



**Town of Chino Valley**  
**MEETING NOTICE**  
**PLANNING AND ZONING COMMISSION**

---

**REGULAR MEETING**  
**December 1, 2015**  
**6:00 P.M.**

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

---

**AGENDA**

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. MINUTES**
  - a. Consideration and possible action to approve the November 3, 2015 regular meeting minutes.
- 4. ROLL CALL**
- 5. STAFF REPORTS**
- 6. PUBLIC HEARING**
  - a. Consideration and possible action to hold a public hearing on proposed amendments to the text of the Unified Development Ordinance ("UDO") regarding adopting additional limitations on Medical Marijuana land uses in the Town of Chino Valley, including medical marijuana dispensaries, off site cultivation facilities, and infusion facilities; to provide citizens with another opportunity to provide comments regarding the proposed amendments.
- 7. NON-PUBLIC HEARING ACTION ITEMS**
- 8. DISCUSSION ITEMS**
- 9. PUBLIC COMMENTS**
- 10. ADJOURN**

Dated this 23rd day of November, 2015.

**By: Ruth Mayday, Development Services Director**

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

The Town endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for sight and/or hearing impaired persons at public meetings. Please call 636-2646 (voice) or use 711 (Telecommunications Arizona Relay Service ) to request an accommodation to participate in this meeting.

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

**P&Z Commission Regular**

**3. a.**

**Meeting Date:** 12/01/2015

November 3, 2015 Regular Meeting Minutes

---

**CASE DESCRIPTION:**

Consideration and possible action to approve the November 3, 2015 regular meeting minutes.

**FACTS:**

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

**ANALYSIS:**

**RECOMMENDATION**

---

**Attachments**

November 3, 2015 Regular Meeting Minutes

---

# DRAFT

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

November 3, 2015  
6:00 P.M.

The Planning and Zoning Commission of the Town of Chino Valley, Arizona, met for a Regular Meeting in the Chino Valley Council Chambers, located at 202 N. State Route 89, Chino Valley, Arizona.

1) **CALL TO ORDER**

Chair Rowitsch called the meeting to order at 6:00 pm.

2) **PLEDGE OF ALLEGIANCE**

Commissioner Merritt led the Pledge of Allegiance.

3) **ROLL CALL**

Present: Gwen Rowitsch, Chair; Annie Lane, Commissioner; Michael Bacon, Commissioner;  
Chuck Merritt, Commissioner; Claude Baker, Alternate

Absent: Gary Pasciak, Commissioner; Florence Sloan, Commissioner

Staff Ruth Mayday, Development Services Director; James Gardner, Associate Planner;

Present: Amy Lansa(recorder), Town Clerk Assistant

4) **MINUTES**

- a) Consideration and possible action to approve the September 15, 2015 special meeting minutes.

MOVED by Commissioner Chuck Merritt, seconded by Commissioner Annie Lane to approve the September 15, 2015 special meeting minutes.

**Vote: 4 - 0 PASSED**

5) **STAFF REPORTS**

There were no staff reports.

6) **PUBLIC HEARING**

- a) Consideration and possible action to amend Chapter 3, Zoning Districts and Chapter 4, General Regulations as they relate to agribusinesses.

Due to the heavy agenda schedule, Chair Rowitsch postponed this item to a later date.

- b) Consideration and possible action to hold a public hearing and make a recommendation to Town Council regarding the rezoning of Yavapai County Assessor's parcel 306-17-001H, consisting of approximately 2.5 acres, located at approximately 2879 Arizona Trail, Section 11, Township 16 North, Range 2 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona from Industrial (I) to Commercial Light (CL) zoning district. (Applicant: Gary and Amanda Denny) (James Gardner, Planner).

Associate Planner, James Gardner presented Gary and Amanda Denny's request to rezone the parcel and build a 400 ft addition to the existing building.

There was no opposition to the request to rezone at the October 14, 2015 neighborhood meeting.

Applicant Gary Denny spoke about the reasons he wants to open El Charro and that he wants to create a family dining atmosphere and needs to expand the kitchen.

Chair Rowitsch opened and closed the Public Hearing at 6:08 p.m. No members of the public spoke.

MOVED by Commissioner Chuck Merritt, seconded by Commissioner Michael Bacon to approve the zoning change at 2879 Arizona Trail from Industrial to Commercial Light.

**Vote:** 5 - 0 PASSED - Unanimously

- c) Consideration and possible action to:
1. Hold a Citizen Review Meeting on proposed amendments to the text of the Unified Development Ordinance ("UDO") regarding adopting additional limitations on Medical Marijuana land uses in the Town of Chino Valley, including medical marijuana dispensaries, off-site cultivation facilities, and infusion facilities; and
  2. Hold a public hearing on the proposed amendments; and
  3. Continue the item to a Special Meeting on November 17, 2015 to hold an additional public hearing to provide citizens with another opportunity to provide comments regarding the proposed amendments.

Director Mayday presented a brief history of the Medical Marijuana (MMJ) issue in Chino Valley.

- 4/05/11: Public hearing at Planning & Zoning to make recommendation to Town Council.
- 5/10/11: Town Council refers matter back to staff to include 500' separation from churches.
- 3/20/12: Planning & Zoning holds public hearing; recommends no separation between church and MMJ uses.
- 4/24/12 Town Council decides to abide by state regulations.
- 9/10/13 Town Council directs staff to research and draft MMJ regulations.
- 11/19/13: Public Hearing at Planning & Zoning; forward amendments to Town Council with recommendation for approval
- 12/10/13: Town Council adopts Ordinance 13-779, regulating the manner and placement of MMJ uses.

In 2014 Town Council took additional action by adopting Resolutions:

- 3/11/14: Town Council adopts Resolution 14-1025 Opposing the Legalization of

## Recreational Marijuana

- 4/22/14: Town Council adopts Resolution 14-1030 Supporting a Tax on Marijuana Growing Facilities

Medical Marijuana use is regulated by Arizona Revised Statute 36-2801 – Arizona Medical Marijuana Act, and the Arizona Department of Health Services, Title 9, Chapter 17: Medical Marijuana Program. Both the statute and regulation include a separation requirement of 500' feet from public or private schools that existed before the date the dispensary submitted the initial dispensary registration certificate application.

Prescott follows the state regulations while Prescott Valley has limitations on dispensaries and cultivating facilities including:

- C2 as stand-alone;
- C3 with cultivation;
- 500' separation from specific schools, places of worship, public park or building, college, drug/alcohol rehab, halfway house, or public community center.
- NTE 3,000 SF; storage NTE 1,000 of the 3,000 SF allowed by right.

Associate Planner Gardner reviewed the Proposed Amendments to the Uniform Development Ordinances:

- Dispensaries allowed only as a conditional use in Industrial Zoning Districts.
- Cultivation and infusion facilities allowed only as a conditional use in Industrial Zoning Districts.
- Five-hundred foot distance between cultivation, infusion, or dispensary facilities and:
  - any school, public or private
  - any public park, public building, or public community center
  - any drug or alcohol rehabilitation facility or correctional transitional housing facility
  - any residential zoning district
- Restrict the total square footage of a medical marijuana cultivation facility to 3,000 square feet

MMJ facilities would only be allowed in Industrial Zoning Districts. There are two Industrial Zoning Districts in the Town Limits.

Director Mayday indicated that the 500 foot distance is being measured from property line to property line. Commissioner Bacon suggested that the measurement requirement from property line to property line be added to the UDO Code amendments as well as excluding the street right-of-way from the measurement.

If Town Council approves the UDO amendments, MMJ facilities that are established will continue operation as a legal non-conforming use. No non-confirming structure or use can be expanded in a manner that enlarges the non-conforming use.

Chair Rowitsch opened the public hearing at 6:23 pm.

Director Mayday responded to questions from Todd League and Chad Nanke as follows:

- Confirmed that the 3000 square foot limit would be the maximum grow size.
- Regulations would require that if a facility had a 10,000 square foot greenhouse, a wall between the 3000 square foot growing area and the rest of the facility would need to be built. The growing area would be in a locked, enclosed area.

- The 3000 square foot limit is the maximum by-right limit. A grower would have to go before Board of Adjustments for a variance to expand.
- The Town owns the Industrial Zoning District at Old Home Manor, which is 820 acres.
- Any MMJ greenhouse at Old Home Manor would require Town Council approval.
- Other than the identified Industrial Zoning Districts there are no other places to grow MMJ in the Town Limits.
- The MMJ project on Road 4 South is underway and cannot be stopped. The owners have vested rights. The facility cannot expand beyond the current proposal. A building permit has not been issued.

The Public Hearing closed at 6:28 pm. Chair Rowitsch stated that this item would be continued until November 17, 2015 for a second public hearing.

MOVED by Commissioner Chuck Merritt, seconded by Commissioner Michael Bacon to continue this meeting to November 17, 2015 so we can have the second public hearing.

**Vote:** 5 - 0 PASSED - Unanimously

- d) Consideration and possible action to rezone approximately 16.25 acres generally located at 1460 West Road 4 North/APN 306-05-031N from AR-5 (Agricultural/Residential 5 acre minimum) to MR-PAD (Multifamily Residential Planned Area Development) and CL-PAD (Commercial Light Planned Area Development).

Director Mayday presented the following:

- A timeline chart outlined the history of events up to the current application for MR-PAD. Mr. Cordovana reapplied for a MR-PAD in August 2015.
- Statutory requirements for Planned Area Development and overlay zoning districts are set forth in ARS 9-462.01. The statutes allow municipalities to regulate planning & zoning matters and use overlay zoning districts to create better developed projects.
- The PAD is in compliance with the General Plan. The Town of Chino Valley includes 65 square miles of land area. Eleven square miles have been developed leaving over 80% undeveloped, vacant land. The impact of this PAD on availability of open space is minimal. The Town of Chino Valley has vast undeveloped stretches of land.
- The PAD is 152 feet from the western property line. The development is located toward the front of the southern side of the property. The setback for the MR is 50 feet from Road 4 North and there is 150 feet from the south side of Rd 4 North to structure. There is good separation room for landscaping buffering to lessen the impact on community. The development would cover 40% of the acres, leaving 60% open for parking, trails, landscaping and parks. The small retail & office uses would provide jobs, goods and services and benefit the local economy.
- Additional water and sewer issues will be evaluated. A Certificate of Insured Water Supply would be required. The number of units to be developed would be limited by the availability of sewer and water systems. The cost of extension of sewer & water is largely borne by applicant.

The ordinance has been heavily stipulated as follows:

- a. Dedication to Chino Valley for 25' (TWENTY-FIVE FEET) Road right-of-way that is adjacent to the Property shall be completed prior to or at the time of recordation of the final plat or sooner as required by the Town Engineer. Dedication of East Road 4 North shall extend 50' (FIFTY FEET) feet from the center line. Failure to dedicate said roadways within 30 days of

request by the Town Engineer shall result in reversion of the zoning to the prior zoning classification.

b. Uses shall be limited to the following:

- Restaurants, cafes and coffee shop.
- Business and professional offices; banks and similar use
- Business, Trade, Dancing, art, music and other educational facilities.
- Indoor and outdoor sales of nursery store
- Public utility buildings, structures, or appurtenances thereto for public service use
- Indoor theaters, assembly halls
- Commercial greenhouses
- Catering services for off-site events
- Casita for overnight stay
- Multiple Family Residential (MR-PAD) in accordance with UDO 3.13 Multiple Family Residential and limited to the 6.55 acre parcel identified on the Development Plan (included for illustrative purposes only and confers no approvals for construction or development)
- Festivals in compliance with UDO Section 3.15 CL: Commercial Light; Section D: Temporary Use
- Western Town activities, subject to final inspection and approval of all structures by Building Official (or his/her designee) prior to initiation of public activities.
- The Development Plan shall be in substantial conformance with all applicable Town Codes, building codes, and engineering requirements unless otherwise modified herein.
- The property owner agrees that the approval of this action confers no additional entitlements or rights to the owner or applicant other than those that are specifically vested herein.
- All structures open to the public or in close proximity to public/common areas shall be inspected by the Building Official (or his designee) and conform to currently adopted Town of Chino Valley Building Codes. No business license shall be issued until said inspections have been performed and all deficiencies have been corrected.
- There shall be no new construction of structures, buildings, appurtenances, utilities, or the like unless and until a Development Plan has been submitted for review and approved as set forth in UDO Section 1.9.4 Planned Area Development Overlay District: PAD.
- Any future additions to or expansions of existing structures shall require amendment of the Development Plan.
- Construction of multifamily housing may require extension of municipal sewer and water service from its closest termination point to the site (depending upon the number of dwelling units) and will require submittal of an Amended Development Plan, which may include a Development Agreement.
- Any amplified music or other noise associated with the uses subject to this CUP PAD shall not exceed 60 decibels at the property boundary.

The next step is a Town Council Public Hearing regarding the decision to rezone. Approval by Town Council would be followed by:

- Sign and record Right of Way Dedication
- Finalize all structures
- Submit development plan
- Start review and approval of Development Plan (Engineering, Planning & Zoning, CVFD)

- Planning and Zoning review, comment & recommendations
- Town Council for review and approval of Development Plan
- Record documents

Mark Sveda, attorney representing the LaVacara Trust, presented the following information:

- The rezoning is a small step to get the project off the ground.
- In order to develop the property, lenders require that Mr. Cordovana have permanent zoning.
- A flexible time frame is needed to work with lenders, the architect and the engineer to determine the proper number of units to built on the property.
- There are issues regarding the sewer and whether there will be a package plant or septic tank.
- Mr. Cordovana is prepared to go forward with the dedication of the Right of Way.
- The neighborhood meeting on October 7, 2015 was very productive. Mr. Cordovana wants to be a good neighbor. He is aware of noise and automobile lights issues and wants to limit any impact to the neighbors' quality of life.

Mr. Sveda responded to questions from the Commissioners as follows:

- The proposed number of units is approximately 100 but there are a lot of issues relating to that number.
- There has been no discussion about an encompassing wall.
- The submitted plans are the initial concept only.
- The plan is to reopen the Windmill House. In order to do so, Mr. Cordovana would have to honor the dedication of the Right of Way and have existing buildings inspected to insure they are compliant with the current code.

Chair Rowitsch opened the public hearing at 6:23 pm. Three members of the public spoke.

- Holly Wolcott lives with her uncle, Gary Grindstaff across from the Windmill House. She spoke against the rezoning.
- Ron Maines stated that he has the right to defend his property rights and has petitioned the court to preserve his right to a referendum. If the rezone passes he is not likely to go away and asked the Commission to vote no on the rezone.
- Jay Bates, a resident and president of Appaloosa Meadows Homeowners Association, spoke in favor of the rezone. Chair Rowitsch confirmed that there will be further opportunities for public input as the project progresses.

Chair Rowitsch closed the public hearing at 6:28 pm.

MOVED by Commissioner Michael Bacon, seconded by Commissioner Chuck Merritt Motion that the Town Council consider possible action to rezone 16.25 acres located at 1460 West Road 4 North/APN 306-05-031N from AR-5 (Agricultural/Residential 5 acre minimum) to MR-PAD (Multifamily Residential Planned Area Development) and CL-PAD (Commercial Planned Area Development), with the conditions of approval recommended by the staff. In addition to that the following condition would also be for consideration for the council:

- The requirement of a Traffic Impact Analysis prior to the rezoning in order to determine if any off- site improvements may be required.
- That the Council hold a second public hearing in order to garner additional input from the neighborhood.
- That the Council consider age restriction for this project.
- That the Council require a preliminary development plan from the developer within two

(2) years of the approval of zoning which shows phasing for the project including a minimum 20% open space throughout the development.

- That the applicant provide buffering and screening from automobile lights upon opening of the Windmill House from adjoining properties.

Motion was opened for discussion. There was no discussion.

**Vote:** 5 - 0 PASSED - Unanimously

**7) NON-PUBLIC HEARING ACTION ITEMS**

There were no non-public hearing action items.

**8) DISCUSSION ITEMS**

There were no discussion items.

**9) PUBLIC COMMENTS**

No public comments were made.

**10) ADJOURN**

MOVED by Commissioner Chuck Merritt, seconded by Commissioner Michael Bacon to adjourn at 8:19 p.m.

**Vote:** 5 - 0 PASSED - Unanimously

---

Chair Gwen Rowitsch

---

Date

**Meeting Date:** 12/01/2015

Amendments to UDO regarding Medical Marijuana

---

**CASE DESCRIPTION:**

Consideration and possible action to hold a public hearing on proposed amendments to the text of the Unified Development Ordinance ("UDO") regarding adopting additional limitations on Medical Marijuana land uses in the Town of Chino Valley, including medical marijuana dispensaries, off site cultivation facilities, and infusion facilities; to provide citizens with another opportunity to provide comments regarding the proposed amendments.

**FACTS:**

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

**ANALYSIS:**

The purpose of this public hearing is to discuss proposed amendments to the Chino Valley Unified Development Ordinance (UDO) with regard to medical marijuana. The proposed changes within the UDO consist of changes to several sections, creating more restrictions upon the cultivation, infusion, and dispensing of medical marijuana.

The UDO currently allows for medical marijuana off-site cultivation and infusion facilities as a permitted use (a use that can be permitted administratively) in the following zoning districts: Commercial Light (CL), Commercial Heavy (CH), and Industrial (I); and as a conditional use (a use requiring a Conditional Use Permit), in the following zoning districts: Agricultural Residential, 36-acre minimum (AR 36), Agricultural Residential, 5-acre minimum (AR-5), and Agricultural Residential, 4-acre minimum (AR-4).

The UDO also currently allows for medical marijuana dispensaries as a permitted use in Commercial Light (CL), Commercial Heavy (CH), and Industrial (I) zones. Dispensaries, off-site cultivation facilities and infusion facilities are all required to maintain a 500' (five-hundred foot) buffer from any school, public or private; public parks, public buildings, or public community centers; any drug or alcohol rehabilitation facility or correctional transitional housing facility; and from any residential zoning district.

The proposed changes to the UDO are designed to further restrict the cultivation, infusion, and dispensing of medical marijuana, as directed by the Town Council at the October 27, 2015 Town Council meeting, and subsequently in Planning and Zoning Meetings on November 3 and November 17, 2015.

History

In November of 2010, the voters of the State of Arizona voted to approve Proposition 203, "The Medical Marijuana Act (AMMA) allowing the cultivation, infusion, and dispensing of medical marijuana within the State of Arizona. The AMMA authorizes municipalities to adopt reasonable zoning restrictions that regulate the manner and placement of registered dispensaries as well as associated infusion facilities and off-site cultivation facilities. The Arizona Department of Health Services adopted rules and Arizona Revised Statutes were amended to reflect the regulation of medical marijuana as authorized under the AMMA, and in response, The Town of Chino Valley began the process of adopting appropriate zoning ordinances to regulate medical marijuana within its corporate jurisdiction.

On April 5<sup>th</sup>, 2011, at the regularly scheduled Planning and Zoning Commission (P&Z) meeting, the Development Services Director, Pat Clingman, explained in a presentation that the Town needed to begin the process of establishing zoning districts for medical marijuana. Planning and Zoning Commission, after discussion voted 4-0 to recommend to the Town Council that amendments to the UDO be made to regulate medical marijuana.

At the May 10, 2011 Town Council meeting, Town Council voted to approve the proposed zoning restrictions and include a 500' buffer from churches. The voted was passed 5-0 with one council member voting in abstention.

At the behest of counsel and with input for the Police Department, the issue of medical marijuana was placed, once again, in front of P&Z Commission for consideration on March 20, 2012. The issue at hand was the required 500' buffer from churches as adopted on May 10, 2011. The Police Department stated that they believed the additional requirement of a buffer from churches would discourage dispensaries from locating with Chino Valley, which would allow for card-carrying users of

medical marijuana to grow their own supply. CVPD pointed out that this posed a possibility of increased abuse and theft. The P&Z Commission voted 5-1 to abide by state regulations for dispensaries, and to allow medical marijuana dispensaries to operate in the Town solely under the State Law with no amendments to the UDO. The Town Council, on April 24, 2012, voted unanimously to follow the recommendation of P&Z.

On September 10, 2013, Town Council directed staff to research and draft medical marijuana regulations to further restrict the proliferation of medical marijuana-related facilities. Staff brought proposed regulations forward to a public hearing (after a separate citizen review was held) at P&Z on November 19, 2013, at which time, the current restrictions on medical marijuana (as referenced in the Summary section, above), were put forth. The P&Z Commission voted to recommend adoption of Ordinance 13-779, attached herein, to the Town Council. At the regular Town Council meeting on December 10, 2013, Town Council voted unanimously to adopt Ordinance 13-779, declaring it an emergency measure, thereby putting it into effect immediately.

This ordinance is still in effect today, and recent developments have brought attention to the issue of medical marijuana, which prompted Town Council to hold a public hearing on October 27, 2015, where members of the public spoke directly to Council about their concerns regarding medical marijuana and the Town's regulations regarding medical marijuana facilities. After hearing public comment, Town Council directed staff to research and develop further restrictions on medical marijuana by amending the UDO. Since then, two public hearings have been held at Planning and Zoning meetings, one on November 3, 2015 and November 17, 2015, in addition to citizen review prior to the public hearing in November 3, 2015. At the November 3, 2015 meeting, after hearing public comment, all of which was in opposition to medical marijuana, staff was directed to continue with amendments to the UDO, and add language clarifying the measurement of 500' buffers from schools, parks, etc. The item was then tabled until the November 17, 2015 meeting. After this meeting, staff consulted with legal counsel regarding a prohibition on off-site cultivation facilities. This amendment was added to the ordinance and presented during the November 17, 2015 Planning and Zoning meeting.

At this meeting, proponents of medical marijuana were in attendance as well as opponents. Proponents of medical marijuana espoused its benefits both medicinally, as well as economically. Though the Town does not receive revenue from the wholesale distribution of medical marijuana, some of the operators of cultivation facilities shared the monthly payroll of their facilities as well as the number of jobs created within the Town, and also addressed security concerns that were raised. One of these proponents also discussed the possibility of creating a study group including proponents and opponents of medical marijuana, staff, and other interested parties. Planning and Zoning Commission tabled the item until the December 1, 2015 Planning and Zoning meeting.

## **RECOMMENDATION**

Staff recommends forwarding the proposed amendments to Town Council for consideration to be heard at the January 12, 2016 Town Council meeting.

---