-wire, welded fence or an equivalent, to keep livestock from wandering off the subject property.
 - f. The applicant shall maintain adequate fly control on site through the use of bagged fly traps or other biological methods.
7. The applicant shall provide parking to volunteers of the Equine Rescue.
8. The applicant shall provide bathrooms or a portable toilet on site for volunteers of the Equine Rescue.
9. Any onsite property identification signs will need to follow the residential sign code.
10. The applicant shall maintain the 501C3 status for the Equine Rescue for this CUP to remain valid.
11. The applicant shall obtain a Town Business License for the Equine Rescue.

Public Works/Engineering: Frank Marbury, Director, 928 636-7140 - x1226

12. The applicant shall not block natural overland flows from storm water runoff with obstructions including, but not limited to, material stockpiles / storage.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

- c) Public hearing and consideration, and possible action to approve a conditional use permit for applicants Derek and Luiz Pereira to operate an equine rescue center on residential property located at 680 S. Firesky Lane. (Will Dingee, Senior Planner)

Recommended Action: i. Hold public hearing
ii. Approve Conditional Use Permit CUP-2022-01 as presented, subject to the staff report, the information provided during this hearing, and the Conditions of Approval in Attachment 1.

Councilmember McCafferty explained that he had discussions with the Pereria's early in the process. His only role had been to facilitate communications with Town staff and the Pereira's after discussions had broken down. He had done minor business with the Pereira's, but they were not friends. He thought he could be unbiased when deciding on the topic. Town Attorney John Gaylord explained that the individual Councilmember would need to decide if it was a conflict of interest. The Council could not weigh in on the issue, and the decision to make a statement for the sake of transparency was the choice of the Councilmember. If he was concerned that there was a conflict, it was a decision he had to make. Councilmember McCafferty thought he was unbiased and would not have any issues making a fair decision.

Senior Planner Will Dingee presented the following:

- The applicant was requesting a conditional use permit (CUP) for an equine rescue center.
- Staff provided a brief background and explanation of CUP's.
- A brief description of the five-acre property's location was provided. It was part of a defunct subdivision called Mingus Acres Subdivision.
- The existing permitted land use was a single-family residence and the keeping of livestock. The existing unpermitted land use was the current equine rescue center and the sale of hay, manure, straw, railroad ties, and other donated assets both from the property and delivered from the property.
- The zoning for the parcel and the surrounding properties was Single Family Residential (SR) 2.5 acre minimum.
- The area of Town had properties that were one acre or more of land. Properties of this size had the allowance to keep livestock and have agricultural uses on the property. The Town was the only community that did not have a maximum quantity limit on horses or cattle keeping. There was a limit on swine.
- The case had been active since early 2022. It started with several code enforcement complaints from surrounding neighbors regarding animals onsite, property well-being, and the number of flies generated from the onsite activities. Staff contacted the property owner in May 2022 for a pre-application meeting, with the goal of pursuing the path of either a CUP, a rezone, or a way to shape the property activity into something that was compatible with the surrounding neighbors. The property owner opted to move forward with a CUP.
- A neighborhood meeting was held in June 2022. Following the meeting, staff issued a substantial list of conditions for the proposed CUP. Reviewing and getting applicant approval of the list of conditions took a significant amount of time. Because of this, the timeline exceeded the Town's regular case schedule, and the case was continued. Once the parties came to an agreement, the application went to P&Z in October.
- The P&Z recommended several modifications to the proposed conditions after considerable dialogue between the applicant, the Town, and community members. P&Z decided to continue the application until staff could address the changes. It was presented

again in November for a final discussion. With the changes addressed, the P&Z forwarded a recommendation of approval with a 5-1 vote, with further restrictions that limited the self-imposed capacity of the livestock onsite.

- Staff had received six letters from neighboring properties in opposition to the application.
- There were 12 conditions, four of which were discussed by staff, which were the main talking points brought up by neighbors. The conditions were crafted to mitigate the issues brought up.

3. *The conditional use permit was valid for an initial 12-month period.* Staff had considered a 6-month period, but it put the project into winter and would be difficult to get the required sitework completed. After the 12-month period, it would go back to P&Z to ensure the owners were meeting the conditions. If conditions were met, the CUP could be extended for five years.

4. *Livestock maximum capacity.* The maximum capacity had been set at 50 during a natural disaster, but P&Z cut it down to 30. The applicant had originally wanted a maximum of 70 to be split between cattle and horses. At the last November meeting, P&Z cut the number down to 20 for daily activities and 30 during an emergency. The applicant did not agree with those numbers and wanted to request an increase from the Council.

5. *Hours of operation:* The original request was from dawn to dusk, but that was changed to 7:00 a.m. to 7:00 p.m., Monday through Saturday for fund-raising activities, and all equine activities Monday - Sunday, 7:00 a.m. to 7:00 p.m. Veterinarian emergencies were considered exempt.

6. *Property maintenance:*

- o The applicant shall feed and remove animal manure from enclosures daily.
- o The applicant shall place animal manure in an enclosed waste area until it is removed off-site each week. Manure cannot be spread on site. This was important because of the size of the property and spreading it had created a nuisance to the surrounding neighbors. The applicant had contracted with Prescott Dirt to accept weekly donations of the manure.
- o The applicant shall provide water to livestock on site at all times.
- o The applicant shall provide shade for the cattle and horses through shade structures in each grazing area. The applicant was constructing the structures.
- o The applicant shall maintain security of livestock enclosures with a wrapped-wire, welded fence or an equivalent, to keep livestock from wandering off the subject property.
- o The applicant shall maintain adequate fly control on site through the use of bagged fly traps or other biological methods. It was expected that the manure mitigation would help substantially with the issue.
- o Staff recommended Council open the public hearing, and the P&Z forwarded a recommendation of approval with the corrected conditions presented.

Council and staff discussed the following:

- Staff would perform periodic inspections to ensure that the property was brought up to code, per the conditions of the CUP. They did not have a set schedule yet. They had 12 months to bring the property into compliance with the conditions. If it was not adhered to in that timeline, the CUP would be revoked. It could be revoked earlier if conditions worsened on the property during the 12-month period. It was the hope that the conditions mitigated some of the neighborhood issues over that 12-month period.
- The letters were received following the neighborhood meeting, but staff thought there were many still opposed to the activity even with the conditions.
- This originally was an animal code enforcement issue that would be resolved through a

CUP and substantial reductions in the number of livestock allowed on the property (there was no Town cap). The applicant wanted to increase the 20-animal limit condition that had been imposed.

- The hay sales were already happening and had been for five years. The Town had not required any traffic study for the CUP. There had been concerns about the traffic from the hay delivery, but staff hoped to prevent issues by implementing the hours of operation. It was a paved road.
- The livestock would be on 3.4 acres of the property's five acres.
- The property owner was not issued a citation. Staff hoped to resolve the issue before it came to that.
- A precedent could be set for other similar properties in that they would have to follow the same conditions set for the subject property.
- There was no set number for the type of animal (horse or cattle), as long as the 20-animal total was not exceeded.
- An equine rescue was not a permitted use, nor was it listed as a conditional use, but any uses that could be considered by the zoning administrator as a compatible use with the conditions, could be considered. AR4 and AR5 allowed for commercial agriculture and livestock keeping, and staff thought that was a potential option for the property owners.
- There were five equine rescue places within the Town that staff knew about. The number of animals kept onsite for those operations varied. It had not been a code enforcement issue with the other businesses, because the properties were well kept. Staff thought the number of animals was not set by code, because it was up to the property owner to ensure that whatever quantity was onsite was adequately maintained. This was an issue with the current property owner because they were unable to maintain the quantity of animals when the case was initiated. Most of the other rescue places were five acres, with a couple that were larger.

Council and applicant, Derek Pereira, discussed the following:

- A complaint had been made that delivery trucks blocked the street until the property gates were unlocked. The applicant explained that they kept the gate locked to keep people off the property. He was typically the person driving the truck and he was the person that unlocked the gate. When other delivery vehicles came, the driver gave them notice they were on the way, and they could park in the throat of the driveway until it was unlocked.
- The applicant had recently rehomed three horses, which left them with 16 horses and 13 cattle, some goats, chickens, and dogs. He thought it was interesting that P&Z did not think barbed wire kept cattle contained, but there were cattle around Town on barbed wire land. He had waited months until the livestock inspector checked out some of his cattle before they could go to auction.
- The applicant overviewed the structures that housed the animals. The cattle were kept on 0.9 acres, and the horses were kept on 1.1 acres. There was also a smaller, fenced 1.4-acre area as well. They had covers that were donated and they planned to build covered areas in the animal spaces for shade.
- The Equine Rescue was the business name, and it was a 501(c)(3) non-profit entity. They had been in business since 2018.
- He gave the animals as much space as he could give them, while other rescue places kept the animals in 20' x 12' stalls.
- The applicant had been getting as much done per the conditions as possible, but they had initially talked about having 30 animals with P&Z. He thought the 30-animal limit was more doable than the 20-animal limit in the conditions. There were certain animals on the property that were sanctuary horses, and they were hoping some of the cows as well.
- The applicant and his father lived on the property.

- The County had stricter policies for animals. Farm animals on lots 1.6 acres or larger were limited to two full-sized hooved animals per acre or fraction thereof. Any additional acreage over 1.6 was given a point system for goats and llamas.

Mayor Miller opened the Public Hearing.

- Cathy Middlested – She supported the project but had a couple of issues. A P&Z motion was made to reduce the animals to 20 with an additional 10 animals during a natural disaster. She wondered if animals referred to horses, cattle, a combination of the two, or if it included other animals like dogs and goats. In P&Z discussions, they had always used the term “combination of horses and cows,” so she wanted it clarified. During a disaster, the applicant was only given three weeks to get the extra 10 animals off the land, and she wondered how someone could do that during a disaster. 30 horses on 1.1 acres gave each horse 1,597 square feet, the size of a three-bedroom house. 20 horses would have 2,396 square feet. During the GPSC meetings most people said they wanted to keep the Town rural. She thought the equine rescue was an admirable thing, and there was an obvious need, but she wanted to ensure the horses were cared for. The underlying zone in the UDO did not limit the number of animals he could have.
- Larry Holt – He was at a loss for words because staff said they did not have an ordinance that restricted the number of animals, but now they wanted to restrict the number of animals. Whenever the Town did lot splits, they talked about personal property rights in Arizona, but they did not take into consideration how it affected neighbors but now they were talking about how horses affected the neighbors. It was a rural property, and he did not think it was a mess. Flies came around with animals but were around in the summer normally. If the owner maintained the property and animals, he did not think the Town should restrict the number of animals unless the ordinance was changed for everyone. A person down the street with barely an acre had five horses with no room to work the animals. He thought the animals looked cared for, and he agreed they were doing something admirable. He thought it would be difficult to get rid of animals after a disaster. The whole area was agricultural, and he thought they should let him do it.
- Jim Boyd – He described his work and veteran background. Animal rescue was a not-for-profit organization that was duly incorporated in the state, that accepted unwanted animals from an animal shelter or other places, and attempted to find homes for them and promoted adoption of the animals. An animal sanctuary was a place where animals were brought to live and to be protected for the rest of their lives. Both of those were found on the subject property. The applicant sold hay, and he bought hay from him. He knew the money was going back into the property and to the animals. He urged the Council to visit the property. He worked on the property as a volunteer because he believed in animals. New fences had been installed, manure removed to help grow plants, and shade structures were to be installed in the spring. In the future, the members of the Yavapai County probation system would be able to help with the continued maintenance of the animals and facilities. There would be help moving the manure. It was a winning situation, because the probation members would learn something new and would have the chance to heal within themselves. Veterans had a high rate of suicide, and they were looking at getting a grant to further enhance the healing activities that the horses provided. He had also adopted two of the horses from the applicant.
- Marsi George – She lived two houses down from the subject property and said that most of what had been said at the meeting was untrue. There were no new fences, and they had only hauled off four or five tons of manure. The manure was at least four feet deep, and it was rancid. Her recent guest was astounded by the smell. When painting her house in August, the flies were so bad, they had to stop painting as the flies were sticking to the paint. It had to be repainted. The times he came and went with his truck were off the charts. He also had goats, that he was setting up a whole pad, and over 300 chickens and

turkeys, and a lot of dogs. There was manure from all the animals. There was another woman that wanted to speak at the meeting, but she was afraid the applicant would retaliate against her if she spoke against him. The gate was locked a lot, and they marched around the property with guns, and she did not think that was welcoming as a rescue. No one ever worked with the animals. She did not understand how it could work with all the other animals on the property. She was familiar with horses and knew there were ways to manage flies.

- Uziel Sotelo – Lived next door and said that the 0.9 acres was inaccurate. They had a small bull pen that they used chicken wire and barbed wire to hold the bull, which had crossed onto his property several times. The manure was five feet underground and the gas could be seen. It went onto his property when it rained. The feathers from the chickens went on his property. He had videos and pictures of how the animals were mistreated. He had never seen the animals cared for by anyone. The animals could get sick from the amount of manure on the property. They had hay stacked over seventeen feet tall, and could have fallen and hit someone on his property, but the applicant wouldn't do anything about it. It was a dangerous place for the animals. He had heard the animals screaming during the night because they were starving. He thought they had been doing the business for at least seven years, and they were only getting the CUP as a business aspect. The number of flies in the area was ridiculous. He did not think it was a suitable business for a residential area. He hoped that the Council did not approve it.
- James Anderson - He could pull his truck and trailer into the driveway without being on the street. The applicant was not in the road for more than three minutes. He discussed the area where the animal feeders and water were located. He pointed out the area with the horse pens and where the hay was stored. The animals were cared for, and when an animal needed attention, they got it. The applicant was outside and walked the property a lot. There were people there to help with the maintenance, sales, and that supported him. He was doing a good thing. He purchased hay from the applicant every other week. Sometimes the truck did come back late because things happened on the road. There was never a problem with traffic on the road.
- Ana Sotelo – She lived next door to the applicant. She did not know what kind of people would put their animals with the applicant. It was a business, not a rescue. He never fixed anything, and she had feathers and garbage on her property from his property. Her fence had been destroyed several times. She wondered why he had to have so many animals and thought he needed bigger property. She had friends with animals who had clean and maintained properties. She heard noises in the night, and they were fighting each other because they did not want to do the job. They needed to respect their neighbors.
- Kevin Pereira – He had a dog and did not abuse him. He was Derek Pereira's twin brother. He was astonished at what had been said and the lies. He had come to show support for his brother's business. He helped his brother. Their bull had gotten out of their property, but the neighbor's fence was not built properly, with no top row or tension wire. They had been working on mitigating the flies. He thought that if they had to come into compliance, the neighbors should be required to do the same, and everyone should be held to the same standards. The manure was being removed and dealt with. The people in opposition were lying. The animals were being taken care of.

Mayor Miller closed the public hearing.

Council, Town attorney, the applicant, and staff discussed the following:

- The regulations and conditions were only for the cows and horses. The only animals regulated by Town code was large-hooved animals and swine. Smaller animals had not been part of the discussions. Although there was not a quantity limit on large hooved animals in Town Code, they were recommending implementing a quantity limit on the

applicant.

- It was up to the property owner to get the additional 10 animals off the property within three weeks after a natural disaster.
- To keep livestock animals off private property, a state level ordinance required private property owners to erect a fence around the private property. Members thought it was up to the applicant to keep their animals on their property, and not the neighbor's responsibility.
- The property had substantially improved from the original condition back in May 2022, and it was meeting the intent of the code and the recommended conditions. Staff were comfortable with the current status, or they would not be forwarding a recommendation of approval.
- The other animal rescue facilities were all in the AR district and had different provisions for livestock, and the keeping of commercial animals was allowed. The applicant had the largest single family residential zoning district the Town had that allowed for a level of agricultural livestock keeping, as long as it was primarily non-commercial.
- The hay sale was a type of commercial business but was a fundraising type of sale. The CUP was the best path to try and merge the existing use to make it compatible.
- The property was not yet in compliance with the recommended conditions.
- Members discussed the proposed conditions and accommodation of both the applicant and the neighbors. Discussion included requiring the applicant to bring the facility up to compliance before issuing the CUP. The biggest concerns remaining were the manure and fly control, but conditions five and six would resolve many of the issues.
- Giving the applicant until May of 2023 to resolve the issues would be 12 months from the time the process began in May of 2022.
- Staff would be responsible for ensuring the applicant was meeting the conditions.
- Due to the number of animals and the size of the property, the fly issue could not be fully resolved with any type of mitigation efforts.
- The manure had been difficult to handle during heavy rain, but the applicant was working to get added help, including workers on probation.
- The applicant thought they would have 12 months from the time the CUP was granted to come into compliance but thought that within six months they could be in full compliance.
- Members discussed allowing the applicant to continue with their operations but requiring compliance within six months. After six months, staff could give a status report to Council.
- Tabling the issue until they came into compliance was not the same as issuing the CUP. The applicant was not currently in compliance and tabling the issue would leave it at status quo. It would leave staff in a position of deciding if they needed to enforce the noncompliance issue. The Council had the ability to change the conditions and grant the CUP.
- Complaints had been received for several years, with the bulk of them received in the spring of 2022. They currently did not have a business license. Some of the neighbors that complained had been there before the applicant moved in, while others had recently purchased property in the neighborhood.

MOVED by Vice-Mayor Eric Granillo, seconded by Councilmember John McCafferty to approve the CUP as presented with the following changes: condition three to six months and condition four to 20 animals maximum, and the conditions of approval in attachment 1.

AYE: Mayor Jack Miller, Vice-Mayor Eric Granillo, Councilmember John McCafferty, Councilmember Sherri Phillips, Councilmember Robert Schacherer

NAY: Councilmember Annie Perkins, Councilmember Tom Armstrong

**Attachment 2
P&Z Minutes – November 1, 2022
&
P&Z Minutes – October 4, 2022
CUP 2022-01
Town Council
December 13, 2022**

Planning and Zoning - November 1, 2022

ACTION ITEMS: F.1 Discussion only regarding the continued CUP-2022-02, **Chair Merritt** and **Commissioner Welker** stepped down from the dais because they were not present for the Public Hearing at the last meeting. **Alternate Zamudio** took his place on the dais and **Vice-Chair Pasciak** presided over the meeting.

Disclosures made by Commissioners:

Somerville shared that after the meeting he spoke with the applicant who had questions about contacting the college. **Somerville** also shared that he had written down, as a private person, ideas he felt the applicant could use for his proposal. He apologized, he had not realized that was not to be done.

Zamudio stated that he had driven by the location to see what the neighbors had been talking about. He wanted to see the property from both sides of the issues spoken about in the last meeting. He shared that he normally drives that way every day.

Somerville wondered if there was a problem to drive by and look at the property if you report your perception back to the commission.

Switzer provided his overview after speaking with the applicant briefly after the last meeting. He said he was commending him to go back and see if there were different proposals that could be made to staff on how the applicant could make this case work.

CASE DISCUSSION:

Dingee provided a brief recap of the project. He added that condition #9 was removed resulting in the other conditions moving up and being renumbered. There was additional thought given to the time period of 6-months, which was changed to a year. He stated that if approved in December 2022, the next 6-months would all be wintertime weather and felt it would be a benefit to the applicant to have a longer period of time to meet conditions of approval. There was also a change made to the maximum number of animals, from 60, to 30, with the exception of a declared disaster to a maximum of 50 for 3 weeks. The other conditions were in regards to the hours of sales, days and times, manure control, cleanliness and feeding of the animals. The applicant must provide any employees a restroom, meet on-site signage requirements, maintain the 501c3 status, have a Town business license and on-site inspection would be every two weeks. Staff is recommending approval of the Conditional Use Permit as outlined in the staff report.

Meadors questioned the run-off of the manure during rainy weather. **Dingee** stated that with the removal of the manure, that should no longer be a concern.

Somerville asked if there was any type of requirement for state registration for equine rescue type businesses. **Dingee** said that he wasn't aware of any.

Switzer pointed out that if the commission does not recommend approval of this Condition Use Permit, then there is no limit to the number of livestock they may keep on the property and they can continue to do as they are doing now. **Dingee** agreed, stating that there is currently no limit that controls the number of animals. However, the hay sales would need to stop. **Switzer** shared that the applicant is not in violation of town code except for the hay sales, and that this CUP is needed to get this situation under control. He also asked what portion of the property is actually being used for the animals. **Dingee** shared an overhead picture of the property with areas identified by use. Approximately 3.5 acres are being used for the animals, however, that also included various pens and storage areas within those areas.

Switzer stated he would like to see that maximum number of animals drop to 20 and in the case of a disaster 10 more could be added for a maximum of 30 for three weeks. He felt that 10 animals per acre was quite a lot and fewer animals would help with the neighbors.

Pasciak asked if there were any current violations on this property. **Dingee** stated that the only outstanding violation is how the outdoor storage items are being stored. **Zamudio** asked about spreading out the manure on the property. **Dingee** shared that the code can allow for the spreading of manure, however the conditions within the CUP will limit that from occurring. **Somerville** asked about the town reviewing the property every two weeks before approval is completed. **Dingee** stated that this is not a normal occurrence and that had to be a condition of the CUP in order to take place.

Pasciak had a question about the swine and chickens. **Dingee** stated swine are limited to one per acre, but they have no swine, and that some chickens are still there for eggs.

Lineberry stated that Code Enforcement was looking at the sale of hay, however the town can't do anything about the number of animals. **Meadors** felt that the place looked like a bigger operation with the semi-trucks and big equipment and that it shouldn't be in a residential area. **Dingee** shared that the code allows larger equipment – 1 per acre.

Switzer reinforced his concern that without this CUP there will be no restriction on the number of animals and the owner could say the hay is just for his animals. The CUP will allow for a cap of the number of animals on the property and provide relief for the neighbors.

Penn also felt that if the CUP is not approved, that there is not a limit on the number of animals they can be kept on this property. **Zamudio** felt that it was important to maintain staffing to help take care of the horses, which is not in place currently. The applicant has not shown him that he has a plan, or a backup plan in place and added that 20 animals maximum is what he is proposing too. **Penn** also stated that sometimes there will be no volunteers and the applicant will need to meet all the rules and regulations without outside help. He felt this applicant had not thought this whole rescue business process through and that it should not be at this location.

Switzer shared that the commission is doing the most they can do by agreeing to these stipulations and putting the CUP in place on this property. He added that even if the code was changed in relationship to the issues facing the commission, they would be retroactive and apply only to new businesses. Right now the applicant could have 70 animals.

Switzer also felt that this should be looked at as an amendment to the code in regards to maximum numbers for livestock per acre. **Lineberry** stated she would talk with the town manager.

A motion was made by Switzer to recommend approval of CUP-2022-05, with a change in condition item number four regarding the onsite maximum number of animals to be reduced to 20 with an additional 10 during a disaster situation, with the rest as written. Meadors seconded the motion. The motion passed with a vote of 5-1 with Zamudio voting no.

Zamudio explained his nay vote stating that the applicant does not have a solid plan in place for the rescue facility and felt it is not a good fit at this time.

Planning and Zoning - October 4, 2022

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

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

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

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

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

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

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

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

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

with the out-buildings and their home, he felt that the animals were using about three and one-half acres of the five-acre parcel.

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

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

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

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

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

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

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

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

Uziel Sotalo spoke about when it rains, the manure runs onto his property and shared that there were excessive flies because of the animals. He commented about the number of animals and apparent lack of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Attachment 3
Planning and Zoning Staff Report Memo– November 1, 2022
CUP 2022-01
Town Council
December 13, 2022

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

Development Services Comments: Laurie Lineberry, Director, 928 636-4427- x1217

1. The conditions listed below are in addition to Town codes, rules, fees, and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate "Waiver of Claims" document.

Development Services Comments: Will Dingee, Senior Planner, 928 636-4427- x1233

3. The Conditional Use Permit (CUP) shall be valid for an initial 12-month period in order to allow the applicant to complete required physical improvements to the site. The CUP shall be reconsidered by the Planning and Zoning Commission at 12 months after the Town Council's approval date. The Planning and Zoning Commission may extend the Use on the property for an additional five (5) years if all physical improvements have been made and all conditions of approval have been met.
4. The applicant shall limit the total number of horses and cows on site to 20. In a state, county or town declared natural disaster or emergency, the total number of horses and cows may be increased to a maximum of 50 animals, for a maximum of three (3) weeks from the date of the initial declared disaster or emergency. After that 3-week period, the number of horses and cows must be reduced to the maximum number of 20 total animals on site.
5. Hours of operations:
 - a. Hay fundraising sales and bulk deliveries of hay to and from the subject property – Monday through Saturday, 7:00 a.m. to 7:00 p.m.
 - b. All associated Equine Rescue activities as identified in condition #6 – Monday through Sunday, 7:00 a.m. to 7:00 p.m.
 - c. Veterinarian emergencies are considered exempt from set hours of operations.
6. The applicant shall maintain the on-site livestock (horses, cows, or other split-hooved animals), swine, and poultry by meeting the following requirements 365 days a year:
 - a. The applicant shall feed and remove animal manure from enclosures daily.
 - b. The applicant shall place animal manure in an enclosed waste area until it is removed off-site each week. Manure cannot be spread on site.
 - c. The applicant shall provide water to livestock on site at all times.
 - d. The applicant shall provide shade for the cattle and horses through shade structures in each grazing area.
 - e. The applicant shall maintain security of livestock enclosures with a wrapped-wire, welded fence or an equivalent, to keep livestock from wandering off the subject property.
 - f. The applicant shall maintain adequate fly control on site through the use of bagged fly traps or other biological methods.
7. The applicant shall provide parking to volunteers of the Equine Rescue.
8. The applicant shall provide bathrooms or a portable toilet on site for volunteers of the Equine Rescue.
9. Any onsite property identification signs will need to follow the residential sign code.
10. The applicant shall maintain the 501C3 status for the Equine Rescue for this CUP to remain valid.
11. The applicant shall obtain a Town Business License for the Equine Rescue.

Public Works/Engineering: Frank Marbury, Director, 928 636-7140 - x1226

12. The applicant shall not block natural overland flows from storm water runoff with obstructions including, but not limited to, material stockpiles / storage.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

**Attachment 4
Staff Report – P&Z October 4, 2022
CUP 2022-01
Town Council
December 13, 2022**



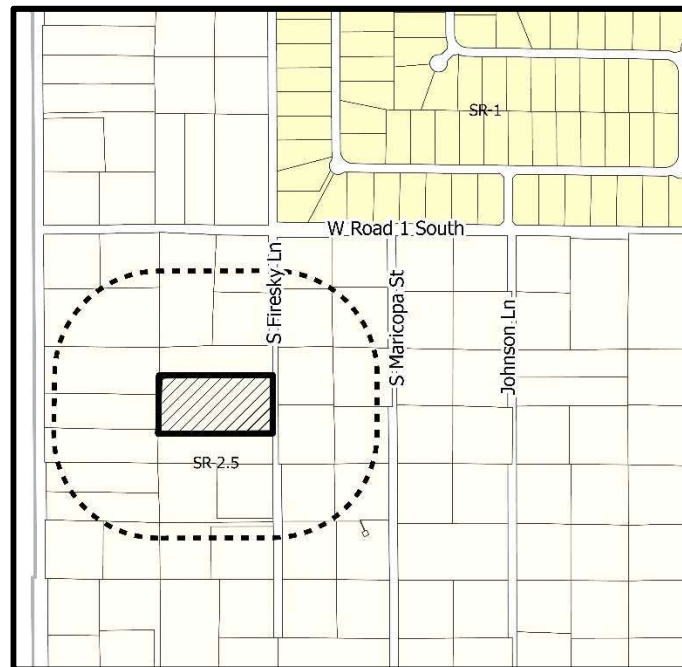
TOWN OF CHINO VALLEY
Planning Commission Staff Report
October 4, 2022
File Number CUP-2022-01
Conditional Use Permit

PROJECT DESCRIPTION

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

LOCATION DATA

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Single Family Residential 2.5 Acre Minimum (SR-2.5)	Residential & Equine Rescue	Medium Density Residential (2 acres or less)
North	Single Family Residential 2.5 Acre Minimum (SR-2.5)	Residential	Medium Density Residential (2 acres or less)
South	Single Family Residential 2.5 Acre Minimum (SR-2.5)	Residential	Medium Density Residential (2 acres or less)
East	Single Family Residential 2.5 Acre Minimum (SR-2.5)	Residential	Medium Density Residential (2 acres or less)
West	Single Family Residential 2.5 Acre Minimum (SR-2.5)	Residential	Medium Density Residential (2 acres or less)

LOCATION MAP

PRIOR SITE ACTIONS:	Code Enforcement Cases: 2/10/2022 – Excessive animal manure and trash/debris 7/08/2021 – Piles of manure, piles of tree branches and selling hay
STAFF RECOMMENDATION:	Staff recommends that the Planning and Zoning Commission forward to the Town Council a recommendation of APPROVAL for the Pereira Conditional Use Permit for an Equine Rescue on a Residential Property with Conditions of Approval found in Attachment A.
SUGGESTED MOTION:	Move to APPROVE Conditional Use Permit CUP-2022-01 as presented, subject to the staff report and information provided during this hearing, and the Conditions of Approval in Attachment A
EFFECT OF THE APPROVAL:	By approving this Conditional Use Permits, the Planning and Zoning Commission is recommending Town Council to approve the Pereira Conditional Use Permit for an Equine Rescue on a Residential Property, subject to the staff report and information provided during this hearing, and that the conditions of approval will make the proposed use compatible with surrounding uses.

Conditional Use Permit

A Conditional Use Permit (CUP) is a use that because of special requirements or characteristics, may be allowed in a particular zoning district only after review by the Commission and Council, granting of conditional use approval by imposing such conditions as necessary to make the use compatible with other uses permitted in the same zoning district or vicinity. Conditional uses are issued for uses of land and may be transferable from one owner of the land to another.

The subject property is located in an area with large acre, single-family residential zoning to the north, south, east and west. All residential zoning in the immediate area has agriculture and livestock entitlements which have no limits on the amount of horses or cattle that can be kept. The conditions associated with this CUP can be found in Attachment A.

Proposal

The applicant's initial proposal was for a equine rescue that functions 24 hours a day, seven days a week with a livestock capacity of 50 (combination of rescue and personal livestock. At the time the application was submitted, there were 42 cattle/horses on site) and fundraising through the sales of hay, manure, straw, railroad ties and other similar assets. As part of the original narrative, the applicant provided a manure and visual impact mitigation plan that consisted of the following:

"... we will create a compost pile with a cover and will provide a method to dispose of manure as well as providing it in our fundraising. We will also keep areas maintained. We will also keep areas maintained along fence lines, plus use animal manure on this ranch to fertilize front pasture. For such purpose that are compatible with customary methods of good husbandry."

The neighborhood meeting was held on site June 29th, 2022 in which 13 neighbors were in attendance. The consensus from the neighbors was split, those that were immediately adjacent to the property were in opposition of the CUP and those that had one or two parcel of separation from the subject property had no opposition. The issues that were brought up during the meeting were:

- Animals trespassing onto neighboring properties.
- Maintenance of the site.
- Quantity of horses, cows, swine on the subject property.
- Proper keeping and care of livestock.
- Traffic Activity in the evenings and mornings with deliveries from farm activity.
- Flies being generated from the site.

After the neighborhood meeting, and several meetings and phone conversations with staff, the applicant did modify their proposal in the hopes of addressing the concerns of the neighbors. The proposal now further restricts and defines hours of operation, manure removal schedule, fly control schedule, feeding and watering schedules for the animals, maintenance and security of the livestock enclosures, and site accommodations for any volunteers working on site. However, the applicant did request that the self-imposed livestock capacity for the property be increased from 50 to 70 which equates to 14 cattle/horses per acre.

Staff Analysis:

The applicant is requesting a CUP to continue the use of an Equine Rescue on his residential property. The Equine Rescue is not allowed by right within the SR-2.5 zoning district, but has been in operation unpermitted. The activity on this property was discovered through a series of code enforcement complaints from neighbors regarding: the odor; flies; livestock that had escaped from the equine rescue and trespassed on neighboring properties; and increased traffic from donations and fundraising sales. The original CUP application was submitted to the Town at the end of May of this year. From that original submittal date, staff has had multiple conversations with the applicant, surrounding neighbors and local equine experts in an effort to help craft the conditions of this CUP with the guidance of Town Code.

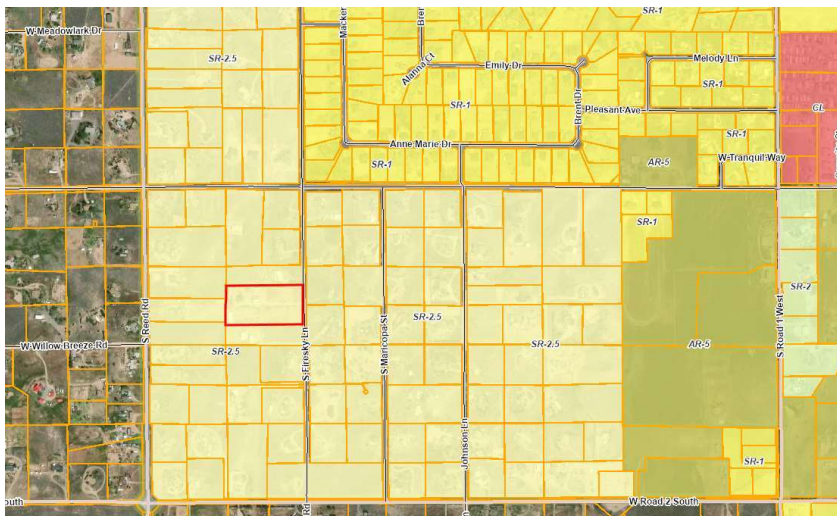
Zoning

The subject property's zoning of Single Family Residential 2.5-Acre Minimum (SR-2.5) permits the keeping of livestock on site. Section 3.8.B.6 of the Unified Development Ordinance (UDO) lists "the keeping of cattle, horses, swine (limited to one (1) per acre), sheep, goats, fowl, but not feed lots, slaughterhouses, fertilizer yards or plants for the reduction of animal matter" as a Permitted Use. However, while the UDO permits the unrestricted keeping of livestock, "Equine Rescue" is not listed as a permitted use or conditional use. The UDO states:

"Because no list of uses can be complete, the interpretation of whether a use not specified is consistent with the intent of this zoning district and may be allowed as a conditional use..."

As a result, the request for the Equine Rescue is being proposed as a CUP. The following map shows the subject property, outlined in red, and the surrounding zoning districts are all SR-2.5.

Parcels without a zoning classification shown are outside of Town limits and are regulated by Yavapai County.



Angus Acres CC&Rs and No Existing HOA

The subject property is part of the Angus Acres subdivision, which was recorded by the Yavapai County's Assessor Office in 1978. Lots within this subdivision have been further divided into smaller parcels. While the subdivision does have Declaration of Restrictions that accompanied the plat recorded in 1978, there is currently no active Home Owners Association to enforce them. During the staff research process, staff received a letter of concern from a neighbor which included a copy of the Angus Acres Declaration of Restrictions. The neighbor referred to Section 6 of the Declaration of Restrictions, which addressed Garbage and Trash. Section 6 of the subdivision's Declaration of Restrictions states, "All garbage and trash is to be placed in properly covered containers. At no time shall there be piles of refuse and garbage on any lot or tract." The sender also referred to Section 9 addressing General and Miscellaneous, particularly the keeping of livestock, however this section expired December 31st, 2008.

Livestock Limits of other Communities

While the Town of Chino Valley does not limit the quantities of hooved animals, with the exception of swine at one per acre, staff felt that it was pertinent to inform the Commission of restrictions on livestock in similar communities in Arizona. It is important to note, that through staffs research the Town of Chino Valley is the only community that does not have capacity restrictions on large hooved animals.

Bullhead, AZ	Two (2) hooved animals per acre.
Florence, AZ	Three (3) hooved animals per acre on ranchette properties, two hooved animals per acre on residential lots of 42,000 square feet or greater. All livestock keeping shall be limited to the side and rear yards.
Holbrook, AZ	Requires a 600 square foot containment area per animal. Animals are not to be kept closer than 40 feet from any property line.
Clarkdale, AZ	Two (2) animals per acre on no less than one (1) acre. Required to have a yearly Animal Permit.
Coolidge, AZ	One (1) animal per 10,000 square feet, all animals must be kept 50 feet away from all property lines.

Camp Verde, AZ	Two (2) cattle/horses for the first acre then one additional cow/horse for every half-acre after that.
Winslow, AZ	One (1) livestock per 22,000 square feet. All structures or fences containing livestock has a minimum property line setback of 25 to 100 feet.
Yavapai County, AZ	Farm animals on lots 1.6 acres or larger, limited to two (2) full sized hooved animals per acre or fraction thereof. Utilizes a point system.
Coconino County	Three (3) hooved animals for the first (1) acre and one animal for every half (1/2) acre thereafter.

Case History

This item was intended to be heard by the Planning and Zoning Commission on August 2nd. However, the staff and applicant were not able to reach an agreement on the conditions of approval in time for the item to be included in the August 2nd Planning and Zoning packet. Therefore staff continued the item to the October 4th Planning and Zoning Meeting.

Planning Commission

The Planning and Zoning Commission needs to hear from the applicant regarding the current use and function on the subject property and the surrounding neighbors regarding the impact to their property from this use. The Commission needs to determine if this conditional use, in conjunction with the proposed conditions, are appropriate to make this proposed use compatible with surrounding uses and not create a negative impact on the neighbors.

The following images are photos that show the conditions of the subject property at time of submittal



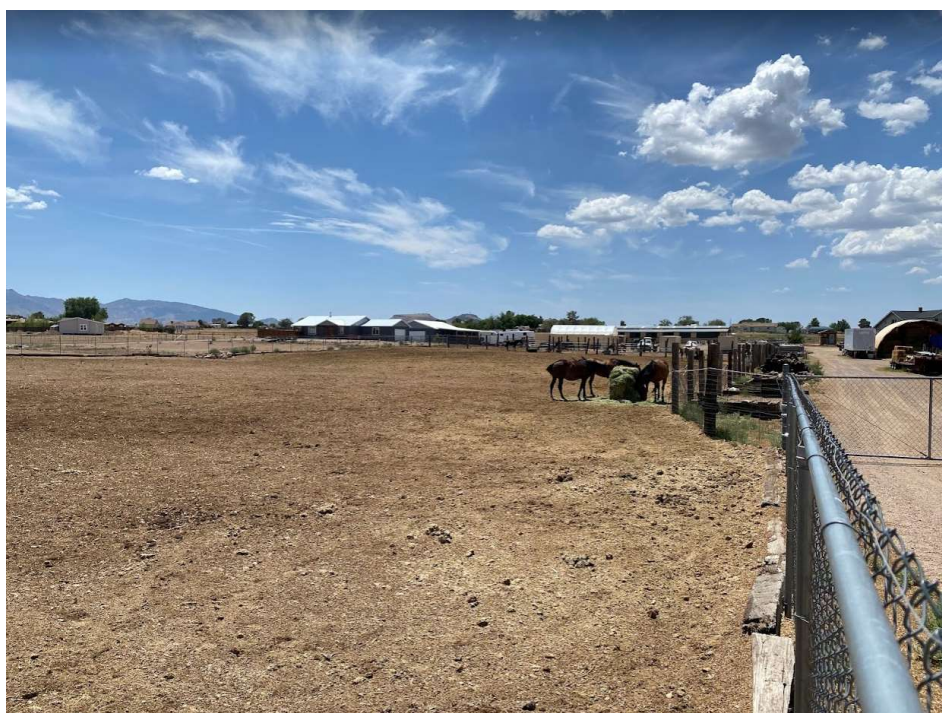
Manure spread on site for husbandry.



Donation Drop Off and Collection Area



Pen for Cattle



Pen for Horses in the Equine Rescue Center

PUBLIC COMMENTS RECEIVED:

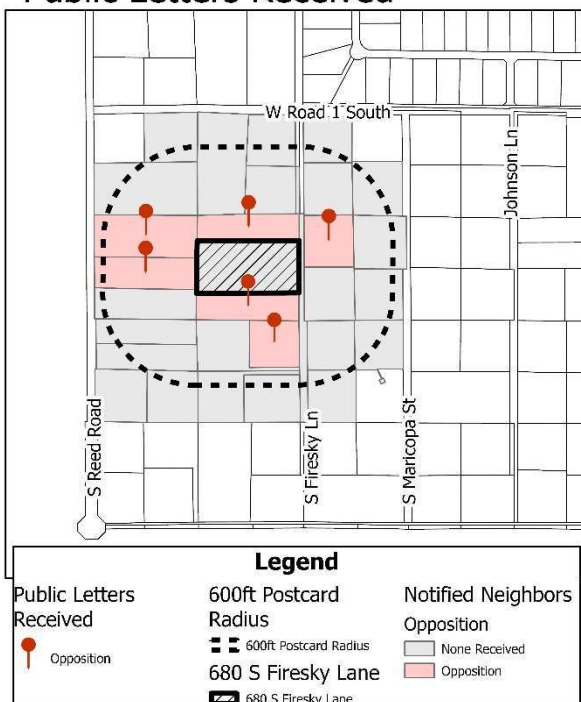
Staff received 6 letters of opposition from the neighbors. Please see Attachment D.

EXTERNAL AGENCY COMMENTS: No external agency comments

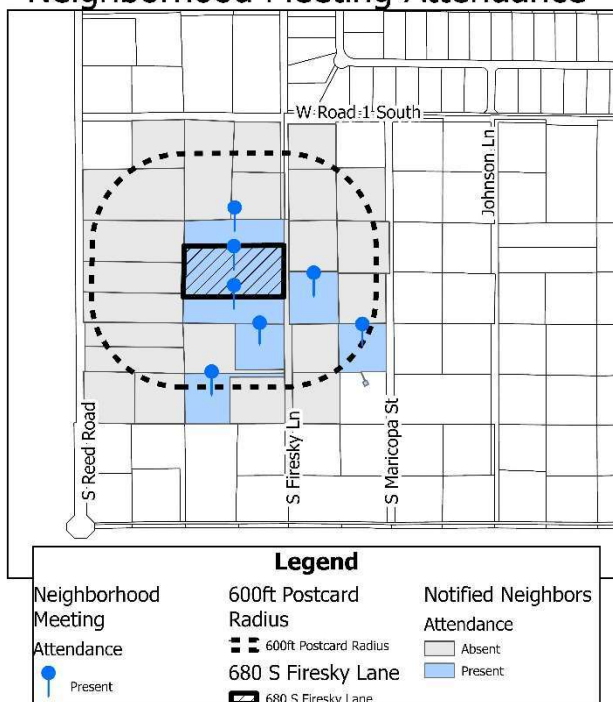
NEIGHBORHOOD MEETING COMMENTS:

Staff notified the surrounding property owners of the date and location of the Planning and Zoning Commission Meeting and Town Council Meeting by postcard on June 16th, 2022. See Attachment C

Public Letters Received



Neighborhood Meeting Attendance



PROPOSED CONDITIONS DELIVERED September 6th, 2022**TO APPLICANT ON:**

☒	Applicant agreed with all of the conditions of approval on 9/20/2022
☐	Applicant did not agree with the following conditions of approval.
☐	If the Planner is unable to make contact with the applicant – describe the situation and attempts to contact.

ATTACHMENTS:

A	B	C	D	E	F
Conditions of Approval	External Agency Comments	Neighborhood Meeting Comments	Site Plan & Exhibits	Staff Research	Public Comment

PREPARED BY:



DATE:

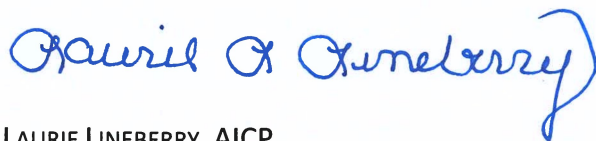
9/22/2022

WILL DINGEE

(WDINGEE@CHINOAZ.NET)

928 636-4427 - x1233

APPROVED BY:



9/22/2022

LAURIE LINEBERRY, AICP

DEVELOPMENT SERVICES DIRECTOR

ATTACHMENT A
CONDITIONS OF APPROVAL

The following conditions have been found to have a reasonable nexus and are roughly proportionate to the impact of the proposed rezone for the site:

Development Services Comments: Laurie Lineberry, Director, 928 636-4427- x1217

1. The conditions listed below are in addition to Town codes, rules, fees, and regulations that are applicable to this action.
2. The Owner's signature on the application for this land use action request takes the place of the requirement for a separate "Waiver of Claims" document.

Development Services Comments: Will Dingee, Senior Planner, 928 636-4427- x1233

3. The Conditional Use Permit (CUP) shall be valid for an initial 6-month period in order to allow the applicant to complete required physical improvements to the site. If all required conditions for physical improvements are met within the 6-month period, the CUP shall extend to 5 years from the date of original approval by Town Council.
4. The applicant has agreed to a self-imposed maximum limit of 70 livestock (horses, cows, or other split-hooved animals) on-site.
5. Hours of operations:
 - a. Hay fundraising sales and bulk deliveries of hay to and from the subject property – Monday through Saturday, dawn to dusk.
 - b. All associated Equine Rescue activities as identified in condition #6 – Monday through Sunday, dawn to dusk
 - c. Veterinarian emergencies are considered exempt from set hours of operations.
6. The applicant shall maintain the on-site livestock (horses, cows, or other split-hooved animals), swine, and poultry by meeting the following requirements 365 days a year:
 - a. The applicant shall feed and remove animal manure from enclosures daily.
 - b. The applicant shall place animal manure in an enclosed waste area until it is removed off-site each week. Manure cannot be spread on site.
 - c. The applicant shall provide water to livestock on site at all times.
 - d. The applicant shall provide shade for the cattle and horses through shade structures in each grazing area.
 - e. The applicant shall maintain security of livestock enclosures with a wrapped-wire, welded fence or an equivalent, to keep livestock from wandering off the subject property.
 - f. The applicant shall maintain adequate fly control on site through the use of bagged fly traps or other biological methods.
7. The applicant shall provide parking to volunteers of the Equine Rescue.
8. The applicant shall provide bathrooms or a portable toilet on site for volunteers of the Equine Rescue.
9. The site shall be inspected once a month by the Town to ensure required conditions are being met.
10. Any onsite property identification signs will need to follow the residential sign code.
11. The applicant shall maintain the 501C3 status for the Equine Rescue for this CUP to remain valid.
12. The applicant shall obtain a Town Business License for the Equine Rescue.

ATTACHMENT A
CONDITIONS OF APPROVAL

Public Works/Engineering: Frank Marbury, Director, 928 636-7140 - x1226

13. The applicant shall not block natural overland flows from storm water runoff with obstructions including, but not limited to, material stockpiles / storage.

Any questions or comments regarding the Conditions of Approval as stated above should be directed to the staff member who provided the comment. Name and phone numbers are provided.

ATTACHMENT B
EXTERNAL AGENCY COMMENTS

NO EXTERNAL AGENCY COMMENTS RECEIVED.

ATTACHMENT C
NEIGHBORHOOD MEETING COMMENTS

DATE MEETING HELD: JUNE 29TH, 2022 – 4PM

LOCATION: 680 S FIRESKY LANE

ATTENDEES:

AGENT/DEVELOPER: LUIZ AND DEREK PEREIRA, OWNER.

TOWN STAFF: WILL DINGEE, SENIOR PLANNER; BETHAN HENG, PLANNER.

NEIGHBORS IN ATTENDANCE (13)

SUMMARY OF ATTENDEE(S') COMMENTS RELATED TO THE PROJECT:

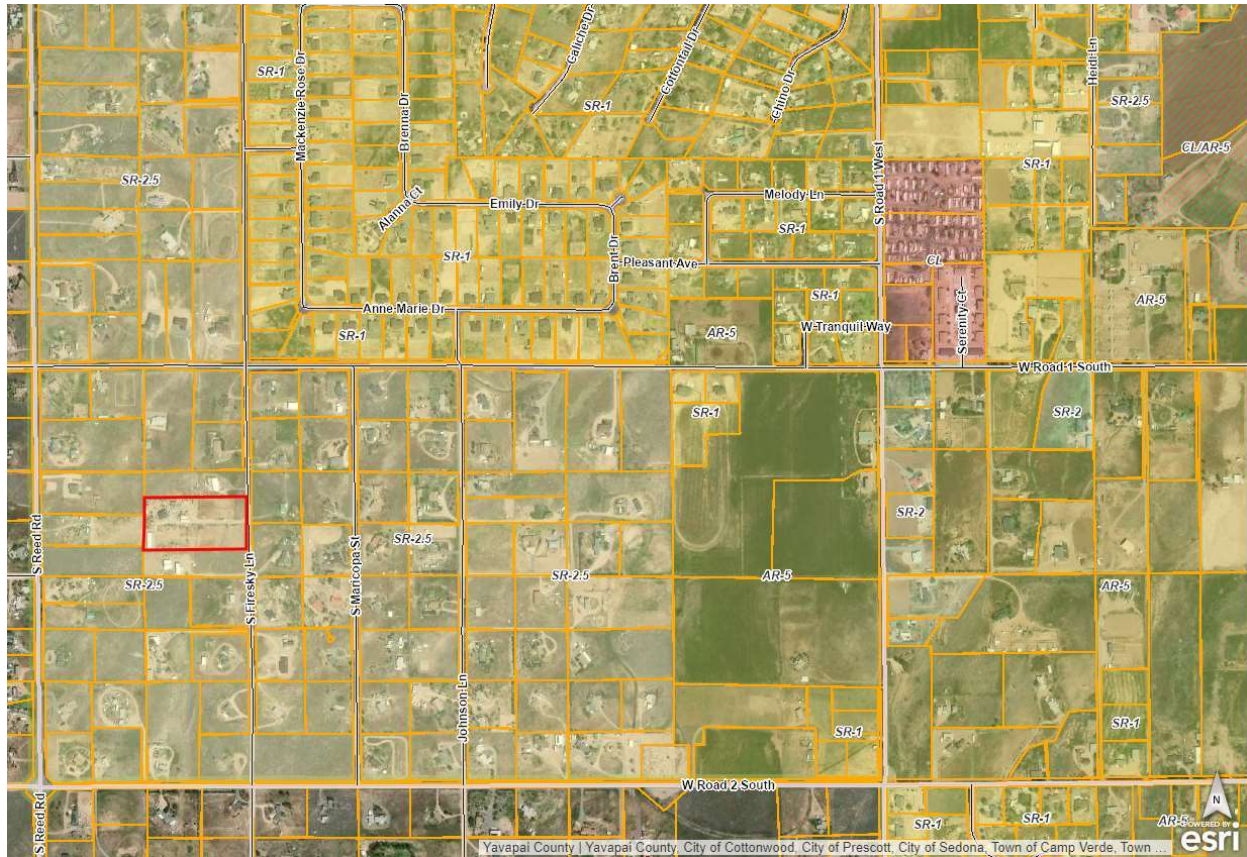
- ANIMALS TRESPASSING ONTO NEIGHBORING PROPERTIES.
- SUBJECT PROPERTY MAINTENANCE.
- QUANTITY OF HORSES, COWS, AND SWINE ON SUBJECT PROPERTY.
- PROPER KEEPING OF LIVESTOCK.
- TRAFFIC ACTIVITY IN THE EVENING WITH DELIVERIES FOR FARM ACTIVITY.
- FLIES.

ATTACHMENT D

SITE PLAN AND APPLICANT PROVIDED EXHIBITS

APN# 306-31-039H

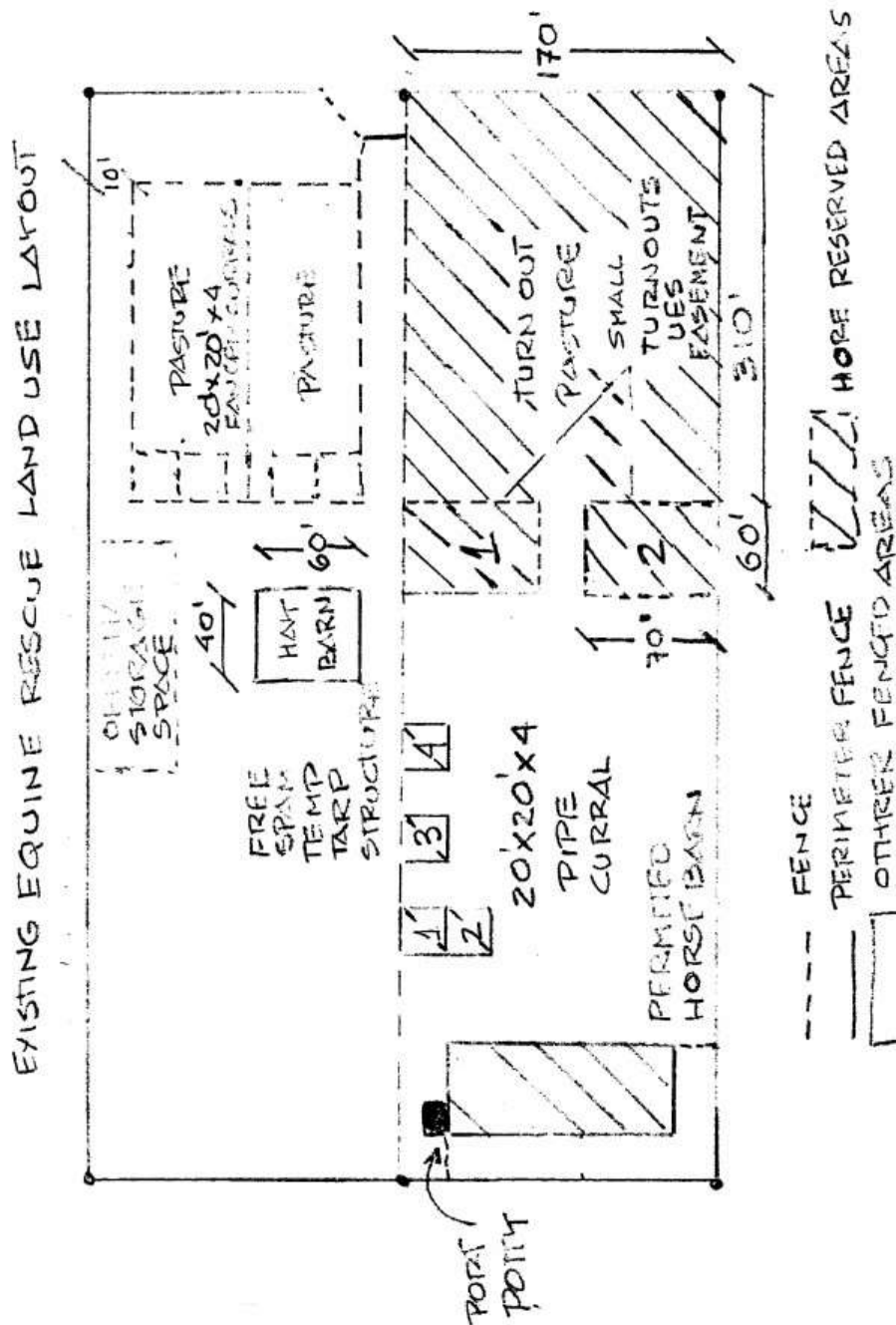
ADDRESS: 680 S FIRESKY LANE



ATTACHMENT D
SITE PLAN AND APPLICANT PROVIDED EXHIBITS



ATTACHMENT D
SITE PLAN AND APPLICANT PROVIDED EXHIBITS



ATTACHMENT D
SITE PLAN AND APPLICANT PROVIDED EXHIBITS

Summary for Conditional Use Permit

Derek J. Pereira
Property Owner housing Equine Rescue
680 S Firesky Lane, Chino Valley, AZ 86323-7219

The Equine Rescue is a 501(C)3 which operates 24 hours, seven days per week. As a non-profit organization we depend on donations and fundraising to be able to continue operation with an estimated four vehicles per day. Our fundraising is available from dusk to dawn Monday through Saturday. Current available items for fundraising are: hay, manure, straw, railroad ties, and other assets as donated.

Our schedule to replenish our fundraising items will be approximately three times per week during operating hours.

As an Equine Rescue in order to avoid odors, address manure mitigation and the impact to our neighbor's, and any visual impact; we will create a compost pile with a cover and will provide a method to dispose of manure as well as providing it in our fundraising. We will also keep areas maintained along fence lines, plus use animal manure on this ranch to fertilise front pasture, for such purpose that are compatible with customary methods of good husbandry.

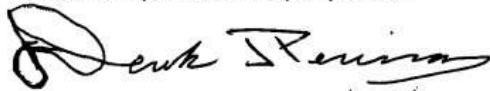
Presently we have set a maximum capacity of 50 ourselves. At this time we are housing 21 horses and 21 cattle. Also, we do accept emergency shelter as needed.

The Equine Rescue has an agreement with Yavapai County Probation Department and several community service organizations to assist with property maintenance, and animal care.

We will also be meeting the specifications for signage as is determined through this process.

Thank you,

Derek J. Pereira
Director of Operations/Property Owner



5/25/22

ATTACHMENT E
STAFF RESEARCH



STAFF RESEARCH – CUP

CASE #: CUP-2022-01
CASE PLANNER: BETHAN HENG

I. PROJECT DATA

Project Location:	680 S Firesky Lane				
Parcel Number(s):	#306-31-039H				
Parcel Size(s):	5 Acres				
Total Acreage:	5 Acres				
Proposed Dwelling Units:	N/A				
Address:	680 S Firesky Lane				
Applicant:	Derek Pereira				
Applicant's Agent:	N/A				
Land Use Conformity Matrix:	Conforms:	Yes	X	No	
Zoning Overlay	PAD			N/A	

	Existing Zoning	Use(s) on-site	General Plan Designation
Site	Single Family Residential 2.5 Acre Minimum (SR-2.5)	Residential & Equine Rescue	Medium Density Residential (2 acres or less)
North	Single Family Residential 2.5 Acre Minimum (SR-2.5)	Residential	Medium Density Residential (2 acres or less)
South	Single Family Residential 2.5 Acre Minimum (SR-2.5)	Residential	Medium Density Residential (2 acres or less)
East	Single Family Residential 2.5 Acre Minimum (SR-2.5)	Residential	Medium Density Residential (2 acres or less)
West	Single Family Residential 2.5 Acre Minimum (SR-2.5)	Residential	Medium Density Residential (2 acres or less)

Prior Cases or Related Actions:

Type	Conforms				Cases, Actions or Agreements
Pre-Annexation Agreement	Yes		No	X	
Annexation	Yes	X	No		1 st Town Annexation – November 13 th , 1970
General Plan Amendment	Yes		No	X	
Development Agreement	Yes		No	X	
Rezone	Yes		No	X	
Subdivision	Yes	X	No		Angus Acres
Conditional Use Permit	Yes		No	X	
Pre-Application Meeting	Yes	X	No		May 25 th , 2022

**ATTACHMENT E
STAFF RESEARCH**

Enforcement Actions	Yes	X	No		July 8 th , 2021 – “Piles of manure, piles of tree branches, selling hay, lots of horses and cattle on property.” February 10 th , 2022 – “Excessive animals, manure, and trash/debris.”
Land Division Status:				X	
Irrigation District:	N/A				
<u>Detailed Narrative</u>				- The Equine Rescue is a 501(C)3 which operates 24 hours, seven days per week. The non-profit organization operation includes an estimated four vehicles per day and fundraising from dusk to dawn Monday through Saturday. Fundraising includes hay, manure, straw, railroad ties, and other assets as donated. - The Equine Rescue has a maximum capacity of 50. “As an Equine Rescue, in order to avoid odors, address manure mitigation and the impact to our neighbors, and any visual impact; we will create a compost pile with a cover and will provide a method to dispose of manure as well as providing it in our fundraising. We will also keep areas maintained along fence lines, plus use animal maneuver on this ranch to fertilize front pasture. For such purpose that are compatible with customary methods of good husbandry.”	

II. TOWN OF CHINO VALLEY GENERAL PLAN

Land Use Element:			
Land Use Designation:		Medium Density Residential (2 acres or less)	
Issues:		Functioning as an Equine Rescue on a Residential property.	
Public Services Element:			
Water Facility Plan:	Source:	N/A	
Sewer Facility Plan:	Treatment:	N/A	
Issues:		N/A	
Safety Element:			
Flood Plain Designation:		N/A	
Issues:		N/A	
Transportation Element:			
Road Classification		N/A	
Issues:		N/A	

ATTACHMENT E
STAFF RESEARCH

Parks and Rec Element:

Closest Park:	LIST
Within 1 mile of the Peavine Trail?	No.

NOTIFICATION

- **Legal Ad Published: The Sun** (07/12/22)
- **600' Vicinity Mailing:** (06/20/22)
- **21 Commenting/Reviewing Agencies noticed:** (06/16/22)
- **Neighborhood Meeting:** (06/29/22)
- **Hearing Dates:** (08/02/22)
- **Comments Due:** (07/04/22)

<i>External List (Comments)</i>	Response Received	Date Received	"No Comment"	Written Comments	Comments Attached
Chuck Dowdy – CAFMA					
Monique Holiday – APS					
Richard Perez - A.D.O.T.					
Ralph Baker – C.V.I.D.					
Suzann E. – YC ENV					
Jon Groulx – YC Health					
SparkLite Cable					
Century Link Cable	NR				
Unisource Gas	NR				
CVUSD	NR				
United States Postal Service	NR				
<i>Town of Chino Valley Internal List (Conditions)</i>	Response Received	Date Received	"No Conditions"	Written Conditions	Comments Attached
Bethan Heng – Planner (DS)					
Will Dingee – Senior Planner (DS)					
Laurie Lineberry – DS Director					
Frank Marbury – PW Director					
Steve Sullivan – Assistant Engineer (PW)	Y	6/20/2022		Y	Y
Jim Shinost – Plans Examiner (DS)					
Dan Trout – CBO (DS)					
David Jamie – Code Enforcement					
Damon Stanley – Code Enforcement					
Chuck Winn – Chief of Police (Police)					

ATTACHMENT F
LETTERS OF OPPOSITION

Clinton & Allena Donati
5550 Pembroke Avenue
Santa Barbara, CA 93111-1442

June 26, 2022

Bethan Heng, Planner
Development Service
Planning Division
1982 Voss Drive
Chino Valley, AZ 86233

RE: Concerns regarding Conditional Use Permit for Equine Rescue Center a 680 S. Firesky Lane

Dear Ms. Heng,

We have various concerns regarding the proposed Equine Rescue Center at 680 S. Firesky Lane, Chino Valley. We live uphill from the proposed Equine Rescue Center and our concerns are as follows:

- a) That the proposed equine rescue center has been operating for years without the benefit of the required permit.
- b) The number of animals currently on the property is excessive and should be limited. Our understanding is that the number of horses at a permitted Equine Rescue cannot be limited. On this five acre parcel we have often noted there are 12-13 horses, plus 12-13 cattle, goats, chickens, turkey, dogs, and other animals visible. The total number of animals is excessive for the size of the property, unhealthful, and a drain on the neighboring water wells in the area.
- c) Semi truck loads of alfalfa/hay are delivered frequently, and then large and smaller trucks begin arriving to take away the same. It would appear there may a commercial alfalfa sale business being conducted. Is this permitted usage? Are there other business ventures being run from the same property that is a proposed Equine Rescue Center?
- d) Twice over the years we have noticed there were large debris fires at night near the north west corner of the property, east of where the sheds are located, and north of the home. One fire was so high that the flames were nearly as tall as the two story home on the property. These fires were close to where the alfalfa is stored. If the quantity of alfalfa they store catches fire it could be a real disaster for all of Chino Valley. We monitored the fires for hours in case we had to phone the Fire Department if embers started fires on our or neighboring properties.

Respectfully,




Clinton and Allena Donati
625 S Reed Rd.
Chino Valley, AZ 86323

ATTACHMENT F
LETTERS OF OPPOSITION

From: Jesse Andujo <jesseandujo1984@gmail.com>
Sent: Tuesday, June 28, 2022 11:39 AM
To: Bethan Heng
Subject: concerns

With some of my concerns about the Equine Rescue Center is the amount of livestock currently on the property and with the amount they have comes a tremendous amount of flies. i have to keep all doors closed at all times along with my garage doors. im constantly having to pressure wash the the trims around my windows and doors along with the concrete to clean up the feces from the amount of flies. Along with the flies is the smell of the manure on a daily basis and when they turn up the fields and pile up the manure to sell. The smell can be overwhelming and not being able to enjoy my home and property.

I do feel that they are taking advantage of having the horse sanctuary to be able to run an entire business from the property instead of caring for their animals and their well being.

So with my last concern is the multiple vehicles that come and go from the property that are not leaving with hay, manure, railroad ties or any sort of feed being that these vehicles are small compact cars. Since the beginning of construction in February of last year I've noticed multiple, multiple vehicles coming and going at late hours of the night from 9pm going further into the night. vehicles would not enter the property being that the gate was closed. someone would come to the gate and within a few minutes the vehicles would leave.

ATTACHMENT F
LETTERS OF OPPOSITION

From: Laura Lee H <llhedden@gmail.com>
Sent: Wednesday, June 29, 2022 12:05 PM
To: Bethan Heng
Subject: Case # CUP-2022-01 Regarding 680 S. Firesky LN neighbor

Dear Bethan Heng,

My name is Laura, we spoke a couple weeks ago, my husband, Kim and I live next door to the South of Derek and Luiz Pereira. We are going to try to make it to the On-site meeting that is scheduled for this afternoon, we are getting over having Covid but, retested and are both negative now.

Just wanted to put in writing **our concerns and comments** regarding Derek and His fathers request for a Conditional Use Permit for an Equine Rescue Center.

We are **Very concerned** about the amount of Animals he currently has. It is out of control, they can't seem to care for the ones they currently have. There has to be a maximum limit!! They have TOO MANY - over 20 Cows (not sure why they need that many cows for an equine rescue). The pin in which they have some of the cows, 9 or so of them, which is up against our fence line is too small of an area for the number of cows they have in there. How many cows is considered a feedlot? They have Potbelly pigs, Goats, Turkeys, Chickens, and 20+ Horses (which some of them do not look healthy, hooves are in bad need of trimming. There are some in the barn that don't see the light of day or let out). The horses wander around in the horse and cow manure that Derek and Luiz just move out into the front field and spread out. . . . NOT healthy for animals to walk and eat off the ground that has cow and horse manure on it. There HAS to be a limit of animals per acre! County is 2 hooved animals per acre - which means he cannot have more than 10. They don't remove any manure from the property. One horse produces approximately 55 lbs of manure a day. So, for just 20 horses, which they have more than that - $55 \times 20 = 1100$ lbs of manure per day, and that isn't counting all the Cow manure daily plus other animals. It has caused and IS continually causing such a nuisance - FLIES are insane. Last summer we weren't even able to be outside and enjoy the summer because the flies were crazy. Putting out fly bags and bait doesn't slow them down. There are fly spikes (poop) that cover everything. . . our windows, doors, vehicles, everything! They are starting to get bad already this summer as well. Not healthy. They need to remove the manure from their property on a regular basis. . . . haul it off!

The use of the Semi's they have is not acceptable! This is a residential neighborhood, not commercial! Last night about 10:30 they started up the Semi and left about 10:45pm to go get a load of Hay. Very loud! He uses his exhaust brakes. Very upsetting when we get woken up from the sound of a semi and brakes. He doesn't just purchase hay for his animals, he sells it on Craigslist. Which makes it a business, not farming! And we have been told he does not have a CDL to drive a semi. How is that allowed?

The Large storage container - boxes on the property - 7 of them. How are they allowed to have any of them? Was under the impression you have to have a permit for them and that they need to be behind a fence. . . 7 of them is out of control.

The use of farm equipment at all times of the day and night is distressing. Again, this is a residential neighborhood, not commercial property. We have purchased and put up fence screens to try to block our view of their property and all the mess.

We have been voicing our thoughts and concerns and complaints since June of 2021 and feel that things have only gotten worse and more out of control. Do not understand why this has been allowed to continue. We have no issue with ones wanting to rescue some animals but this has gone way past that. And the City needs to do something about it. It is bringing down the property values for all us neighbors here on Firesky Ln. and surrounding area. Some have even voiced concern about their wells running dry because of the Pereira's use of water for all their animals. It's one thing to help animals but, they have to

ATTACHMENT F
LETTERS OF OPPOSITION

HAUL OFF the MANURE on a regular schedule. It is NOT acceptable to just move it to another field and spread it out. . . that is unsanitary!

Here are some pictures we have gathered as proof of the issues at hand. . . .



ATTACHMENT F
LETTERS OF OPPOSITION



ATTACHMENT F
LETTERS OF OPPOSITION



ATTACHMENT F
LETTERS OF OPPOSITION



ATTACHMENT F
LETTERS OF OPPOSITION



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We appreciate the City of Chino Valley dealing with this issue and hope that Our Thoughts and Concerns will be addressed and handled appropriately. Thank you for your time and assistance with this matter.

- Kim and Laura Hedden
730 S. Firesky Lane
Chino Valley, AZ 86323

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Luis & Ana Fuentes
632 S. Firesky Lane
Chino Valley, AZ 86323

June 29, 2022

Bethan Heng, Planner
Development Service
Planning Division
1982 Voss Drive
Chino Valley, AZ 86323

RE: Concerns regarding conditional use permit for Equine Rescue Center a 680 S. Firesky Lane

Dear Ms. Heng,

We received a letter about the proposed Equine Rescue Center. We live directly next to the supposed rescue.

- Over the years the amount of flies we have had are ridiculous. It is difficult to eat peacefully when there are hundreds of them around.
- The piles of excrement left behind by the animals are next to our fence a majority of the time. In tune this adds to the fly situation.
- Arizona is extremely dry therefore fire restrictions are always tight. However, the dangers the stacks of hay pose are just as bad. One little spark is all it takes for those to go up in flames putting everyone around the area in danger.
- We have made multiple reports over time. The biggest one being when their pigs crossed onto our property. They have a total of 17 pigs and piglets.
- Our fence was destroyed by their animals. They would also tie their pins to our fence. We put the money for that fence and my family helped put it in place. He not once has put a sturdy enough fence to keep his animals on his property.
- They have three fully matured male bulls in the same pin. When mating season comes around these bulls are fighting for dominance.
- Water is scarce in Arizona. We have watched them waste water because they walked away as they were filling the animals water tanks. They do not give those animals enough water at times either.
- The cattle have cried multiple times throughout the day and at night because they are starving. They choose to sell the hay but do not give enough of it to the animals.

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- They get angry when someone is making noise past 10p.m. but they are unloading hay at ungodly hours. Sometimes its at 11pm and sometimes its at 2am. They are always working extremely late into the night causing so much noise that it is difficult to sleep.
- Their negligence to clean up after the animals means that their trash blows onto our property and we are left to clean it up.
- Their chickens are constantly crossing over as well.
- The horses are constantly outside including during monsoon season. This could harm the horses and cause rain rot to their fur.
- The lack cleaning their animales manure here coming monsoon season all of the animales manure comes washing up all our drive way leaving a fowl oder and attracting massive amounts of flies in our property
- Not having a proper fence for this animales putting them at risk when escaping into public roads or hurting someone
- The amount of animales of diffrent species is out of control with a huge lack for care and maintenance it is cruel to this animales to be forced to live in such unhealthy manner and lacking of being mantained

The people at the head of this rescue do not care enough about these animals to take care of them. These animals deserve care and love. It is not only unfair to the people living around the supposed rescue but the animals as well. These animals deserve to have their own space and not be so crammed. There are too many of them on the property to care for all of them properly. They need more land or less animals. I hope these comments help you come to a decision.

Sincerely,

Luis & Ana Fuentes

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Planning and Zoning

Case Number – CUP-2022-01
Conditional Use Permit

September 12, 2022

I, Marsi George, am against a Conditional Use Permit. I was also troubled with the six month given to clean up the mess that the property was in.

I believe the applicant is in this position because he has been allowed to self-impose his own disaster with no oversight from the town, 70 animals on 5 acres is excessive to ensure proper care and treatment of the animals. That is an average of 14 animals per acre. There are several covered areas for farm equipment, hay storage, post storage, living space, office space, container storage, a very large barn, several semi trailers, semi's and stock trailers etc, yet none of the structures are dedicated to just the care of animals. A conservative, estimate of housing, storage, parking, farm equipment, semi trucks, out buildings, and such would take up at least 1.5 acres. Leaving 3.5 acres to the care of animals. If we were to use the 3.5 acre figure it would bring the head count to 20 per acre. If this is truly a Rescue why is there no re-homing? Not so much as any person handling or caring for the animals in a method conducive to re-homing. I personally have been to many rescues that are not only clean but rehabilitate the animal to be placed in a forever home. A very good friend of mine runs one in Washington state. When I described to her the conditions and that no one gets re-homed, she commented that sounded more like hoarding.

Animal waste is not currently being addressed on a daily basis during the trial period. I suspect it will continue to not be addressed after the 6 month trial. In the two and a half years I have been a neighbor I have never seen a private trash company pick up anything nor have I seen a dump truck make a run to the dump. Not even personal trash. I wonder if the odd smell I get in the mornings is a burning of human trash?. Waste is not contained or covered by anything. Merely left where it was excreted.

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Water and shade are a must for the livestock. It is nearly 3 months into the clean up self-impose monitoring. While some clean up has happened, no shelter or shade has been established. No reduction of animals has visibly happened. Turkeys, Roosters, other birds are heard daily. Goats are still apparent. I have not seen fencing addressed. I have seen 10 large bull/cows put in a pasture with little grass. Certainly not enough grass to feed all cows on a daily basis. I have witnessed the lack of food for horses and cows for up to 3 days in a row several times. Unfortunately, I can not see if they have water but do see them standing by water containers wishfully. The property is not welcoming at all, it is locked and there are armed men working the property and the needs of the animals are being met. There have been break outs, animals do not tend to wander off if their needs are being met; hunger, thirst or mating are the usual reasons.

The fly control is very bad. I can not be outside without being overcome by the extreme population of flies the animal waste attracts. I am forced to deal with this issue in ways I would prefer not to (I control it best I can by putting Pine-sol on cotton pads and putting them on my person. Flies do not like the smell, neither do I).

The flies have drawn blood several times on myself and my dog. I can offer a inexpensive alternative to whatever is the normal on this property. It is called Fly Predators. You can find it on the web. I'll supply you with the web page. I used it when I ran a cow/calf operation. Pretty effective. **Spaulding-labs.com**

I had to giggle with the volunteer section. I do not know if even one exists. So bathrooms are a question as well. Inspections of the site should be random and more often the once a month.

The hours of operation for the hay sales, and other associated rescue should be limited. Dawn currently is at 6 am when most are still asleep. Dusk should be set by 5 pm no later. Neither are being respected:

- 7/21 at 6:20 am off loading of hay with the load squeeze clamp took more than an hour.
- 7/22 at 5:30 am the tractor started dragging with a chain behind the tractor creating dust and noise.
- 7-28 rocks that blocked natural flow of run off still blacked the flow causing runoff to flood neighbors and my acreage.
- 7/29 6:30 am off loaded hay and some pipe with the same loud machine banging pipes together that echoed up the block.

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He claims he goes to Parker for his hay, its about 2 to 2.5 hours away. Roughly 175 miles. It should be easy to schedule trips other than at 3 am. Normal business hours of 8 am to 5 pm are needed. All semi activity should be done during that time frame. Construction workers are not allowed to start before 8:00 am and are usually gone by 5 pm. Business should be the same for them. Speaking of business there are 9 business being run out of this site. This is a residential community, a not commercial zone.

It is my understanding he has no CUP "yet" for that matter no rescue either. Neither should exist if the facility is not at code. Which the facility is far from. The codes are online for all to read and he is in violation of numerous codes.

81.02, 82.03, 82.04, 83.04, 131.01, 13101, 131.02, just a few I have found.

If lighting ever hits the hay storage the fire hazard is extremely serious.

Fun Facts to be considered : Horses leave 50 pounds 4 times a day he has 13.
Cows leave leave 85 pounds per day. Called
Wet Manure
Urine and Feces, he has 10.
Pigs a sow will leave 77 pounds a day Hog is 84
pounds a day.
Goats leave 1 1/12 pounds per day Urine is 1
pound.
Lets not even go to urine and what the build up
is doing to the ground water.

Blocking the natural flow of water run off causes a back up, which floods both my property and the property between us. The water should be properly directed with culverts and other means of land and water management.

I have had horses for most of my life. Ran a cow calf operation and team roped semi professionally. The care the horses are getting is unacceptable. There feet are not attended to. When proper care is not given the feet grow to long break off and cause tendon issues. This will inhibit the ability to walk. No fly mask to help keep the flies out of the eye. It causes infection and if left unattended could cause the lose of some or all the sight in the effected eye. Lam and blind horses are not usually re-homed. Many are sent to slaughter for meat. Photos will be sent in an e-mail.

Thank you for your attention to this problem.

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Planning and Zoning

June 29, 2022

Case # CUP-2022-01

I, Marsi George do not wish to Continue the Conditional Use Permit for the Equine Rescue Center located at 680 Firesky Lane, Chino Valley, Az 86323.

As follows, the reasons I hold this opinion:

- Over crowded land use.
- Animals are never re-homed from property.
- Horses feet are neglected, split hooves, long toes, not handled on a regular basis, or groomed, fly masks are not used to protect the eyes.
- Waste from the animals is not removed. Just taken from one area and spread in another. This only adds to fly problem.
- Roosters are not to be allowed per CCR's.
- Noise nuisance, odor, vibration from yellow farm equipment, excessive traffic, dust, fumes.
- Drainage, intentional blockage of natural run off of ground water is block which causes back up into my property.
- Fence line is not 15 feet from adjoining property's on either side,
- A fire hazard of large amounts of hay and treated posted that are sold out of this property.
- Businesses are not to be run out of property and employees are not allowed. I have watched workers being dropped off many mornings.
- Fly's are increasingly heavy and are impossible to enjoy my property. I just tried to paint the interior of my garage only to discover flies embedded into the fresh paint. Costing money and time to try to eliminate the issue.
- Lots of traffic comes and goes. There are semi's and trailers coming and going at all hours, usually with hay, sometimes left in the street for a period of time because the gate is locked to the property and someone needs to open it for the driver.
- There are goats/sheep, horses, cows, bulls, turkeys, other fowl (I think they are Rhens), well exceeding the limit of said property per both CCR's and Zoning code. *pigs - for sausage to be sold*

Attached is a copy of the CCR's I found in my paperwork at the time of my purchase of property

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STATE OF ARIZONA, County of Yavapai— **100:52**
I do hereby certify that this within instrument was filed and recorded in the office of
on **APR 13 '78-800 PM** at **Book 1134** Official Records Page **587-588**
Records of Yavapai County, Arizona. WITNESS my hand and official seal the day and year first above written.

PAUL J. JENNEY, County Recorder

DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

ARIZONA TITLE INSURANCE AND TRUST COMPANY, an Arizona corporation, as Trustee, being the owner of the following described property, situated within the County of Yavapai, State of Arizona, to-wit:

Tracts One (1) through Twenty (20), inclusive, **ANGUS ACRES**, according to the plat of record on file in the office of the Yavapai County Recorder in Book **2** of Maps, page **100** **LAMB SURV 45**

and desiring to establish the nature of the use and enjoyment thereof, does hereby declare said premises subject to the following express covenants, conditions and stipulations as to the use and enjoyment thereof, to-wit:

1. **TRACTS.** All of said Tracts are not to be divided into less than two and one half (2 1/2) acre lots. Further, no more than one dwelling is to be situate on any one lot.
2. **EASEMENTS AND DRAINAGE CHANNELS.** Easement and right of ways, as indicated on the plat chart, are to remain accessible at all times for any necessary servicing of public utilities. Channels are to be kept clean. They are not to be used for dumping or burning of tree trimmings, rubbish, or trash of any kind.
3. **MOBILE HOMES.** Mobile Homes are permitted on all tracts excepting Tracts 1, 2, 3, 4, and 5 which are restricted to conventional housing only. All Mobile Homes where permitted are to be fully skirted and on ground level.
4. **UTILITIES.** All utilities (including electric, telephone wiring, water and gas lines, etc...) shall be placed underground at the recommended depths.
5. **SANITATION.** No trailer or house shall be used for residential purposes prior to the installation of a Septic Tank and Cesspool as approved by the State and County Health Departments and all toilets and other sanitary conveniences properly connected thereto.
6. **GARBAGE & TRASH.** All garbage and trash is to be placed in properly covered containers. At no time shall there be piles of refuse and garbage on any lot or tract. No abandoned or "junk" cars are to be present on any lot at any time.

No commercial establishments of any kind shall ever be erected or permitted upon any of said tracts, or any part thereof, and no business of any kind or character whatsoever shall be conducted in or from any residence on said tracts, or neighborhood.
8. All residences shall contain at least 800 square feet in area. This restriction pertains to both mobile homes and conventional dwellings.

BOOK 1134 PAGE 587

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Stephen and Cindy Scott
695 S. Reed Rd.
Chino Valley, AZ 86323

June 27, 2022

Bertha Hang, Planner
Development Service
Planning Division
Chino Valley Planning Commission
1982 Voss Drive
Chino Valley, AZ 86323

RE: Conditional Use Permit concerns for Equine Rescue Center at 680 S. Firesky Lane

We have received the mail request from the Town of Chino Valley asking for our comments regarding the conditional use permit Case # CUP-2022-01, and the following are our comments and concerns with granting this permit.

Our property is located directly west of the Pereira property, and the excessive number of animals that have consistently been on the property without permitting for the past several years have impacted us in several ways –

- Our well and water availability have been negatively impacted multiple times – twice when they accidentally left the watering hose on and drained their water storage tank. We had to wait until their storage tank finished filling before our well would produce water.
 - Since they have increased the number of animals on their property, we have run out of water multiple times and have had to buy and install a water storage tank of our own.
 - We have needed water delivered multiple times during the heat of the summer over the past 5 years.
- We often see more than 25-40 large animals – including horses, cattle, and goats on their property. This does not count turkeys and chickens that run loose at the back of the property, often into ours and the neighbor's property.
- When walking at the back (east) side of our property, I have encountered swarms of flies and overpoweringly strong smell of manure from piles that are 3-4 feet tall and 20-30 feet long, to the point that I have stopped walking in that area.

They are conducting commercial hay sales – semi-trucks with double flatbeds full of hay arrive frequently, at least once a week and it sometimes more often. They advertise on Craigslist for hay – I

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have attached their Craigslist ads for hay. There is a steady stream of traffic into and out of the property, often trucks with trailers buying hay.

Does the hay sales business have a permit, and are commercial hay sales allowed on residential property?

They are also selling composted and regular manure from the property, also advertised on Craigslist. This ad is also attached.

Do the manure sales have a permit, and is commercial manure/compost sales allowed on residential property?

If this is a conditional use permit for an equine rescue center, why are there so many cows?

In closing, we are strongly against granting a conditional use permit for an equine rescue center due to the excessive number of animals and the negative impacts to the surrounding neighbors on water, flies, traffic, and the smell of piled manure.

They have been conducting multiple businesses from this property for at least the past 5 or 6 years without a conditional use permit and no consideration or concern for the impacts on their neighbors.

Sincerely,

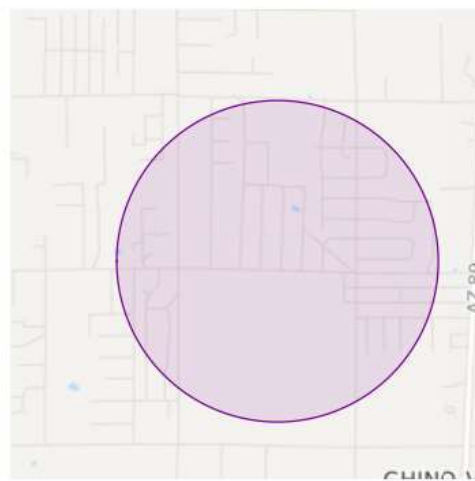
Stephen and Cindy Scott

ENC: Craigslist advertisements

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Alfalfa - \$23 (Chino Valley)

image 1 of 2



more ads by this user

delivery available

Alfalfa hay and delivery available in the area for minimum.

Call/text Nine28-458-5227

Equine Rescue 501.c3 - non-profit fundraiser - tax deductible - all proceeds
benefits our animals

QR Code Link to This Post



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Bermuda hay - \$24 (Chino Valley)



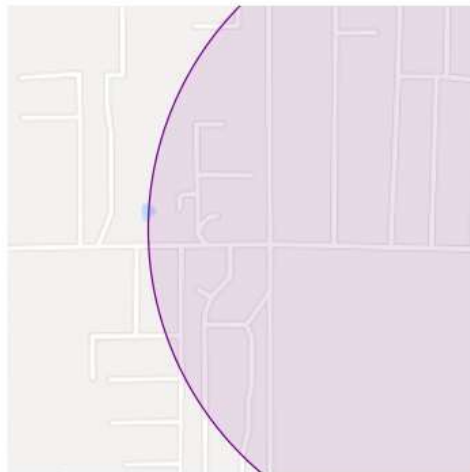
Can deliver for a fee and stack if needed.
Bring the flatbeds to load in the yard with a squeeze.
Call/text Nine28-458-5227
Equine Rescue 501.c3 - non-profit fundraiser - tax deductible - all proceeds
benefits our animals

QR Code Link to This Post



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composted and regular manure - \$10 (Chino Valley)



Have a dump trailer that can haul around 25 tractor buckets full. (Compact tractor)

Price is \$10 per bucket and the haul fee based on distance/time.

Its manure though is what it is most. some hay and such mixed in.

The more aged and worked is \$20. Newer regular manure is \$10.

Nine284585227

QR Code Link to This Post

