

Planning and Zoning Commission Meeting Minutes July 16, 2024

A regular meeting of the Town of Chino Valley Planning and Zoning Commission was held on Tuesday, July 16, 2024, at the Town of Chino Valley Council Chambers, 202 N. State Route 89, Chino Valley, Arizona.

PLANNING AND ZONING COMMISSION MEMBERS present: Chair Chuck Merritt, Vice-Chair Gary Pasciak, Commissioner Teena Meadors, Commissioner Ron Penn, Commissioner Robert Switzer and Commissioner Richard Zamudio. Commissioner William Welker was absent.

STAFF MEMBERS present: Laurie Lineberry, Development Service Director, Will Dingee, Assistant Director, Frank Marbury, Public Works Director, Gerreann Froberg, Senior Processing Coordinator, Lawrence Digges, Audio/Video.

CALL TO ORDER: Chair Merritt called the meeting to order at 6:00 p.m. A quorum was declared. The Commission meeting began with the Pledge of Allegiance led by Vice-Chair Pasciak.

CONSENT CALENDAR – A motion was made by Commissioner Meadors to accept the consent agenda. The motion was seconded by Vice-Chair Pasciak and passed unanimously by a 6-0 vote.

PUBLIC HEARING #D.1 – Case # CUP-2024-02 — This is a request by Lynn Niewiadomski, on behalf of Circle-K, for a Conditional Use Permit to allow for a Soil Remediation System and related equipment to be installed. The property is located at 1910 N State Route 89, Chino Valley, Arizona.

Chair Merritt asked if anyone on the Commission had a disclosure to declare regarding this project. There were none.

Assistant Director, Will Dingee presented the staff report and stated the applicant was in attendance. He stated the CUP being presented was for the above ground remediation equipment only and not for anything below ground. The Town of Chino Valley had no jurisdiction over anything below ground. Below ground was all handled at the County, State or Federal level. Dingee shared photos of the remediation site at Circle K and stated that the Town gave an at-risk approval for the remediation to begin, prior to the approval of this CUP. The Town did not want to hold up the project because of the critical nature of the incident. He shared there was no access to the remediation site through Circle K's parking lot, but through a back driveway. He shared a slide of the equipment used. Dingee explained the equipment noise was relatively low and the impact was gone relatively close to the remediation site. A Neighborhood meeting was held on June 13, 2024, with fifteen neighbors in attendance. At that meeting, the neighbors expressed no concerns on the remediation equipment, visual impacts or noise, just the underground component and Dingee reiterated that the Town had no jurisdiction below ground. Staff recommended the following conditions to be included in the CUP: walls, landscaping, parking re-striping, compliance with due process for local, county and state agencies, maintenance/surveillance/accountability and an expiration of three years with the ability to apply for an extension. Staff recommended approval.

Chair Merritt asked if anyone had questions for staff.

Switzer asked if the 1000-gallon diesel tank had secondary containment.

Dingee stated yes.

Pasciak asked if EPA had regulations for remediation.

Dingee stated EPA worked through ADEQ at the County.

Merritt asked if the Town had any authority for what happened underground.

Marbury stated the Town Code did not address anything for underground and would defer to State and County laws and regulations, primarily with ADEQ, for this matter.

Lynn Niewiadomski stated she was President of Encore Consulting and was hired by Circle K stores to conduct the investigation and remediation for the release.

Chair Merritt asked if the Commission had any questions for the applicant.

Switzer asked if the EPA had made any inspections of the site or gotten involved.

Niewiadomski stated the EPA gave authority to ADEQ and Circle K and that ADEQ was out at the site and looked at the equipment. Encore had several meetings with ADEQ and would continue to provide by-weekly progress reports to the ADEQ case manager. She stated the remediation was high on ADEQ's radar and Encore was in discussion with them ongoing. She talked in more detail about the equipment functions on-site.

Merritt stated the equipment was basically drawing gas vapors and/or other hydrocarbon products out of the ground, burning them and cleaning the air that got discharged into the atmosphere.

Niewiadomski stated that was correct.

Switzer asked if the burners were propane fired.

Niewiadomski stated yes, however they could switch to natural gas and hoped to do so in the future because there was a natural gas line close by.

Merritt stated that switching to natural gas would have to go through the gas company to provide access.

Niewiadomski stated yes, as well as go through the building department for a permit.

Switzer stated the efficiency was pretty high for burning the hydrocarbons but what about the burn-off from the fuel in the burning process.

Niewiadomski stated that the VOC's from burning of the propane were included in meeting the efficiency for gasoline organic destruction and the permit that they operated under allowed for propane or nature gas. Natural gas would be easier and had less equipment above ground.

Merritt asked if the generators factored into the equation.

Niewiadomski stated yes, the diesel-fueled generators fell into a class that did not require a permit.

Penn asked if Encore thought the project could exceed the three 3 years.

Niewiadomski stated it would take a minimum of two years but would likely exceed three years as the release was a large volume and would take some time.

Switzer asked for an update on migration of the spill.

Niewiadomski stated Encore had been sampling the reginal aquafer by-weekly since May 1, 2024, and so far, there had been no indication of release into the aquafer. Encore was monitoring very closely.

Switzer asked if there was a contingency plan if the release reached the aquafer.

Niewiadomski stated plans were in place if there were any indication of release into the indicator wells, they would reassess what would be needed to happen next and there would be enough time before it would get to any other well. She stated Encore had a backup plan if there were contamination to treat the water supply, but they did not anticipate that based on what they were currently seeing.

Merritt asked if Encore looked at just the Town wells or private wells.

Niewiadomski stated Encore looked at all private and the Town network wells including community water suppliers. The wells closest to the site are mostly individual wells with the exception of the apartments behind Circle K, which had a small water supplier.

Meadors asked which direction the water flowed underground.

Niewiadomski stated that regionally the water flowed North/Northwest based on their research and they constantly looked at and were trying to get more information on the larger well networks that pump, to understand if there would be any influence that would have ground water flow shifts.

Switzer asked if the generators ran 24/7.

Niewiadomski stated yes, the equipment was run 24/7.

Marbury asked if there were any plans to directly connect to APS.

Niewiadomski stated yes, once they got approval from the Commission and Town Council they would apply for the Building Permit to get started on the electric and natural gas service which would eliminate the two generators, the propane tank and the diesel fuel cell.

Switzer stated the equipment were mobile units and asked if they would consider a larger semi-permanent or permanent unit.

Niewiadomski stated a skid-mounted, more permanent unit would take up more space which was limited on this site. She stated they did not think they would always need two units, but it was necessary at this point.

Switzer asked if the two units were as efficient as possible for removing the contamination.

Niewiadomski replied there was only so much flow that the soil formation will give up, bigger was not necessarily better and would use more fuel and produce more combustion emissions. They were monitoring them weekly to make sure they were running as efficiently as possible and that it was a process.

Switzer asked if the CUP would cover an increase or decrease in the equipment footprint.

Lineberry stated that what was presented was a worst-case scenario and anything less would be covered by the CUP.

Switzer stated unless they wanted to add equipment.

Lineberry replied that if they wanted to add they would need to have a discussion with staff to see what that would look like.

Merritt stated a CUP could be updated on a relatively short notice. He asked if **Niewiadomski's** company was employed by Circle K and provided a specialized service.

Niewiadomski replied yes, she had been in this business for 30 years and had done many UST release investigations and remediations.

Chair Merritt opened the meeting for public comments. There were none.

Merritt closed the public hearing portion of the meeting.

Merritt asked if the Commission had any more questions for staff or applicant.

Meadors asked about part three on the Conditions of Approval - the hedges for the buffer zone. She thought they looked good initially but were usually not maintained. She would like to see staff stop requiring hedges and landscaping on all new projects. She believed the wall requirement was sufficient.

Merritt asked if a wall could be a requirement for approval.

Lineberry stated that with a CUP, Circle K was responsible for the maintenance of the landscaping until they were done with the clean-up. If there were any issues, the Town could go to Circle K and tell them they need to fix it, that they were not in compliance with their CUP. If the Commission just wanted a block wall it should be painted to match the Circle K building.

Meadors asked if the block wall would need to come down when the project is finished.

Dingee replied it was not required for them to take the wall down, they might want to keep it for a dumpster enclosure, but if the Commission wanted it to come down when the project is finished, the Town would need to stipulate that.

Meadors stated she felt that Circle K did not take care of their property and she does not want to see dead plants.

Merritt stated the Commission could remove the landscaping requirement when the Motion was made.

Motion was made by Pasciak, seconded by Meadors to approve CUP-2024-02, as presented, subject to the staff report and information provided during the hearing, and the Conditions of Approval in Attachment A with the removal of the language requiring landscaping and a landscaping plan.

A roll-call vote was taken and the motion passed unanimously with a 6-0 vote.

ACTION ITEMS: There were no action items for this meeting.

INFORMATION ITEMS – FROM STAFF: COUNCIL ACTION OF PRIOR P&Z CASE: **Dingee** updated the Commission about prior cases heard by Town Council on June 11, 2024. ZC-2024-02 & CUP-2024-01 – C&M's Landscaping Rezone and CUP, was approved by Town Council; TA-2024-01 Metal Storage Containers was heard at two Town Council Study Sessions (both residential and commercial) the prior week and the item would be coming back to the Commission for further refinement and, if passed, would go to the Town Council.

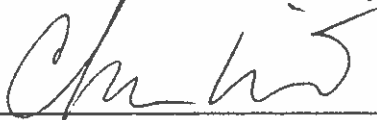
Lineberry stated the Commission would receive a new Staff Report and packet prior to the public hearing.

INFORMATION ITEMS – FROM THE COMMISSIONERS: none

INFORMATION ITEMS – FROM THE CHAIR: **Merritt** shared that the Town Council had requested the Commission to look at the number of non-domestic animals allowed on a property and at the last Study Session on this topic the public stated they did not want any regulation on the number of non-domestic animals allowed, however that was not the instructions from the Town Council. He stated the next Study Session on this topic was going to be in two or three months and invited the public to attend and the Commission would only entertain hearing direct and constructive ideas to help the Commission draft extremely minimal regulation for animal counts on property. This was going to be a very direct and straightforward meeting which will only entertain ideas and thoughtful constructive criticism to enable the Commission to prepare something to present to the Town Council. After reading the minutes from the last Study Session, he felt the public had difficulty understanding that it had nothing to do with FFA, little league or whether the Commission liked children or not.

INFORMATION ITEMS – FROM THE PUBLIC: none

ADJOURN – A motion was made by **Pasciak** and seconded by **Switzer** to adjourn the meeting at 6:32 p.m.


Charles Merritt - Chair


Prepared By: Gerreann Froberg