

## Planning and Zoning Commission Meeting Minutes May 3, 2022

A regular meeting of the Town of Chino Valley Planning and Zoning Commission was held on Tuesday, May 3, 2022, at the Town of Chino Valley Council Chambers, 202 N. State Route 89, Chino Valley, Arizona.

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

**STAFF MEMBERS** present were Laurie Lineberry, Development Services Director; by Zoom, Frank Marbury, Public Works Director; Will Dingee, Senior Planner; Bethan Heng, Planner; Dee Dee Moore, Process Coordinator; Lawrence Digges, Audio/Video Technician.

**CALL TO ORDER:** Chair Merritt called the meeting to order at 6:00 p.m. Commission began with the Pledge of Allegiance.

**CONSENT CALENDAR** – A motion was made by Vice Chair Pasciak and seconded by Alternate Commissioner Zamudio to approve the items on the Consent Calendar. This motion passed unanimously by a 7-0 vote.

**CASE# Z-2022-02:** - This is a request by Gary Zito on behalf of Arizona Heritage Construction, for approval of a rezoning of approximately 3.04 Acres from Industrial (I) to Single Family Residential 1 Acre Minimum (SR-1) for property located at E Granite Creek Lane.

**Bethan Heng, Planner**, presented the staff report and shared that the Applicant was in attendance for this meeting. Staff is recommending **APPROVAL** with stipulations as stated in Attachment A.

**Applicant, Jody Zito of Arizona Heritage Construction**, stated that they planned to split the property into three 1-acre parcels to build homes. He stated the zoning request is the same as neighboring residential properties in the area. There were no questions from the commission to the applicant.

**Chair Merritt** opened the meeting for public comment.

**Julie Tarpley** of 833 W Road 1 South, asked for clarification of what zoning was being asked for. **Merritt** stated that this request was for Single Family Residential – 1 acre.

**Dan Main** shared that most of the land to the east of this parcel was located in a Floodway, not a floodplain, and that it would never be able to be built on.

**John Kuzicki**, Realtor for Mr. Wells, spoke in length regarding the area in question, and that the notifications (2 separate postcards) were not sufficient enough, in his opinion. He stated he was opposed to the rezone, with his objections centering about how this rezone might impact his clients' property to the east. He stated that the rezone could require an industrial sized buffer which might affect the current owner, Mr. Wells' ability to start up a medical marijuana facility. He added that a 500 foot buffer would make most of Mr. Wells property unusable and reduce the property value. He also believed that even though most of the adjacent property is within a FEMA Floodplain and Floodway that it could be a buildable property. **Merritt** again stated that this request was for Single Family Residential – 1 acre. **Lineberry** stated that the General Plan designation was for Medium Density Residential, 2 acres or less in size.

**Rachell Fernow** of 2949 N Road 1, shared her concern that people were buying property and then expecting to rezone into something else, rather than use as it was already zoned. She felt that there was no transition between the residential and industrial properties. She also wanted to know why the commission gets to decide, which property owner has more rights or value to their land than another. She reiterated that Mr. Wells owned property that was zoned industrial and he had the right to use it for whatever he wanted under that Industrial designation. Based on the previous speakers' comments it appeared that this would devalue his adjacent property. **Fernow** wanted to know how many lawsuits the town could afford.

There were no further public comments.

**Merritt** asked staff for clarification regarding the Floodway and Floodplain designations. **Dingee** accessed the Yavapai County GIS Interactive Map and showed on the overhead projection the FEMA flood information. He shared that the darker blue had a Floodway designation and the lighter blue reflected the Floodplain area. The mapping shows that Mr. Wells property is located in those areas. **Frank Marbury, Public Works Director**, attended through the Zoom meeting app, stated that Mr. Wells would be hard pressed to be allowed by the Federal Government to build there. **Pasciak** stated that it appeared most of Mr. Wells property was in the floodway and unbuildable.

**Merritt** stated that there was a comment about buffering. There were many residential parcels adjacent to existing industrial parcels as the zoning currently exists and there is no buffer.

**Applicant Jody Zito** returned to the podium and shared that he was a General Contractor that builds homes and that there were currently existing homes to the west and to the south of this property. **Switzer** asked about the easement to the yet-to-be created parcels. **Zito** stated that an easement would be required when the split occurred. **Somerville** asked if the home would be elevated and **Zito** stated they would be built per code, with natural drainage towards the wash.

There were no further questions for staff or the applicant.

**A motion was made by Vice Chair Pasciak and seconded by Commissioner Somerville to approve ZC-2022-02, as presented by staff and subject to the conditions of approval. This motion passed with a 7-0 vote.**

**CASE# Z-2022-03:** - *This is a request by Thomas Langston, for approval of a rezoning of approximately 6.15 acres from Agricultural Residential (AR-5) to Single Family Residential 2-Acre Minimum (SR-2) for property located at 735 S Road 1 West, Chino Valley, Arizona, APN# 306-29-052A.*

**Bethan Heng, Planner**, presented the staff report and shared that the Applicant was in attendance for this meeting. Staff is recommending **APPROVAL** with stipulations as stated in Attachment A. There were three letters of opposition received from the public. **Pasciak** asked about the landlock issue pointed out in one of the memos. **Merritt** stated that road easements would be determined when the parcel is split. **Somerville** asked how many lots there would be and **Merritt** stated that question could be deferred to the applicant.

**Applicant, Thomas Langston** stated that he currently owned the parcel and explained that he was planning for the future and at this time was not planning to split the property. **Switzer** asked about easements. **Langston** shared that when or if the property is split, easements would be required.

**Merritt** opened the meeting for public comment.

**Julie Tarpley** of 833 W Road 1 South had concerns about keeping the area rural and how they would access the new parcels. She added that water was an issue. She also stated that three years ago she had asked to split her property and was told no. She asked for a clarification on the proposed zoning. **Merritt** stated that the request was for Single Family Residential – 1 acre.

**Dan Main** stated that at one point all of the land in this area was Bob's Farm, but it had been split many times over the years. The prior speaker lives on part of that old farm. There are other neighbors with houses on their lots that were originally part of that land, too. Main felt this action was a good idea, that there was plenty of notice given and easement issues would be determined when the lot was split.

**Juliann Baker** of 2869 N Road 1 East, stated her issues with the current notification process and that only landowners within 300 feet of the property were notified. She felt that the whole community needed to be informed and that the process was not working. She asked which newspaper the ad was placed in..

**Rachelle Fernow** of 2949 N Road 1 East, stated she was curious what it was about this project that created the need to consult the town attorney, or was consultation only because of the threat of litigation.

**Jody Zito**, prior applicant, stated that Bob's Farm has changed from a simple chicken farm to where the town was today. Chino Valley is a place that people like to live with property rather than in a subdivision. He stated that you can't stop the growth. He added that if this was his property, and he was in compliance then he could split it. If the prior speaker wished to split her property, she needed to apply. There were different ideas in Chino Valley and citizens weren't used to trying different things. He also stated that he felt that there was a probability of 10,000 more homes to be built in this town.

There were no further public comments. **Merritt** closed the public hearing.

**Merritt** stated that this request was for a rezone and easement access was not a requirement until the parcel was split, and at that time if there was an easement it would be identified in the survey. **Merritt** directly addressed the comment from **Fernow** where she "wanted to know why the commission gets to decide, who as a property owner, has more rights or value to their land than another". He said that they do not just sit up on the dais and do that. **Lineberry** stated that the commission cannot sit in their role and do anything they want, they are restricted and governed by the general plan and the zoning code. As a property owner, the zoning on your property is your entitlement. A property owner is also entitled to what the general plan reflects as possible land use (zoning). Both of these cases tonight are consistent with the general plan. That is the property owners' right on their property. If the requests were not meeting the criteria explained tonight, the cases wouldn't even reach the commission, because the staff wouldn't allow it. If the cases were not consistent with the general plan, then the general plan itself would need to be amended, which is a lengthy process. **Main** reminded the public that the General Plan was approved by the voters of the town.

**Merritt** reminded everyone that the commission had no authority on water issues, but shared that this town was agricultural, with many farms, but through the State of Arizona over time, water became too pricey and farming was no longer a viable business, so what happens to those large pieces of property?

**Merritt** also asked staff about Ms. Tarpleys' comment regarding her lot split three years ago. **Dingee** said he had spoke with Ms. Tarpley previously and that her property was currently zoned AR-5 – if she chose to rezone, she would go through the same process.

**Merritt** stated that the concerns about the notification process had been brought up to this commission several times and asked Staff to educate everybody again. **Lineberry** explained that the process for public notification was set by state law and that the state requires that only one form of the three or four options listed in State Law are used. She stated (again) that the Town chooses to use all of the options for notification. Staff sends postcards to the properties directly impacted by the action requested which are within a 300-foot radius. The 300' notice is not for the people who may live close by, or for those that drive

by, but for those whose property is directly impacted. Legal Notices are printed in the Daily News because the Chino Valley Review only runs once a week on Wednesdays, and the town ad was run two weeks prior to the meeting. Agendas were posted inside the Post Office, on the Town Hall and the Library external bulletin board, including a complete copy of the agenda placed inside the Library. The Town website has a copy of the complete agenda posted two weeks prior to the meetings. Additionally, a 24"x36" sign was posted on the property.

**Switzer** shared that he had concerns about water with Arizona Department of Water Resources (ADWR) in charge of water but that is the way water works now, and that the public could get involved with ADWR or other water advocacy groups to maybe change some water rules. He added that agricultural land uses much more water than residential uses. **Zamudio** questioned whether there was a map showing the aquifers and what Chino's water amounts were.

There were no further public comments. **Merritt** closed the public hearing.

**A motion was made by Commissioner Switzer and seconded by Vice Chair Pasciak to approve ZC-2022-03, as presented by staff and subject to the conditions of approval. This motion passed with a 6-1 vote with Commissioner Somerville voting nay.**

**Somerville** explained his no vote, stating that his first concern was the water issue. Secondly, the conditions of the roads. More homes create more vehicles, and the roads are already in poor shape. If the roads were better, he would have voted yes. He also stated that there was a vote from the public to raise taxes to fix the roads, which was turned down by the public. He is not opposed to development because he feels the town needs people to move here.

**Merritt** shared that as property owners we all have things we'd like to do with our property, maybe sell some property out of need or to make some money on it. There are always questions of water, roads and grocery stores and other amenities people in this town are asking for and bring up at the commission meetings, time after time. Until the town gets enough revenue, these things are not going to improve. In stopping the town from making any changes the town will cease to exist. We don't need or want to be Prescott Valley or Phoenix. In regards to this rezoning case, when the property is surrounded by residential, it is not a huge leap on the zoning process to approve these requests. Regarding access, that is part of the process during the lot split and must be accepted before anything can be done to the property. **Merritt** stated that he feels that until everyone is ready to step up and contribute money to have what everyone is asking for then this is what's going to be happening. Agricultural in this town, unless it's some sort of Medical Marijuana Facilities, doesn't seem to be viable, otherwise it would still be here. So what will you do with those large tracts of land? Look at it? If that's the case, then you should buy it and own it.

#### **ACTION ITEMS: ONE ITEM**

**TA-2022-07 – GUEST HOUSE- TEXT AMENDMENT – *Text Amendment to section 2.1 of the UDO revising the definition of guest house and replacement of existing section 4.1 in the UDO with general regulations for guest house development.***

**Lineberry** provided background details that in August of last year Staff went before the council and discussed this possible amendment. **Lineberry** explained that currently guesthouses are allowed in certain zoning districts, however guesthouses are not allowed to be rented. Staff researched other jurisdictions to see how they handled guesthouses, and some entities do allow guesthouses to be rented. The Town code currently allows guesthouses on properties that are a minimum of 1-acre in size, with the restriction that RV's are not allowed. Staff is recommending that the guesthouse be allowed to be rented out, with the requirement that the property owner live on site. There has been a shortage of affordable housing nationwide.

**Lineberry** continued with the staff proposal that the new guesthouse would be required to be “stick-built”. The owners would also need to sign an affidavit stating that they understood & agreed to the requirement that they needed to live on-site, if they wanted to rent out their guesthouse.

**Switzer** asked about the installation date of existing manufactured homes and if they would be grandfathered. **Lineberry** stated yes, they would. Currently there are 24 guesthouses that have been permitted since 2014. **Somerville** asked about them being used as Air B&B. **Lineberry** stated that the state has exempted the town from having any control over Air B&B’s. **Pasciak** asked about the fee to have a document recorded and if the owner would pay for that. **Dingee** shared that he thought the fee was under \$10 per page.

**Switzer** asked if there was currently illegal renting of these guesthouses and if Code Enforcement was involved. He also asked if an owner decided to move, and then rent out the home, could they only have one renter. **Lineberry** answered yes, because the owner would not be on-site. **Merritt** thought it sounded good, not perfect, but was the best attempt to bring the situation into focus and control illegal renting and also gives leverage to enact fines. **Lineberry** stated it was very hard to prove that rent is being paid since the federal definition of a family member is far-reaching.

**Chair Merritt** opened the meeting for public comment.

**Donna Armstrong** of 2160 Mohave Street felt that basically there were so many primary homes that were already mobile homes, that if the new guesthouses require stick-built, the renters would live better than the owner and that many guesthouses are just smaller mobile homes.

**Dan Main** felt that this situation has been a historic problem and staff has done a great job. He also shared that the town use to have impact fees that were used for roads and that the Library was built with impact fees too.

**Juliann Baker** of 2869 N Road 1 East, stated her question was that she currently has a mobile home and it’s on 2-acres and if she built a guesthouse to use as a rental, if she moved off the property in order to rent out her house would she have to remove the mobile home. **Merritt** explained that her questions would be answered at the end of the public comment period.

**Mary Seale** shared that she understood the concerns about the guesthouse being stick-built but also wondered why there couldn’t be a cutoff date for the year, like 2020, for the placement of a manufactured home which could be more affordable. She felt that many people may not be able to afford a stick-built home.

There were no further public comments. **Merritt** closed the public hearing.

**Merritt** asked Staff about the comments about the manufactured homes versus stick-built. **Lineberry** shared that Staff was proposing stick-built guesthouses after reviewing other jurisdictions which specifically disallowed manufactured homes as guesthouses. She reminded the commission that this proposal could be changed to include manufactured homes. **Merritt** asked about the owner of the property moving, could there still be rental of the guesthouse? **Lineberry** restated that the owner needed to live on the property in order to rent out the guesthouse.

**Merritt** stated that this Unified Development Ordinance (UDO) revision provides the town the ability to control guesthouse rentals where none currently exists. **Lineberry** stated that there was an option to leave the code as it currently exists, but this amendment would provide protection to neighboring private properties since the property owner would be living on site to oversee any issues or concerns.

**Merritt** again had to remind the public, because there were comments being voiced out loud, that currently the rental of guesthouses was not being controlled and this text amendment was an attempt to bring it into

an area that could be enforced. The proposed amendment may not be perfect but there were additional comments that audience members wanted to voice they would need to attend the Town Council meeting, because the public portion of the current meeting had been closed. The commission doesn't make the rules, but has to abide by them, and responding to the public chatter at the meeting was not adhering directly to the rules. However, **Lineberry** stated the options available are to leave things the way they are, or place these restrictions and keep neighboring property from being infringed upon by renters, who aren't suppose to be there right now, and that there is currently no control over.

**Switzer** stated that he would like to see a recommendation that manufactured homes be allowed as long as they are on a permanent foundation and that even stick-built should have some architectural design to match the existing home. **Lineberry** added that she did find in the other jurisdictions there were design standards and the requirement for permanent foundations. **Merritt** also mentioned defining a manufactured cut-off date for moving existing units onto a property. **Lineberry** stated the currently manufactured cut-off date is 1976. **Dingee** asked **Switzer** if he was wanting only new units. **Switzer** agreed with that comment. **Merritt** felt that older than 5 to 10 years they start to show wear and tear, and he didn't want to go back to 1976. **Switzer** restated that the units needed to be new. **Merritt** said he was ok with that and felt that the recommendation should include units on a permanent foundation,

**A motion was made by Commissioner Switzer and seconded by Vice Chair Pasciak to approve TA-2022-07, as presented by staff and adding the condition that manufactured home would be allowed as long as they are new and built on a permanent foundation with same architectural features as the existing home. Lineberry added that the definition would also be revised to add new manufactured homes. This motion passed with a 7-0 vote.**

**INFORMATION ITEMS – FROM STAFF: COUNCIL ACTION ON PRIOR P&Z CASES:** **Dingee** shared that the Replat of Tract B was approved by Town Council. Currently there were no cases for the June cycle and **Dingee** asked the commission if they would like to have no meeting or use the scheduled time as another work session/training session. Each commissioner shared that they were interested in having a work/training session, except for Commissioner **Welker**.

**Lineberry** discussed UDO book updates and shared that **Dee Dee Moore**, Development Services Process Coordinator prepared the commission members updated UDO Code binders, along with Annexation Maps; Road Map-Urban vs. Rural; Cross Sections of Urban vs Rural; and the Planning Case Schedule Timeline. **Moore** handed out the updated binders to the Commission.

**INFORMATION ITEMS – FROM THE COMMISSIONERS:** **Pasciak** shared why he asked the question about the attorney earlier in the meeting. He stated it was prudent that the attorney review potential conflicts on cases. The email received inferred that he would be directing his client to talk with an attorney. **Pasciak** felt it was prudent to ask that question.

**Merritt** thanked the public for attending and speaking. The Town is always looking for volunteers and those attending may want to consider those opportunities for a larger voice (than their one voice) through a Town Committee.

**INFORMATION ITEMS – FROM THE PUBLIC:**

**Julianne Baker** of 2869 N Road 1 East spoke specifically to the guesthouse item on the agenda and stated that the Town needed to provide affordable housing for the people working here and can't afford to live here and pay \$1800 on a local apartment, if an apartment was even available. **Baker** commends staff for the guesthouse amendment. RV Parks are not an acceptable way to live. The guesthouse provision proposed is a great way to help address the current housing situation. **Baker** thanked staff.

**Rachel Fernow** of 2949 N Road 1 East shared that her organic alliance committee has grown to about 400 people strong and is called Chino Alliance for Responsible Growth and Development. The Alliance will be

holding a community event on May 22<sup>nd</sup> from 12-4pm at the Granite Creek Vineyard and wanted to extend an invitation to any members of staff and the commission. **Fernow** added Council candidates would be in attendance to talk with the public.

**Dan Main** shared that he is concerned about a proliferation of 1-Acre lots with yards of weeds in town and commended staff for bringing forward the ¼ acre and ½ acre lots text amendment because lot prices are ranging 85-95K for 1 acre and that outpriced the normal family from purchasing acreage. All our kids are living in Paulden or Chino Meadows, which has been here since the 1960's. A 2600 square foot house in Molly Rae costs \$700,000 to \$800,000. This town needs to have more affordable housing. The town used to have impact fees, which were used to build the library and a few other things. It would be great to have more money to buy water rights and maintain the roads which could be handled, if Council passed an impact fee then all new development would pay for itself.

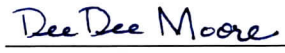
**Merritt** reminded the audience that at each of the previous 2-3 meeting he has discussed that the clapping and cheering for a speaker is not allowed. He then shared that he had a family member that was personally impacted by the lack of affordable housing.

**Somerville** asked about HUD housing and if funding was available to fund affordable homes? **Lineberry** stated that staff would research that and get an answer back with the commission.

**Lineberry** asked the commission if they would like to hear from Mark, the town water expert, at the work session. **Merritt** thought that was a good idea, but would want to limit the time to keep the meeting moving.

**ADJOURN** – A motion was made by **Pasciak** and seconded by **Somerville** to adjourn the meeting at 7:29 p.m.

  
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Charles Merritt  
Chair

  
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Dee Dee Moore  
Prepared By