

**PLANNING AND ZONING COMMISSION
MINUTES FOR December 2, 2021**

In Attendance:

Commissioners

Oscar Miranda
John Freeman, Chairman
Dan Muth, Vice-Chairman
Kay Hauser
Carey Dobson (Absent)
Bobby Fite (Absent)
Brad Peterson
Traegen Knight (Absent)
Michael Bragiel
Brad Jarvis

Staff

Matthew Fish, Director
Shanna Pearce, Plan Reviewer
Joe Young, Deputy County Attorney

Working Lunch Session

Called to order at 12:05 p.m.

Item #1 History of Greer Article 6

Chairman John Freeman advised that the intent of the discussion was to provide background for item #6 in the agenda.

Mr. Freeman stated his understanding that Commissioner Michael Bragiel would be recusing himself from item #6. Mr. Bragiel asked legal if he needed to recuse from all of item #6 or just what involved him. Mr. Young advised he could recuse himself from only his discussion. He noted that the commission would need to decide how they would hear the debates, either as a whole or individual properties. Mr. Freeman shared his plan for organizing the process and to vote on by groupings.

Mr. Freeman stated he would feel more comfortable if Mr. Bragiel recused himself from all of item #6 discussion.

Mr. Bragiel questioned the involvement of Mr. Freeman in Article 6. Mr. Freeman explained his involvement and felt that being involved in a document did not create a conflict of interest.

(12:09) Mr. Peterson felt that Mr. Freeman should not be sitting chair on item #6 and noted the past training of conflicts of interest under Mr. Freeman's direction. Mr. Freeman and Mr. Peterson discussed Mr. Freeman's involvement with Article 6 and the community plan. Mr. Freeman corrected Mr. Peterson that in fact Article-6 was created by a County appointed committee of which Mr. Freeman was not a member and stated that he believed Mr. Peterson had confused Article 6 and the Greer Community Plan which are two different documents. Mr. Fish added that he agreed with Mr. Freeman in

his involvement of Article 6 and provided clarification of Mr. Freeman's extensive involvement with the drafting of the Greer Community Plan.

Mr. Freeman clarified that he had opposed, on record, the passage of Article-6 because it did not obtain many things and that on record there was no conflict. Mr. Freeman requested commissioner Mike Bragiel recuse himself from the discussion of item #6.

Mr. Miranda asked if Mr. Bragiel had to make a decision on recusing himself from the work session or just the discussion on the agenda. Mr. Freeman stated both as he had a financial interest regarding property he owned, he should recuse himself from both the work session and public meeting discussion.

Discussion of financial interest and involvement with the development of zoning interests. Mr. Peterson felt Mr. Freeman also needed to recuse himself as he had participated significantly in the writing of Article 6. Mr. Freeman again explained his involvement with Article 6.

Commission and legal discussed conflicts of interest and Mr. Freeman's involvement with the creation of Article 6; Mr. Young stated that he had not heard anything that would absolutely say you should not participate.

Mr. Fish added that he felt Mr. Bragiel potentially did have a financial interest with the zoning he was requesting today but felt that Mr. Bragiel could be involved in the work session discussion. Mr. Freeman stated that any participation of a person with a conflict of interest in an item on the agenda, that person could not be included in any part discussion. Mr. Fish reminded the commission of legal's advisement that a determination of a conflict of interest was up to the individual person.

Mr. Freeman again asked Mr. Bragiel to recuse himself from the discussion of Article 6.

Mr. Jarvis asked if Mr. Bragiel could stay for the discussion and recuse from the vote. Mr. Young stated they are two different topics but if you determine a conflict, you should recuse yourself from the discussion and vote.

Mr. Bragiel recused himself from the discussion.

Mr. Peterson asked legal for clarification on the statute regarding a financial interest and the appearance to have an interest, then you should recuse yourself. Mr. Young stated a "substantial interest." Mr. Young agreed. Mr. Peterson added that if it appears you have an interest in, you should recuse yourself, especially when sitting a chair over this discussion. Mr. Young stated that was a fair statement.

Mr. Freeman asked what financial interest Mr. Peterson felt he had. Mr. Peterson stated that the statute did not say "financial interest," it says, "any substantial interest" and felt that if Mr. Freeman helped create any of this in outside meetings, he did not feel that he should be able to chair the meeting. Mr. Freeman thanked Mr. Peterson for his opinion.

Mr. Freeman provided a history of Article 6 Zoning and recommended following the process as outlined in 2010.

Commissioners discussed the legal process to fully implement Article 6 Zoning and the designation process.

Commissioners discussed how the proposed zones were determined and the process to move forward.

Commissioners agreed the process to handle each opposition as follows: oppositions will be read in groups, Greer Residential (GR-1), Greer Agricultural (GA-2), Greer Commercial (GC) and Greer Commercial Resort (GCR); each applicant will then be allowed three minutes to address the commission, the commissioners will then ask questions and make comments, then a motion to recommend approval or deny per grouping or stipulate any parcel to be pulled out of the group vote and decided on separately, if needed.

Mr. Fish read the zoning objections by A.P.N. and provided staff recommendations.

Item #2 Update on the Marijuana Ordinance

Discussion will take place in item #10 on the agenda.

Work Session closed at 1p.m.

Regular Meeting

Item #1 Call to Order.

Chairman John Freeman called the regular meeting to order at 1:05p.m and notified the attendees of appropriate meeting conduct for the Apache County Planning and Zoning Commission hearing.

Item #2 Roll Call/Determination of a Quorum.

Chairman John Freeman determined a quorum was present with seven (7) commissioners.

Item #3 Call to the Public

Mr. Freeman explained the call to the public versus speaking on a specific agenda item.

There were no public comments.

Item #4 Approval of the minutes from the November 4, 2021 meeting

No discussion.

Chairman John Freeman opened for a motion.
Commissioner Dan Muth motioned to approve the minutes as presented.
Commissioner Kay Hauser second the motion.

Vote, unanimous.

Item #5 PUBLIC HEARING, consideration and possible recommendation for approval of a Conditional Use Permit allowing Chase Vaughan to develop and operate an RV Park of 4-spaces on a portion of his 3.67-acre parcel: allowing for weekly and long-term rental and with storage space available for small boats and ATV/UTV's for on-site renters. The area will be enclosed on the North and East side of the property with a 5-foot privacy fence as well as aesthetically pleasing landscaping. This RV Park will not allow for mobile homes, park models nor RV's older than 15-years old. The property is located in Eager, AZ. A.P.N. 104-03-016G.

Mr. Fish provided staff report and recommended approval.

Applicant Chase Vaughan 1150 Highway 180, Springerville, AZ, did not have any additions to staff report.

No comments or questions from commissioners.

No public comments.

No further discussion.

Public meeting closed.

Mr. Freeman asked staff is the application meet all the requirements of a CUP. Mr. Fish agreed.

Chairman John Freeman opened for a motion.

Commission discussed the process and adding a stipulation for any future change of ownership.

Commissioner Oscar Miranda motioned to approve the CUP as presented with conditions, **1.** Four (4) weekly and long-term rental spaces with storage available for small boats and ATV/UTV's for on-site renters **2.** Maintain a privacy fence; the area enclosed on the North, South and East side of the property with a five-foot privacy fence **3.** Maintain the property and have aesthetically pleasing landscaping **4.** The RV Park will not allow for mobile homes, park models nor RV's older than 15-years old **5.** Maintain adequate water, sewer and waste collection **6.** The CUP follows the property when sold, the new owner must confirm with Community Development and identify themselves as the

new property owner. Mr. Fish clarified the property will be enclosed on the North, East and South side of the property. Mr. Miranda added the South side to the motion.

Commissioner Brad Jarvis second the motion

Vote, unanimous

Item #6 PUBLIC HEARING, discussion and possible recommendation of approval to finalize Article 6 Greer Zones, adopted July 6, 2010 by the Apache County Board of Supervisors and hear any protests of proposed designation. The ordinance is available on the Apache County website at apachecountyaz.gov/community-development and at the Apache County Annex Building in the Community Development office, 75 W. Cleveland, St. Johns, AZ 85936.

Mr. Bragiel recused himself from the commission discussion and vote of Greer Commercial Resort zoning (GCR).

Mr. Freeman introduced the item and provided an overview of the process.

Greer Commercial Resort (GCR)

Mr. Fish provided staff report and recommendation.

102-08-014F proposed GC, owner is requesting GCR. Mr. Fish provided history. Recommended **not** zoning GCR.

102-02-002H proposed GR-1, property owner is requesting GCR. Mr. Fish provided history and proposed future use. Recommended **not** zoning GCR.

102-05-041 and **102-12-001A** and **102-12-059B** all proposed GR-1, property owner is requesting GCR. All are owned by the same trust, 001A and 059B are contiguous. Mr. Fish provided history. Recommended **not** zoning GCR.

102-08-003 proposed GR-1, property owner is requesting GCR. Mr. Fish provided history and proposed future use. Recommended **not** zoning GCR.

102-08-012H, proposed GA-2 and **102-08-014D** proposed GR-1, property owner is requesting GCR. Mr. Fish provided history. Recommended **not** zoning GCR.

102-08-020B proposed GC, property owner is requesting GCR. Mr. Fish provided history. Recommended zoning GCR.

102-11-027A proposed GA-2 and **102-11-032B** proposed GR-1 and **102-11-032C** proposed GA-2 property owner is requesting GCR. Mr. Fish provided history. Recommended **not** zoning GCR.

102-11-035D proposed GR-1, property owner is requesting GCR. Mr. Fish provided history and proposed future use of property. Recommended **not** zoning GCR.

102-63-013 proposed GR-1, property owner is requesting GCR. Mr. Fish provided history. Recommended **not** zoning GCR.

102-11-013 proposed GR-1 and **102-11-014** proposed GC, owner is requesting GCR. Parcels are contiguous. Mr. Fish provided history. Recommended 102-11-013 **remain** GR-1 and recommends 102-11-014 as **GCR**.

102-09-001B and **102-09-002B** and **102-09-010** all proposed GR-1 property owner is requesting GCR. All contiguous. Mr. Fish provided history. Recommended **not** zoning GCR.

Commission discussed opposed GCR zoning

102-08-020B, property owner Mike Bragiel, 90 Main Street, Greer, AZ addressed the commission.

Mr. Freeman questioned Mr. Young on the legal process for Mr. Bragiel's recusal. Mr. Young stated that if he had recused himself from acting as a commissioner, he could present his interest.

Mr. Bragiel noted that the information dated December 30, 2013 Greer designated zones was incorrect and provided a history of his property. He stated that by the definition of GC zoning his parcel did not meet the requirement as his primary residence is on this property however was allowed in the GCR zone. He provided an overview of the area and other GCR and GC properties surrounding him.

Mr. Miranda clarified his property was proposed zoning GC and staff recommendation GCR. Mr. Bragiel agreed. Mr. Bragiel recused himself from further discussion and vote.

Mr. Peterson clarified that the majority of the properties around him are zoned GCR. Mr. Bragiel stated about 80 to 90%. Mr. Freeman disagreed.

Discussed the minimum acreage requirements of GCR. Mr. Freeman asked how he expected to get around the minimum residential acreage requirement. Mr. Bragiel noted "grandfathering" Mr. Freeman did not agree. Mr. Bragiel asked how he could then be considered GC with having a residence. Mr. Freeman stated that he could possibly do a variance.

Mr. Freeman provided the history of Mr. Bragiel's past recommendation of GC zoning and denial of GCR zoning in 2010, due to "an inadequate description of history from the Assessor's office showing short-term rental cabins and more history of the property being used as commercial." Mr. Bragiel did not agree and added that it was also noted in 2010 that he only had two (2) cabins when in fact he had four (4) cabins. No further discussion.

103-08-026, property owner James Wright 14 ACR 1029 Crosby Acres, Greer, AZ accepted his proposed GR zoning but had concerns with nightly rentals and his CC&R's.

Tami Jones, APN 103-08-028 commenting on CC&R's.

Mr. Freeman clarified the purpose of the meeting and the ability to discuss their concerns with Mr. Fish outside this meeting.

Pietro Di Giammarino APN's **102-11-013** and **102-11-014** provided the history of both parcels and his request for both GCR zoning, parcels are contiguous.

Mr. Miranda confirmed proposed zoning 013 GR and 014 GCR and his request for both GCR. Mr. Di Giammarino agreed.

Samuel Iddings APN's **102-11-027A** and **102-08-032B** and **102-08-032C** provide history of the harassment of his family and spoke in opposition with hard zoning.

Michelle Iddings, APN's **102-11-027A** and **102-08-032B** and **102-08-032C** 73 ACR 1324 requested extra time for two separate speakers for objections to zoning. Mr. Freeman recommended several times that she stay focused on the agenda topic of objection to rezone. Mrs. Iddings expressed concerns with Mr. Freeman having a conflict of interest. Mrs. Iddings addressed concerns with zoning, current use of property and continued harassment.

George Iddings APN's **102-11-027A** and **102-08-032B** and **102-08-032C** 73 ACR 1324, provided history of his involvement of Greer Article 6, provided history of harassment, expressed concerns with property rights and objected to hard zoning.

Mary Iddings APN's **102-11-027A** and **102-08-032B** and **102-08-032C** declined to address the commission giving her time to Mary.

Gail Clark-Goss and Marcus Clark-Goss APN 102-07-005B both declined to address the commission.

Commission and staff discussed the history of use that would qualify for GCR.

Mr. Fish confirmed Mr. Bragiel's parcel **102-08-020B** and Mr. Di Giammarino **102-11-014** did have a history of GCR use.

Mr. Jarvis asked Mr. Iddings' what zoning he requested for APN **102-11-027A**. Commission, Staff and Mr. Iddings discussed the proposed and requested zoning and current and future uses on the properties.

Mr. Iddings stated his main concern was revisiting Article 6. Mr. Hauser advised these issues could be addressed at another meeting as they were not on the agenda to discuss today and he could visit with Mr. Fish on future dates.

Mr. Freeman noted the history of Mr. Iddings' property under Greer Phase 1 and his participation in the Community Plan not Article 6. He also clarified the process of implementing Article 6 zoning today.

Mrs. Hauser asked that if the commission recommended to leave the zoning as it was proposed; **102-11-027A** proposed GA, **102-11-032B** proposed GR and **102-11-032C** proposed GA would there be any hindrances to the current uses. Mr. Iddings stated as long as they could operate as they have been and there would be no further harassment. Mrs. Hauser advised that the zoning had no influence on the emotions of neighbors, only use of property. Mrs. Hauser advised that the meeting today was to address Greer zoning and that any other issues or concerns could be discussed at another meeting.

Mr. Freeman confirmed Mrs. Hauser's statement that the GA and GR would allow the same uses. Mrs. Hauser agreed.

Commissioners discussed contiguous parcels/lots should be zoned the same and recommended to staff to identify parcels for zoning.

Commission discussed parcels/lots requesting different zoning with no one attending the meeting to support. Mr. Freeman advised the commission would need to take into consideration of zoning based on the information presented and if they met the qualifications.

Commission discussed open land percentage.

Mr. Freeman opened for a motion for the GCR grouping.

Commissioner Oscar Miranda moved to approve the finalization of Article 6 Greer Zones adopted July 6, 2010 by the Apache County BOS; we have heard protests of the proposed designations from staff. Motion is to approve staff's recommendations as presented stipulating accommodations for contiguous lot zoning.

Commissioner Brad Peterson second the motion.

Just for the record Mr. Freeman noted that **102-08-020B** did not meet the criteria for GCR as indicated in the ordinance and as indicated in terms of lot size.

No further discussion.

Vote, 4 ayes and 2 nays; Chairman John Freeman and Commissioners Brad Jarvis voting nay.

Motion passed

Properties previously zoned GCR requested different zoning.

Commission discussed the legal process with the request to another zone. Mr. Young advised that if the parcel had not been previously zoned GCR they could request other zoning.

Chairman John Freeman opened for a motion regarding APN's **102-11-015, 103-08-003B, 102-12-061J, 102-11-023L, 102-09-016C, 102-11-023Q, 102-11-023D, 102-12-026**

Commission discussed the procedure outlined in the Zoning Ordinance for parcels/lots previously zoned. Mr. Muth recommended to address these eight parcels collectively to submit a re-zone application and go through the process. Mr. Fish agreed.

Commissioner Oscar Miranda motioned to deny the requested zoning for these eight (8) parcels/lots and retain their status of GCR zoned.

Mrs. Kay Hauser second the motion.

No further discussion.

Vote, 6 ayes to 1 nay Mr. Peterson

Motion passed

Mrs. Hauser recommended to staff to notify each property owner and discuss the process to change their zone. Mr. Fish agreed.

Proposed GC, requested GR-1 zoning

102-11-008 proposed GC requesting GR1. Mr. Fish provided history. Recommended zoning GR-1

No discussion

Chairman John Freeman opened for a motion.

Commissioner Oscar Miranda motioned to approve as requested GR-1

Commissioner Dan Muth

Mr. Muth pointed out that by rezoning they were creating existing non-conforming lots and should be taken into consideration when applying to other properties. Mr. Miranda noted the past process and felt it was reasonable to make it non-conforming. Mr. Freeman stated that with the use of the property it was probably legal non-conforming prior to 1987.

Vote, unanimous

Motion passed

Proposed GA-2 (Greer Agricultural) requesting GR-1 (Greer Residential)

Mr. Fish provided staff report and recommendations.

102-05-034C proposed GA-2, requested GR-1 for future split.

102-05-036 proposed GA-2 requested GR-1 for future split.

102-08-013D proposed GA-2, requested GR-1 for future split.

103-08-043B and **103-08-043A** both proposed GA-2, requested GR-1 for future split.

102-05-001C proposed GA-2, requested GR-1 for future split.

Staff recommended approval of all requested zoning with a stipulation that splits are completed within six (6) months of approval. Mr. Freeman questioned what would happen if they did not complete the process.

Commission discussed the best use of the properties, previous zoning and the proper process to rezone these parcels per the zoning ordinance.

Chairman opened for a motion

Commissioner Dan Muth moved to approve **102-05-034C 102-05-036, 102-08-013D, 103-08-043B, 103-08-043A, 103-05-001C** as GR-1 zoning

Commissioner Brad Peterson second the motion

Vote, unanimous

Motion passed

Non-requested zoning, property owner asking for clarification on use

Commission discussed the process as no request has been made to change the proposed zoning.

Chairman John Freeman opened for a motion.

Commissioner Brad Peterson motioned **103-08-025D, 102-05-046** and **102-08-028A** reading and understanding what they have, there is nothing to add on at this time.

Mr. Fish clarified that **103-08-025D** proposed GR-1 and **102-08-028A** proposed GA-2 not requesting different zone than proposed.

102-05-046 proposed GR-1, requesting GA-2 to continue their current use of their property

Commissioner Brad Peterson amended his motioned that parcels **103-08-025D and 103-08-028A** remain GR-1 as proposed.

Commissioner Mike Bragiel second the motion.

Vote, unanimous.

Motion passed

Mr. Bragiel recommended to staff to send a notification to the property owner of **102-05-046** and explain permitted uses and the requirements for GA-2 zoning.

Mr. Fish recommended proposed GR-1 zoning.

Chairman John Freeman opened for a motion on **102-05-046**

Commissioner Kay Hauser moved approval of proposed GR-1 zoning

Commissioner Oscar Miranda seconded

Vote, unanimous

Motion passed

Item #7 Election of a Chairperson for 2022.

Chairman opened for nominations.

Chairman John Freeman nominated Oscar Miranda.

Commissioner Mike Bragiel nominated Dan Muth.

No further nominations.

Mr. Miranda and Mr. Muth accept the nomination.

Vote by show of hands.

Mr. Muth received 4 votes

Mr. Miranda received 2 votes

Mr. Muth elected as the Planning and Zoning 2022 Chairman

Item #8 Election of a Vice-Chairperson for 2022.

Mr. Muth defers to the commission for the election of vice-chair

Chairman opened for nominations.

Commissioner Mike Bragiel nominated Brad Jarvis. Mr. Jarvis accepted.

Commissioner Brad Peterson nominated Oscar Miranda.

No further nominations.

Vote by show of hands.

Mr. Jarvis received 3 votes

Mr. Miranda received 4 votes

Mr. Miranda elected as the Planning and Zoning 2022 Vice-Chairman

Item #9 Setting the date, time, and place of regular monthly meetings for 2022.

Commissioners discussed dates. Agreed to change the March 3, 2022 date to March 10, 2022 due to staff conflict.

Commission agreed.

Chairman opened for a motion

Commissioner Kay Hauser moved to approve with the change made for March 3, 2022 to March 10, 2022

Commissioner Mike Bragiel seconded to motion.

Vote, unanimous

Motion passed

Item #10 Report from Staff to the Commission

Matt Fish provided an update on Article 23 and the proposal of a dispensary in the county and fees. He provided a copy of the current ordinance to the commissioners for review and discussion on the next P&Z work session.

Mr. Freeman confirmed that the RV subcommittee completed its task and had been dismissed. Mr. Fish agreed.

Mr. Freeman confirmed that the Marijuana subcommittee is still a standing committee and will continue. Mr. Fish agreed.

Mr. Freeman advised that there had been some interference with the commission hearing the RV policy and advised the new Chairman to consult with him off-line some of the hierarchy so the commission can hear and find the work of this RV committee.

Mr. Freeman felt there needed to be a committee formed to begin the process of hard-zoning Apache County.

Item #11 Adjourn

Chairman John Freeman opened for a motion to adjourn.

Commissioner Kay Hauser motioned to adjourn.

Commissioner Brad Peterson seconded the motion.

Vote, unanimous

Adjournment 3:20 p.m.