

APACHE COUNTY COMMUNITY DEVELOPMENT

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**PLANNING AND ZONING COMMISSION
MINUTES FOR January 4, 2024**

Commissioners

District I

Carey Dobson
Bobby Fite
Brad Jarvis

District II

Oscar Miranda, Vice-Chair
Kay Hauser
Dan Muth, Chair

District III

Brad Peterson
Bob Pollock
Traegen Knight

Alternate

Michael Bragiel

Staff Members in attendance

Matthew Fish, Director
Shanna Pearce, Plan Reviewer

Tyron Jensen, Deputy County Attorney
Roxanne Drye, Appraiser III

Working Lunch Session

Canceled

Public Meeting

Mr. Fish explained that due to the weather the work session was cancelled and that the items will be on the February meeting agenda. He explained that the chair and vice-chair elect were not able to attend today’s meeting and deferred to the commission to nominate acting chair for today’s meeting. Commissioners nominated Commissioner Tragen Knight. Mr. Knight accepted.

Call to Order.

Acting Chair Tragen Knight called the public meeting to order at 1:07 p.m. MST.

Roll Call/Determination of a Quorum.

Acting Chair Tragen Knight determined a quorum was present by roll call, seven (7) commissioners were present; Bobby Fite, Brad Peterson, Tragen Knight, Kay Hauser, Michal Bragiel, Carey Dobson, and Brad Jarvis.

Call to the Public

No public comments.

Review and approval of the minutes of the Planning and Zoning Commission working lunch session and public meeting held on December 7, 2023.

Acting Chair Tragen Knight presented the agenda item.

No comments.

Acting Chair Tragen Knight opened for a motion and discussion.

**Commissioner Kay Hauser motioned to approve as presented.
Commissioner Carey Dobson seconded the motion.**

No Discussion

Vote: 5 ayes to 0 nays with 2 abstentions; Commissioners Brad Peterson and Acting Chair Tragen Knight were not present at the December 7, 2023 meeting.

Motion carries.

Discussion and presentation of the proposed draft 2 Vernon Area Community Plan.

Item tabled, will be on the February agenda.

Acting Chair Tragen Knight opened for a motion and discussion.

**Commissioner Carey Dobson motioned to approve as presented.
Commissioner Bobby Fite seconded the motion.**

No Discussion

Vote: 7 ayes to 0 nays

Motion carries.

ZONE CHANGE 2023-34 Cultivation Resources, LLC: Consideration and possible recommendation of approval for a Change of Zoning Regulations from AG (Agricultural General) to C2 (General Commercial) for commercial retail. The subject property is located at 2401 E. Frontage Road, Sanders, AZ. A.P.N. 207-22-009. Section 21; Township 21N; Range 28E.

Acting Chair Tragen Knight presented the agenda item.

Mr. Fish provided staff report and explained why this item was back on the agenda. He explained the letters of opposition staff received from area residents, the Chapter Resolutions, the Sanders School District, the Navajo Nation President, the Navajo and Hopi Indian Relocation, and the Navajo Governing Board, and 526 signatures of local residents opposed to the rezone and conditional use permit (CUP) for a dispensary. He explained that due to the overwhelming response in opposition he has changed his prior recommendation and recommended denial of the rezone application and take a good hard look at the CUP.

Mr. Knight clarified that the rezone was the only application on the agenda today and that the CUP had not been applied for yet. Mr. Fish agreed and advised that should the Commission recommend approval and the Board of Supervisors accepted the recommendation the applicant would then apply for the CUP; if the Commission recommended denial of the rezone and the Board of Supervisors accepted the recommendation then the applicant would not be able to apply for a CUP.

Mr. Fite asked in the rezone application could be approved with the condition that there could be no CUP for cannabis operation. Mr. Fish stated that in theory yes. Mr. Knight deferred to the deputy attorney and added that the rezone was to change the zoning to commercial not specific for cannabis. Mr. Fish added that after conversations with Mrs. Henderson and other area members regarding this question they did not want the applicant to even get a foot in the door.

Staff and commissioners discussed the area that the letters and signatures were received from, 30 to 60-mile radius of Sanders plus from the President of the Navajo Nation.

Mr. Bragiel asked the deputy attorney what the better avenue for the commission was; reject the rezone the application or the reject the CUP. Mr. Jensen did not have a recommendation. Mr. Knight clarified that a rezone was considered an up-zone and that if anyone else applied for a rezone he would be inclined to recommend approval and if the commission was to deny the application, they would need to have a good valid reason. He added that he was hesitant to simply deny this rezone without a good valid reason and asked if they could ask what the property was actually going to be used for rather than just commercial. Mr. Jensen felt they could but would have to investigate to be sure and added that he believed that could be considered in their decision today and if there was a denial of the zone change, the applicant had the right to appeal the decision.

Mr. Peterson shared that past rezones had been denied due to the intended use. Mr. Fish stated that on the rezone application the applicant had to state why they were proposing an rezone and that the applicant has been open with their intentions of a dispensary.

Ron Bryce, on the phone, representing the applicant presented their application and request for rezone. He felt this was a two-step process and should be delt with and

considered separately, first the rezone and then the CUP. He confirmed their intent to rezone to commercial and then apply for the CUP for a dispensary. He added that the property could be used for other commercial uses should the CUP for the dispensary be denied and a discussion for a later date. He added that they did not receive any response to letters they sent regarding the rezone, after the prior recommendation of approval in September they had started to move forward with the CUP process, with the same procedures of the rezone and this would be the time for the discussion of the CUP. He requested that the commissioners “divorce” the two application and look at the property as going to commercial because the property had little value as it sat today, and the owner would like to do something with property even if unsuccessful in getting the CUP. He explained how and why they chose this location.

Mr. Knight asked Mr. Bryce what their intent was for the property after the zone change has been approved. Mr. Bryce responded that the main intent was for a dispensary, not because they really want to be there, but it was the best location after considering the Apache County setback requirements and the state allocated the license only for Apache County and they wanted to catch the traffic off I-40.

Mr. Jarvis asked Mr. Bryce if he had been provided the letters and signatures received in opposition. Mr. Bryce stated he had but had not gone through them in detail, the petition was for a zone change and dispensary and again felt that these should be considered separate.

Acting Chair Tragen Knight open the public meeting.

David Moncibaiz, Pastor Chambers, AZ spoke in opposition and stated that the notifications were not easily seen and provided the history of the struggle the community had getting rid of alcohol and drugs; this was not the best location, the traffic would be from the community not I-40 as indicated by the applicant.

Dr. David Tsosie spoke in opposition, provided history of the area and relocation and the issues caused due to the relocation.

Mr. Dobson clarified that Mr. Tsosie that he was opposed to alcohol and cannabis if the rezone was approved. Mr. Tsosie stated he was opposed to a dispensary.

Mary Tom resides next to the proposed property spoke in opposition, she felt that marijuana was a steppingstone to other drugs and stressed the importance of a drug and alcohol-free community, she was opposed to the increased traffic and the crime this would bring to the community. She added that the community was beginning to heal from the devastation brought in by the liquor.

Mr. Peterson asked for clarity the use of the frontage road. Mrs. Tom advised that ADOT, county yard, the New Lands office, and churches at both ends. Mr. Fish clarified with specific locations.

Michael Costigan, Arizona Park Estates, Sanders, AZ spoke in opposition, provided his history in the community and the need for help in the community but not more drugs nor alcohol. He didn't feel that one-acre was not big enough for any commercial use.

John Stratton Chambers, AZ spoke in opposition, provided his history in the community, and felt that commercial drivers would not leave I-40 to frequent the dispensary and that there was no use for the building other than a dispensary.

David Back, Navajo, AZ spoke in opposition, provided history of the community, stated this was not needed in the community that already struggles with drug abuse and asked if the P&Z commission protect the community from drug dealers and asked that they give the community something good and healthy.

Nancy Roanhorse, Sanders, AZ spoke in opposition, provided results of their meeting and stated that the petition had over 600 signatures in opposition, she added that the resolutions were easy to get, the community turned out in mass when the word got out about their meeting, and that many more residences would have attended this meeting had it not been inclement weather. She requested that this be stopped now.

Ella Romero, Sanders, AZ spoke in opposition, provided the history and issues due to their relocation.

Darryl Ahasteen, Nahata Dziil Commission President, Sanders, AZ spoke in opposition, clarified area boundaries, he pointed out that marijuana was illegal on the Navajo Reservation and when they cross the border with marijuana it becomes a criminal act, he noted that by approving this would be encouraging a criminal act.

Mr. Peterson asked Supervisor Nelson Davis that with the makeup of the BoS even if the rezone was passed, the odds of this going through was slim to none. Mr. Nelson stated that he would not argue.

M. Fite asked both Pastor David Moncibaiz and Michael Costigan if they would be in favor or against if the commission recommended approval of the rezone with the stipulation that the CUP for a cannabis and drugs was forbidden.

Mr. Moncibaiz responded that he had not thought about this and added that the community desired growth and development but not with something that would bring in more addiction. He would not be against being commercial for another use but with the information today he would be against it because it as it would allow a foothold in the door.

Mr. Costigan asked legal if this was even legal to limit a zone change for commercial use. Mr. Jensen stated that he was not positive right now, but his understanding was that general commercial did not allow a dispensary and required a CUP. Mr. Fite asked if stipulations could be put on. Mr. Knight commented that would need to be addressed in

the CUP. Mr. Costigan felt that the only commercial use that would be used on the property would be for the community and not the I-40 traffic as indicated by the applicant, the commercial use of the property and building can only be used by the community. He was against approval with a stipulation, it would open the door down the road for a dispensary.

Mr. Peterson and Mr. Fish clarified zoning vs. assessment of property. Mrs. Drye explained that the county assessment is current use not best use of property.

Mr. Jarvis asked Mr. Fish what the requirements of parking on a commercial lot were and did this property meet the requirements. Mr. Fish stated two handicapped and four regular parking space, this would be worked out in the CUP. Mr. Jarvis asked if there was any consideration for large trucks. Mr. Fish stated this would all be addressed in the CUP. Mr. Fish noted that part of the property was being used as a leach field and would be off limits.

Mr. Bryce thanked the commission and public for their time and consideration.

Acting Chair Tragen Knight closed the public meeting.

Mr. Knight commented that with the intent of what the rezone is for and felt that they had ground to consider that. He noted that they all knew the history of the Reb Barn and should be taken into consideration in their decision and stated that he would be opposed to the zoning change and the applicant can appeal.

Mr. Peterson clarified that there was not other commercial zoning and would be out of place with what the community is saying they want.

Acting Chair Tragen Knight opened for a motion and discussion.

**Commissioner Kay Hauser motioned to deny the request of zone change.
Commissioner Carey Dobson seconded the motion.**

Vote: 7 ayes to 0 nays.

Motioned carries.

Mr. Knight commented that marijuana was still illegal on the Navajo Nation but was legal in the State of Arizona, being delt with in our local communities and that we had to deal with what the State hands down.

Report from Staff to the Commission.

Mr. Fish reported that the items in the work session and the discussion and presentation of the Vernon Community Plan will be on the February agenda.

Adjournment.

Commissioner Carey Dobson motioned to adjourn.
Commissioner Bobby Fite second the motion.

Acting Chair Tragen Knight adjourned the meeting.

Adjournment 2:25 p.m. MST.