

Planning and Zoning Commission Meeting Minutes November 1, 2022

A regular meeting of the Town of Chino Valley Planning and Zoning Commission was held on Tuesday, November 1, 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 Teena Meadors, Commissioner Ron Penn, Commissioner David Somerville, Commissioner Robert Switzer, Commissioner William Welker. Alternate Commissioner Richard Zamudio was present.

STAFF MEMBERS present were 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 **Meadors** and seconded by **Pasciak** to approve the items on the Consent Calendar. This motion passed unanimously by a 7-0 vote.

CASE# TA-2022-09 – *This is a request to amend the Town of Chino Valley Unified Development Ordinance, Chapter 154, Section 3.4 "OS" – Open Space/Resource Conservation District, to allow for the Conditional Use of large acre Solar and Wind Farms, along with their associated development standards.*

Will Dingee, Senior Planner, presented that staff had received several inquiries for large acre solar farms. The current code allows this use with a Conditional Use Permit in any residential zoning district. This subject was brought to Council on May 10, 2022, at a work session.

Staff reports that both public and private solar and wind farms should have at least 640 contiguous acres. There is currently no Open Space Zoning within the town limits. **Dingee** then covered each point of the proposed Text Amendment.

There were no questions from the Commission at this time. The public comment period was opened to the public.

John Garden III, was surprised when he read that the minimum area for a solar farm would be 640 acres. His biggest question was why have these types of projects in our town. He said Chino Valley was growing and he believed that if put to a vote, 98% of the citizens would vote against these types of projects. He felt that this was not good for the ecosystem and landscape, that these large scale projects were not for this town.

Rachel Fernow stated that she would like to see the direct impact on our community be a positive experience, such as solar for the pool, solar panels at the new police station and also see any revenue received go to a specific purpose. She shared that she does not know how that kind of thing works. She is not a big believer in using space within the town without the town benefiting in some way. Such as, schools, recreation for the public, parks (or money to our parks) to extend more recreation for our youth. She agreed that this might be a subject to address in the general plan. She identified that this is like the RV park, which should have its' own zoning. In closing she was wondering where the energy would go, and felt that the town should not take the eyesore hit without benefit.

Anthony Griego shared that his interest is based on one of their clients' wish to build a solar farm in Chino Valley. He shared that they have been working on an agreement with Arizona Public Service (APS) for the last two years. This project includes environmental studies for the proposed area and keeping a low solar profile to avoid impacting the views. He stated that the solar power generated goes into the electric grid. In closing, he shared that Arizona has to have 15% of all utilities renewable by 2025.

Commissioner **Meadors** voiced her confusion as to why is Chino Valley so appealing. She shared that there are already large power lines that go through town. With the winter weather and snow, she didn't understand why they would choose Chino Valley. She also asked if this was a reputable company. **Merritt** ask **Mr. Griego** if they are able to control who benefits from the power generated at the site. **Mr. Griego** stated that all power goes into the grid, there is no way to share some with the Town, this is in part because of the 15% renewal requirement. **Switzer** asked if that requirement was statewide. **Mr. Griego** stated it was. **Commissioner Somerville** asked if the power generating devices would be flat panels or towers. **Mr. Griego** said that their plan included flat panels.

Mary Sieles spoke in agreement postponing this amendment until it can be part of the general plan. She stated that there needs to be open space for our wildlife and windmills can kill birds. She didn't feel that enough actual energy was created and would like to see some type of benefit to the citizens of the town

Merritt closed the public comment portion of the meeting.

The commissioners discussed the following items:

Somerville: Inquired about the impact to the land. No sun no energy; especially with rain and snow.

Switzer: Stated that recreational uses and solar should be in separate districts. **Switzer** inquired about the benefit, especially monetarily, to the town. He stated that the General Plan was currently being developed and this proposal needed to be put on hold until the General Plan was completed.

Meadors: Agreed that wildlife and solar needed separate zoning. She asked about the tax benefits to the town.

Pasciak: Supported a separate zone for Open Space and Solar. He clarified that open spaces can also be privately held. He believed that no energy would come to the town.

Penn: Shared that Chino Valley is too small for a wind farm. He inquired about the smallest size acreage for this type of project. **Penn** believes that they should consider not allowing wind farms in Chino Valley.

Welker: Asked if the open space would revert to what it was before the solar panels were installed.

Merritt: Stated he was not in favor of a wind farm and felt they were unsightly and wiped out the land around it. **Merritt** felt that Solar Farms should provide some benefit to the Town. **Merritt** agreed with **Switzer**, that the General Plan would be completed/adopted by this time next year. He felt that there needed to be more input than just the commission.

Dingee stated that on a previous Conditional Use Permit for a Solar Farm, that there was a benefit received by the Town in the form of improvements for a section of the Peavine Trail. **Merritt** said that based on the commissions' dialogue, this text amendment should be tabled for now and sent to the general plan committee. **Lineberry** stated that the next General Plan meeting was scheduled for November 21, and Solar Farms is not a topic on that agenda.

Switzer reminded everyone that the General Plan does not create zoning districts. He felt that there was a need to have a zone just for these types of projects. **Merritt** reiterated that he felt the commission did not have enough information at this point in time and added that this land referenced tonight by **Mr. Griego** was privately owned.

Lineberry stated that staff would move forward with the General Plan Team to determine how they may have managed this concept in other communities.

Merritt stated that the one thing that is clear is the town does not want to have windfarms like in Palm Springs, California. Staff will research installation and other technologies that may be more efficient than windfarms.

Discussions regarding the Open Space Zoning was completed.

MINI TRAINING

Lineberry presented a Mini-Training for the Commission in regards to Due Process for the commissioners and How to be Fair. The courts have determined that the decisions of the Commission do not need to be wise, but must be fair. **Lineberry** stated that she wanted the Commission's decisions to be wise and fair. Be fair – There are 6 things that are looked at for fairness:

1. Adequate Notice: adequate notice includes a legal ad, site posting, mail postcard, agenda on town website, agenda posted at Town Hall, Library and Post Office. She reminded the commission that the state only requires one public outreach venue, but the Town does five types. Also, if the 300' required radius in a larger parcel area does not cover enough parcels, staff increases the radius to ensure adequate neighbor notification
2. Advance Disclosure: – Staff generates the staff report, has interactions with the developer, and posts the agenda packet on the town webpage. A hard copy is also located at the library. Everything that Planning does is a public record. Anyone can come in and request information about a case.
3. Opportunity to be Heard: It is important for people to have the opportunity to be heard. **Lineberry** commended this commission for the job they do to include the public. The commission is kind and patient and very professional is listening to the public and being fair in the proceedings. People need to feel that they have been heard. How the Commission manages that, is important in the eyes of the law.
4. Full Disclosure: If any member of the commission has had any kind of communication with or talking about a case project, it should be disclosed before the hearing is begun. That way the benefit of the owner, neighbors and commission will all have the same knowledge of facts to base their decision on. This could be with the owner, the public, other commissioner, etc.
5. Opportunity to Question Information: The public has the right to ask questions, even challenge what the case is proposing. We are looking for information. The questions are not directly answered to the public speaker but held until the applicant has a chance to answer these questions to the commission.
6. Avoid the Appearance of Impropriety: **Lineberry** stated that as a planner, there is a set of ethics she is required to adhere to and is not allowed to do anything that appears to be in conflict. The live feed, recording and subsequent minutes are shared with the public.

If a field trip is desired to meet with the owner and/or neighbors, it is best to have a Planning and Zoning subcommittee appointed for that activity.

In closing, **Lineberry** praised this commission in that they have kept the Commission fair in the way the meetings are handled, what is shared, and the decisions that the commission makes.

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.

Merritt and **Welker** retook their positions on the dais. **Alternate Zamudio** returned to the audience and **Vice Chair Pasciak** turned the meeting back over to the Chair.

INFORMATION ITEMS – FROM STAFF: COUNCIL ACTION ON PRIOR P&Z CASES: **Dingee** shared that there were two items approved at the Town Council Meeting. The first was the zone change for B&M Painting on the property just north of Ace Hardware. The second was the Text Amendment making the UDO compatible with Sections 50, and 51 regarding utilities.

Lineberry mentioned that the agreement with the state regarding inspections performed by town staff for Manufactured Homes has been approved by Council. The Building Advisory Board has been established and council will appoint those members.

Update on the General Plan. The first series of stakeholder meetings were held, which included different interest groups in the community: historical society, businesses, agriculture, etc. The public is invited to the meeting on November 21, 2022 at the elementary school auditorium. The Matrix Group has provided brochures which touch on the elements of the general plan. **Switzer** asked if the public would be at their meeting on Thursday. **Lineberry** stated it was mainly for staff, town council and the commission.

INFORMATION ITEMS – FROM THE COMMISSIONERS: **Merritt** encouraged everyone to get out and vote next week, take advantage of that right.


INFORMATION ITEMS – FROM THE PUBLIC: **John William** stated he liked what **Merritt** said about getting out and voting. Please read all the pages of the ballot pamphlet, as many of the amendments address the state constitution, especially Amendment 210.

Rachel Fernow shared that she was very proud of the commission. She had been attending the meetings since January, getting involved with this process, and recently attended the Citizen Academy. She liked seeing the public engaged with this commission and encouraged more people to attend and ask questions. She is excited to see what is to come with the general plan process.

Merritt added, in closing, that he also appreciates the commissioners' participation and the discussions that are taking place.

ADJOURN – A motion was made by Meadors and seconded by Pasciak to adjourn the meeting at 7:42 p.m.


Charles Merritt
Chair


Dee Dee Moore
Prepared By