



APACHE COUNTY COMMUNITY DEVELOPMENT

P. O. Box 238
St. Johns, Arizona 85936
Phone: (928) 337-7526

**PLANNING AND ZONING COMMISSION
MINUTES FOR October 6, 2022**

In Attendance:

Commissioners

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

Staff

Matthew Fish, Director
Shanna Pearce, Plan Reviewer
Tyron Jensen, Deputy Attorney

Working Lunch Session

Vice-Chairman Oscar Miranda called the working lunch session to order at 12 p.m.

Item #1 Status report from and discussion with Fred Gomez regarding his proposed CUP to develop an RV Park in Alpine, AZ.

Director Matthew Fish explained the purpose of the update.

Fred Gomez house #3 CR 2053 Alpine, AZ provided the commission his status update. Mr. Gomez stated that his survey was completed on July 30th and he received the CAD file on September 8th and will be providing this to his engineer to finish his hydrology and sewer system report. He also stated that his traffic study is done but needs to be ratified by ADOT, once they get his hydrology report. He explained the issues he's had with his engineers and was told it would be possible one (1) month for them to complete his reports.

Mr. Gomez summarized his traffic report done to assess the amount of traffic and that the report had determined that his volume of traffic was not considered high enough to require turning lanes.

Commissioner John Freeman asked if his intended use was for full-time residents or part-time transient.

Mr. Gomez stated that an RV resort or park is transient, and winterizing is difficult as



they don't have the right snow load; he expected that the park/resort would be occupied May thru September.

Mr. Freeman confirmed that the park/resort would be closed at a particular time. Mr. Gomez agreed.

Mr. Gomez added that he would only allow an 10x10 shed for full-term occupants (5-6 months) as he did not want them to start making garages and storing things.

Mr. Gomez addressed a prior request to put in trees and stated he would around the perimeter.

Mr. Fish asked Mr. Gomez if he would consider and if it would be feasible to scale back the project size or doing it in phases.

Mr. Gomez responded that he was aware 113 spaces was good sized for Alpine and stated that his cost to bring water to the project was going to be \$50,000, the expense of construction would enormous and that 113 spaces would be the ideal size to recoup the cost of the construction.

Mr. Fish clarified not restricting but doing it in phases, 35 – 38 spaces to begin and then expanded as his business grew and also that he would be recouping the cost to run the water line to his property.

Mr. Gomez agreed and added that one of the conditions was that would also be putting in a fire hydrant that would service the surrounding area as there is not one now.

Commissioner Bobby Fite confirmed that legal counsel was present requested a legal opinion regarding the jurisdiction/authority over water or water issues.

Tyron Jensen, Deputy Attorney stated that was his understanding that local authorities and state of Arizona had jurisdiction over water rights, and that Apache County did not.

Mr. Fish agreed and stated that it was also that this was his understanding and added that the commission had to take this into consideration issues such as water supply when making a recommendation for conditional use permits.

Mr. Fite questioned the authority of the County Health Department over water and septic. Mr. Fish stated the Apache County Health Department had authority make sure wastewater was being handled properly but again the county had no authority over potable water.

Mr. Freeman confirmed that the county would be the permitting authority specifically granting the conditional use permit. Mr. Jensen agreed.

Mr. Freeman added that as the permitting authority the commission had to ensure that all the requirements for conditional use permit use were adequately and correctly meet and



therefore the commission had to ensure that there was adequate water supply, adequate septic and any other requirements from whatever authorities that all the conditions were met. Mr. Jensen agreed.

Mr. Freeman stated that to point, the commission must consider all the water, septic, environmental etc. that would be involved. Mr. Miranda agreed.

Mr. Fite questioned how the commission would get that authority. Mr. Jensen advised that the commission did not have the authority to change any of the water, septic or any other requirements from other authorities however, to issue the permit the commission had to take into consideration and make sure steps were taken for those requirements.

Mr. Freeman noted that it was more than consideration, the commission must ensure that those standards are correct. Mr. Jensen agreed.

Mr. Freeman noted the difference between shall and may, his point was it was not a consideration nor a want but a must, the commission needed to make sure a lawful permit was issued, that the permitting authority had done that. And to clarify Mr. Fites' question how the commission got that information.

Mr. Fish explained through a third-party hydrologist or engineering company.

Mr. Miranda clarified that the commission had received a letter from the general manager, at the time, that Alpine water improvement district was able to provide water service for the proposed spaces. Mr. Fish agreed.

Mr. Miranda also clarified the commission had received a letter from the fire department stating that they were able to handle emergency needs for the park. Mr. Fish agreed.

Commissioner Brad Peterson agreed and added that all the information had been brought before the commission before and didn't understand why they were rehashing today.

Mr. Freeman stated it was to clarify the commissions responsibility whether or not there is another entity involved in setting the standards, controls and requirements, as the permitting authority the commission had to ensure the reports were correct.

Mr. Peterson reiterated that all the information had already been brought before the commission and that it was not within the commission's authority to second guess the engineers and hydrologists, the commissions role was to take the information provided and apply it to the application.

Mr. Freeman felt that cross purposes were being discussed and explained that the commission was the permitting authority and as such they needed to make sure that Arizona Department of Water Resources (ADWR) standards requirements were met. Secondly, if the commission is aware that the engineering report was erroneous the commission, both ethically and legally needed to make it known.



Mr. Miranda commented for clarification that the hydrology report was pending and that Mr. Gomez's property was within the Alpine Water Improvement District and to confirm that the letters were in the file and that Mr. Gomez wanted to make sure that the materials and labor to get water to his lot, which he is entitled to because he was in the district can be done and he is willing to do that and there was a letter from the water board that they can handle that.

Mr. Gomez added that the septic system had no leach lines so he would not contaminate any of the aquafer and he had discussed these concerns with the forest service as well as the fencing concerns for the elk.

Mr. Freeman stated to Mr. Fish that he was surprised with how the agenda item was written and that it should have included the recommendation he had made to the chairman during Septembers meeting and the chair accepted that the public would be allowed to speak with the commissioners during the work session today and discuss their concerns with this project, he requested that they move on to this concern.

Mr. Miranda agreed and added that the chairman could make that determination and wanted to make sure that Mr. Gomez had had the opportunity to explain his status and what was pending and noted that the hydrology report and ADOT reports were pending.

Mr. Fite asked Mr. Gomez when he felt the hydrology report would be completed. Mr. Gomez stated the engineering firm he had hired had told him one (1) month from when they start. but they had not given him a start date. Mr. Fite asked if he had a projected start date. Mr. Gomez stated he did not.

Mr. Miranda noted that there would be no effect of the distribution of the water line to his property as it was a separate issue and would be handled by the water district as they were the governing authority.

Mr. Miranda invited Betsy McKensie to address the commission and advised her any other public members wishing to speak that this was not a finger pointing or discussion back and forth and they would address the commission directly.

Betsy McKenzie #224 CR 2117 Alpine, AZ provided information to the commission from her readings of state law and excerpts from the Arizona State Constitution related to zoning, private property rights and her understanding of eminent domain and due process, she stated that the procedures of considering a CUP provided due process.

Mrs. McKensie provide handouts.

Mr. Freeman asked Mr. Jensen if he agreed with Mrs. McKenzie's statement Mr. Jensen agreed regarding eminent domain and due process.

Mrs. McKenzie pointed out that law was very different than actually discussing how much zoning or how much control individuals felt an authority should have and stated that there had never been a successful deciding factor that a planning authority had the



ability to enforce land use regulations and stated that she felt this got misconstrued when land use regulations were changed after property was purchased, which wasn't the case in this matter.

Mrs. McKenzie shared that she had read two (2) books regarding trailer parks and highlighted the difference between a park model and travel trailer, she admitted she had a hard time differentiating between the two (2), you either want to live in them or travel with them and you could travel more easily in an RV but find people living in an RV.

Mrs. McKenzie shared points from the two (2) books, both books written by sociologist' 1. It wasn't the type of house you lived in; it was whether you owned the land under it. 2. There was a huge trend to live more simply, to live in smaller more affordable homes 3. The financial trap they fell into when buying an RV or park model, devaluation, with no opportunity to build equity.

Mrs. McKenzie added that when discussing affordable housing, although it might be cheaper to live in a trailer park... Mr. Freeman asked what the relevance was to the topic in Alpine. Mrs. McKenzie replied she wanted to set straight whether these would be permanent dwellings and help with affordable housing, that it had been stated but not made clear in any revised application that this development would be strictly transient, her concern was that Apache County did not have the wherewithal, the means, nor the feasibility to enforce transients. She added that Mr. Gomez had said it would be transient however, it wasn't written in his application, she would like to see the commissioners set forth a method that would enforce that it was strictly transient, in order to fall under the auspicious of a truly commercial development.

Mrs. McKensie provided handouts to the commissioners of a blog she found on the internet of how people were finding ways to permanently live in RVs, an issue coming down the road pertaining specifically pertaining to this issue and this county.

Mr. Peterson commented that he had spent most of his life living in a travel trailer. He reminded that Apache County was the poorest county in the state and the 6th poorest in the nation and that lot of people living in a travel trailer was because that was all they had; they buy inexpensive lots in this county, so they have a place to go. He added that that he didn't see how eminent domain applied and noted that the primary role of the commissioners was to determine what someone wanted to do on their property would work on their property without changing the zoning.

Mr. Fish clarified that Mr. Gomez was not requesting a zone change from agricultural (AG), the CUP would allow for his proposed use within his current AG zone.

Mr. Miranda clarified that his intent in allowing Mrs. McKenzie to speak today was to educate the commissioners on topics they may not be familiar with, to gather information to help make an appropriate decision.



Mrs. McKenzie recommended that the commissioners read the bullet points presented in her handouts and noted that a critical point for someone living in affordable housing was that they own the land underneath their dwelling.

Mr. Freeman stated that he and Mr. Peterson agreed precisely that throughout Apache County there were areas that had their own land use, property use, ideologies; their expectations are different of property rights and land use, as it should be. Living in an RV may be a choice people make and other people may have different choices. What he thought he heard Mrs. McKenzie state was a blanket statement, that you should live in an RV, he didn't think she meant that. Mrs. McKenzie's responded; "I did not mean that." Mr. Freeman continued that he and Mr. Peterson agreed, the commission had to respect property rights throughout the county and could not impose any one areas values nor property right expectations on another area where the consensuses of the community and property owners dictate the forward-looking uses of their properties.

Commissioner Carey Dobson noted his son's profession and use of his trailer and stated that with these types of jobs workers need a place to stay, there isn't always affordable, temporary housing where transient workers go. That is what these parks are for, it doesn't mean they are not wealthy, but why buy property if they live in a different place temporarily for work?

Mrs. McKenzie agreed but didn't think that they wanted the whole state to be the same no matter where you went. She noted that Mr. Dobson's son was still upwardly mobile, so he had not fallen into a financial trap where he can't afford other options or if he was financially strapped does he have the option of being able to balance equity with paying rent which was the different between owning the dirt and paying park fees.

Mr. Peterson commented that it was his understanding that there were four (4) other trailer parks in Alpine that were booked by the end of May, so there is no room for other visitors who want to come and stay within the beautiful town of Alpine without having another facility to go to because if you go to the woods you have 14-days and then you have to move a certain distance. Mr. Peterson express a thought that it seems this RV park has a demand need in Alpine.

Mr. McKenzie responded that there may in fact be a need but was curious why there had not been any proactive planning to figure out where the best place for that would be.

Mr. Fite requested a legal opinion regarding Title 12 Chapter 8 handed out by Mrs. McKenzie, under 12-1134 "*a legal entity cannot put a rule or regulation on a person's piece of property that diminishes their valuation without just compensation*" and how this applied to Mr. Gomez's proposed development of his 11.5 acres. Mr. Jensen explained that the land would not be diminished; if approve the proposal would increase the value of the meadow, but if denied the value would not diminish from its current value. Mr. Fite requested a legal opinion regarding the Alpine plan and appendixes approved by the Board of Supervisors (BoS), noting that opposition has brought up that the Alpine plans stated, "*no RV's or trailer parks*". He added that the Alpine plan was approved by



the Bos and requested confirmation that appendix A, B, and C were not approved by the Bos.

Mr. Fish stated it was his understanding that they were not approved by the BoS and that they would be approved later on.

Mr. Fite noted appendix B stated no RV or trailer parks, and this was an issue that kept coming up with the opposition and asked that since this was not approved by the BoS would it be pertinent to the approved plan. Mr. Fish stated it was not. Mr. Fite clarified it would not be pertinent since it wasn't approved by the BoS. Mr. Jensen explained that if it hadn't been approved by the BoS it wasn't a ruling.

Mr. Freeman challenged the legal opinion.

Mr. Fite stated that he was asking the county attorney and in his opinion the commission had to accept the county attorney's opinion because they are the only governing body the commission was to abide by.

Mr. Freeman requested a point of order as there was an open question with a conclusion that this question needed to be clarified before moving forward.

Mr. Miranda and Mr. Fite disagreed and believed that the attorney had clarified the question. Mr. Freeman disagreed and asserted to correct their impression. Mr. Miranda allowed Mr. Freeman the floor.

Mr. Freeman stated that the commission did not have a legal opinion at this point they had an opinion by an attorney present not a draft, not a signed document, not a legal opinion, the commission had some guidance. Mr. Freeman referred back to Mr. Jensen's earlier statement, that the BoS had reapproved the Apache County Comprehensive Plan, with the varying community plan back in 2019. Mr. Fite disagreed and stated that the Alpine appendices were never approved by the BoS. Mr. Dobson commented that it wasn't signed. Mr. Freeman stated that was a key critical point, did the document that was approved by the BoS that community plan contain those appendices, that's a question of fact. Mr. Fite stated they were separate. Mr. Freeman asked if there was proof. Mr. Miranda stated that his opinion was that the appendices came in later because there was a discrepancy in the Alpine plan that said they can have a trailer park within 300 feet of a highway. Mrs. McKenzie stated "May". Mr. Miranda agreed, "May" have a trailer park within 300 feet of the highway and then another group had submitted an appendix outlining what would typically be an ordinance but not approved by the BoS as an ordinance, in order to be applicable, it had to be an ordinance. Mr. Freeman stated that if it was a question of fact, it should be easy to differentiate and show that the appendix had not been attached to the original approved community plan. Mr. Miranda stated that staff could look into this. Mr. Jensen clarified that his opinion was based on Mr. Fite stating that the appendices had not been approved by the BoS. Mr. Fite stated they had been told that they had not been approved.



Frank Gonzales addressed the commission regarding the Alpine water district and Alpine sewer authority that would service Mr. Gomez. He advised that the board of directors and interim manager were making decision based on an administrative assistant who has no water experience other than working under the former manager and that several meetings had been held which the water authority had made several votes that they are not going to hook up Mr. Gomez until they conduct a thorough study of the volume of water the park would consume and evaluate the impact on the water district and conduct a thorough study of the sewer. He noted that when the original application was submitted it was not based on an RV park, but on a forest service plan for several homes at a site across the highway, there were no RVs involved, and to his knowledge had not been updated. He explained that he had attended one (1) meeting where the board unanimously put the hookup on hold until they could perform these studies, at least two (2) of the board members indicated that it would take a year to complete, putting this well into 2023. He didn't want to see Mr. Gomez held up in fact he had supported his cabin project and he is not opposed to an RV park however, there were some infrastructure issues that had not been answered because there had not been enough time for studies. They have researched all the community wells in Alpine and have shown a drop in water levels in the last 5 years that was not being replenished due to the lack of snow; not just a couple of inches, some of the wells have dropped as much as 80 percent adding that their infrastructure was having a hard time keeping up with their growth and that some business are for sale because people are concerned about these issues. He stated that he had heard Supervisor Davis said that Alpine was the jewel of the county; even though the county was one of the poorest in the country and the state Alpine was one of the gems of the state and we had to protest it or we were going to lose it. All he asked was for time, we are trying to play catch-up, and we are working with the Arizona Department of Water Resources and with a hydrologist, someone unbiased with Mr. Gomez and me because we want to make sure we don't hurt Mr. Gomez and the rest of the community.

Mr. Freeman asked who "we" was referring to.

Mr. Gonzales advise, himself and former water district Dan Hansing. Dan had planned on attending however, he over sees 4 of the 7 large well communities in Alpine and one of the wells had tested positive for E-coli, he was taking samples for testing. He added that he'd been a public servant for over 40 years and Mr. Miranda was a public servant, their intent was not to fight with Mr. Gomez, all they were asking for was time to make sure their infrastructure could keep up with this kind of growth.

Mr. Dobson asked if Mr. Gonzales had any of the written documentation from the water company stating they would not supply Mr. Gomez.

Mr. Gonzales stated he did not, all he could tell the commission was that the Alpine Water District were postponing hooking Mr. Gomez water up at the proposed RV park site.

Mr. Dobson asked him if he had that documentation. Mr. Gonzales stated, "he was right there, ask him he's (referring to Vice P&Z Chair Oscar Miranda), the chairman of the



board of directors you don't need me, you can ask him." (Mr. Maranda is on the Board of Directors for the Alpine water District)

Mr. Miranda advised that Mr. Gomez's property was on the agenda for the last Thursday of October to consider the connection. Mr. Gonzales stated that it would take a year to complete the study. Mr. Miranda stated they had not started the study they were relying on a study 1983 hydrology report and the experience and knowledge of personnel.

Mr. Gonzales added that as he ran a coop water service for 10 years you cannot do a water study in 30-days; the commission may not know that, but he knew that, and I know that Mr. Gomez is doing a hydrology study and had been working on it for at least 3 months and his guy is gone for another 30-day so if he wanted one done it would not be done before Christmas.

Mr. Gonzales added that water was the life blood of Arizona, and this was the main water in Alpine, if we cripple this water service you were hurting the town; all they were asking for was a little bit of time. As Mr. Freeman stated before, if you push this permit through too fast, too soon without the answers you need to know, as the issuing authority you could be making an infrastructure mistake.

Mr. Freeman asked if you were to summarize for the commission issues that need to be resolved so that the commission was knowledgeable, you said that there needed to be a current report on the availability of water bring able to be supplied currently from the water company.

Mr. Miranda stated that the water company had already acknowledged that they could service the park, in writing. Mr. Gonzales stated without a water study. Mr. Miranda continued and stated that what Mr. Gonzales has said there needs to be report the whole area of Alpine and how the wells were being used throughout the whole valley because the wells that the water companies' control are just a portion of all the wells that are in the community.

Mr. Gonzales did not agree and stated that what he was saying was that a study needed to do that in addition to what Mr. Gomez's' RV park would use because it would affect the community.

Mr. Miranda understood and again added that they had a letter that said they could accommodate but given the question that Mr. Gomez is doing a hydrologist study for his park and how much water would be needed.

Mr. Freeman stated that the question was from the accuracy of the statement from the water company, do they have the data to support their ability to provide that service.

Mr. Miranda speaking from his knowledge of the water company, all the wells have maintained a static level for years, including the 1982 well that was estimated to serve about 900 connections, he noted that an RV uses less water than a home as they are very transient. However, he wanted to close the loop.



Mr. Fite noted that Alpine water knew for a fact exactly how much water each space will use in the existing parks. Mr. Gonzales agreed but said they were considerably smaller. Mr. Fite noted about half, but they knew the exact amount registered per month, per week, per day, each space used on an average. So, there was an accountability on the use.

Mr. Gonzales stated their decision was also protecting Mr. Gomez, if you look at this from a planning infrastructure point of view, if the drought in Arizona keeps going 5, 10 years from now and Mr. Gomez must shut down because of a lack of water supply, he loses his business. Mr. Freeman noted that was his risk.

Mr. Jarvis asked Mr. Fish who oversaw the water district when we received the letter and were they still in charge. Mr. Fish stated Steve Christensen was in charge is and no longer working at Alpine Water District.

Mr. Jarvis asked if there had been any other letters received from the Alpine Water District stating anything that they had already stated to us prior. Mr. Fish stated to date we have not.

Work Session adjourned at 1 p.m.

Regular Meeting

Item #1 Call to Order.

Vice-Chairman Oscar Miranda called the public meeting to order 1:10 p.m.

Item #2 Roll Call/Determination of a Quorum.

Vice-Chairman Oscar Miranda determined a quorum was present with seven (7) commissioners present as noted above.

Item #3 Call to the Public

Mr. Miranda opened the call to the public and allotted each speaker three (3) minutes to address the commission.

Alan McDougall 23 county road 2089 Alpine, AZ yielded his three (3) minutes to Chris Anderson.

Chris Anderson county road 2134 House 1 Alpine, AZ spoke regarding the debate concerning the ordinance or the plan which applies, their attorney's felt that the original plan was prepared in 2001, the Apache County Comprehensive Plan which plans are being adopted or readopted and incorporated into the comprehensive plan adoption, language they gleaned from records before. So, in 2001, 2017, 2019, 2022 you have continued to adopt the Alpine Community Plan, in the space of all the adoptions and support of the Alpine Community Plan he asked the attorney if he would furnish any of



the records, brought up by Mr. Freeman. That is, did the BoS adopt the Alpine Overlay Appendices when they readopted the Alpine Community Plan in 2019? He provided a summary of the letter the group he belongs to had received from their attorney and what had previously been sent to the county but had not received any comments back.

“in the 2019 Apache Comprehensive Plan adopts the 2001 Alpine Community Plan, which community plan provides the Alpine overlay ordinance, a supplement to the Apache County Ordinance and explicitly prohibits RV parks uses in Alpine. As a prohibited use the RV park certainly does not further the intent Alpine overlay ordinance and should be denied.”

Mr. Anderson stated that with this legal rendering he wanted to refer to the Apache County Ordinance Section 1107 and the special considerations when offering a CUP; being harmonious and in accordance with the specific objective of the comprehensive plan and subarea plans. He stated that Alpine was a pristine community and like Greer they had taken steps and they didn't want this project. Alpine would be changed dramatically by a high-density project and this project was high-density; was this project harmonious with a rural community.

Mr. Anderson told the commission that they were in charge in making a decision about this and they had to grant Gomez a CUP and he felt they were wrong and the premise was wrong and that they needed to revert back to the Alpine Community Plan. The fact remained if they considered granting a CUP was this in accordance with what was good for Alpine, is this harmonious, did this benefit the community? The people of Alpine didn't think so and he would prove it by providing a petition signed by property owners in Alpine, stating the RV Park is not what folks in Alpine wanted and they needed to consider if this was the right thing. He stated Alpine simply did not want this project.

Patricia McDougall 23 county road 2089 Alpine, AZ yielded her three (3) minutes to Betsy McKenzie.

Betsy McKenzie #224 county road 2117 Alpine, AZ believed that a confirmation had been reached that the Alpine Community Plan had been adopted and that were waiting for a final opinion regarding the appendixes. There was some confusion regarding the question, Mr. Miranda stated we would proceed with the call to the public.

Mrs. McKenzie referred to the Alpine Community Plan related to the location of commercial businesses, page 17, “the areas primary residential and open space character, compatibility of commercial activities with surrounding land uses, visual appearance, traffic generation, water and sewer, noise and air quality.” Page 20, “attractiveness of spaciousness between homes and developments, the significance of the views and openness and visual qualities designed to complement the landscape not degrade it.” Page 21, “maintain and protect important natural space.” Page 24, “the task of those responsibility of those to manage change and grow in ways that prevent damage to the character and livability of Alpine.”



Mrs. McKenzie suggested some conditions to be placed on the application, 1. All lighting be dark sky compliant 2. Reduce the density of site by at least 50%, per the Alpine Community Plan page 22, “max density for multifamily residential development is no more than 4 dwellings per acre.” 3. Require on-site management to help control lights and noise at night and help encourage people to be fire wise. 4. Assess a cost of development fee, clearly outlined and discussed in the Apache County Comprehensive Plan that the developer pays a cost of development fee that not only provides something good for the community but also for the development i.e., sidewalk or path to connect the development or a walk around the perimeter of the development 5. All runoff is controlled, treated, and filtrated to help preserve the riparian characteristics.

Frank Gonzales 29 county road 2087 Alpine thanked those that spoke and the commissioners for listening and noted that this had divide their small town and he had tried to treat everyone the same but had never seen a town ball up over an issue such as this and wanted the commission to know that they had a difficult decision to make and he respected what they had done and thanked them for their time in listening and the time they put in.

Item #4 Approval of the minutes from the September 1, 2022, meeting.

Vice-Chairman Oscar Miranda opened for a motion and discussion.
Commissioner John Freeman motioned to approve as presented.
Commissioner Brad Peterson second the motion.

No Discussion

Mr. Miranda called he question.

Vote, 4 ayes to 0 nays with 3 abstention, Commissioners Bobby Fite, Kay Hauser and Brad Jarvis were not present at the September 1, 2022, meeting.

Motion Carried

Item #5 PUBLIC HEARING, consideration, and possible recommendation for approval of a Subdivision Major Plat Amendment application to allow Becky Ivins to split her 9.3-acre lot creating five (5) new lots; four (4) two acre lots and one (1) 1.32-acre lot. Property is located in the Hidden Paradise Subdivision in Vernon, AZ. A.P.N 106-25-010.

Director Matthew Fish provided staff report, recommended approval without conditions.

Mr. Freeman asked staff what the proposed use would be. Mr. Fish advised currently it was vacant land.

Applicant, Becky Ivins 45 county road 8405 explained her purpose for subdividing, adding utilities and pads for small cabins and that two (2) acre lots were more affordable.



Mr. Freeman confirmed the use would be residential. Mrs. Ivins agreed.

Mr. Miranda confirmed she would be building cabins. Mrs. Ivins agreed, one (1) per lot.

Mr. Miranda asked if it was her intent to live there. Mrs. Ivins declined and stated she would live across the street and the lots would be sold.

Mr. Fish added that the road was very well maintained, no issues with ingress or egress.

Mr. Miranda opened the public meeting.

No Comments.

Mr. Miranda closed the public meeting.

Vice-Chairman Oscar Miranda opened for motion and discussion.
Commissioner John Freeman motioned to approve as presented.
Commissioner Bobby Fite second the motion.

No Discussion

Mr. Miranda called the question.

Vote unanimous, 6 ayes to 0 nays
Motion Carried

Item #6 **PUBLIC HEARING**, consideration, and possible recommendation for approval of a Conditional Use Permit application to allow Barbara Bartels to place a 2023 24 x 48 manufactured home on her one-acre parcel to be used as her primary residence and converting her current 600 square foot home into a guest home. Property is located in Vernon, AZ A.PN. 106-56-011A.

Director Matthew Fish provided staff report, recommended approval without conditions.

Applicant, Barbara Bartels 4 county road N3351 Vernon, AZ explained that the manufactured home (MH) would be used for her primary residence and her existing home would be a guest house.

Mr. Peterson asked if she would be using the existing home as a rental or just for family. Mrs. Bartels stated it would be used just for family and friends.

Mr. Miranda opened the public meeting.

No comments.

Mr. Miranda closed the public meeting.



Vice-Chairman Oscar Miranda opened for a motion and discussion.
Commissioner Brad Peterson motioned to approve as presented.
Commissioner Brad Jarvis second the motion.

No Discussion

Mr. Miranda called the question.

Vote unanimous, 6 ayes to 0 nays.
Motion Carried

Item #7 **PUBLIC HEARING**, consideration, and possible recommendation for approval of a Conditional Use Permit application to allow Jeanne Begovac to place two additional park model homes and fire pits on her 3.48-acre parcel in the Hidden Paradise Annex subdivision to be used as guest homes for family and friends and also seasonal paying guests, from April to November. Property is located in Vernon, AZ A.P.N. 106-26-003D.

Director Matthew Fish provided staff report, addressed concerns about her proposed fire pits and shared suggested conditions received from a neighbor; 1. Rent to adults only, no kids 2. Quiet time 10pm 3. Limit the number of people allowed per site 5. No off-road vehicle allowed within the area 6. No hunting No firearms 7. No trespassing would fencing be required 8. No drinking or disorderly tenants 9. Consequences, where is the sheriff's office, response time. If the Board of Supervisors allowed the CUP, would it automatically allow others to follow. Mr. Fish addressed each suggested condition and the concerns regarding the fire pits and explained there were no issues with fire department access as she had a loop driveway.

Mr. Miranda clarified trespassing was considered when a person refused to leave your property when asked. Mr. Jensen agreed, either ask or post on the property.

Mr. Freeman requested clarification that the use would be changed from residential to commercial as the application stated the property would be used for seasonal paying guests. Mr. Fish disagreed and stated it would be covered under the CUP and would still be zoned agricultural general (AG). Mr. Freeman stated that it's zoned AG but that the application should include a commercial use statement if the intent of the applicant was a commercial use. Mr. Fish felt the statement was made. Mr. Freeman felt the CUP should include in the application that it's going to be used as a commercial use.

Mr. Miranda added that the commercial use should be limited to a specific time.

Mr. Freeman stated the question was this was advertised as a residential use. He questioned whether the CUP application should changed the use from residential to commercial.



Mr. Jensen requested clarification these would be used as an Airbnb, single family nightly rentals. Mrs. Begovac agreed. Mr. Jensen advised that the use did not need to be changed, it could remain residential as anyone can rent their homes out. Mr. Freeman stated these weren't homes, these were additional guest cabins, if this had been just a home and the applicant would do an Airbnb from her home... Mr. Fish stated she would not need a CUP for that.

Mr. Miranda wanted to invite the applicant to help address the question. Mr. Freeman stated it was a technical question that had to do with use and whether the attorneys office felt it would fall within residential.

Mr. Fish asked if he was suggesting the applicant needed to rezone her property to commercial use because of the Airbnb's.

Mr. Freeman stated that the CUP needed to state a change in use from residential to commercial.

Mr. Jensen confirmed that Mrs. Begovac was still living on the property. Mrs. Begovac agreed.

Mr. Freeman stated that if legal said it was still a residential use we could move forward.

Mr. Jensen stated that was his understanding but couldn't say for sure.

Mr. Peterson asked how the new state law affected the Airbnb's and county ordinances. His understanding was the county could not stop it under the new law. Mr. Miranda agreed.

Mr. Fish shared his understanding is that the applicant was asking to put two (2) casitas on her property, the county can't stop her from renting them if we allow her to put them on her property.

Mr. Freeman stated that the question was if you own a piece of property, you live on it and you build additional structures that you intend to rent should you not be changing that use from residential to commercial. It's not a case of existing doing Airbnb on a single-family residence. He recommended that to move this forward that this question be answered legally and amended if needed before the BoS meeting.

Mr. Fish clarified that he was suggesting that in addition to the CUP the applicant needed to apply to rezone to commercial use.

Mr. Freeman stated that it needed to be in the CUP that the intent was to change the use from purely residential to a commercial use.

Mr. Fish stated that by the nature of the explanation everyone would understand that the use would be commercial. Mr. Freeman stated that everyone understands until they don't,



so spell it out so there was no question and felt that a simple amendment in the language after this meeting if needed would do this to avoid any question in the future.

Mr. Freeman asked if legal was acceptable if the adjustment needed to be made. Mr. Jensen stated he was ok with moving forward and would do research to see if this needed to happen and agreed with Mr. Fish that the CUP plainly stated already that the use was for paying guests.

Mr. Freeman stated he understood what he was saying but felt the use was currently residential and the CUP was adding that.

Mr. Miranda pointed out that the application identified a specific time period from April to November and for family and friends.

Mr. Miranda asked Mr. Begovac if she intended to use them definitely from April to November as an Airbnb.

Applicant, Jeanne Begovac 17 N8408 Concho, AZ explained her intentions but did not know how it would all roll out, she would rent to single and/or couples, no kids.

Mr. Miranda confirmed that her intent was to rent them over the summer. Mrs. Begovac agreed.

No further discussion.

Staff recommended approval as presented without conditions.

Mr. Miranda opened the public meeting.

No comments.

Mr. Miranda closed the public meeting.

Vice-Chairman Oscar Miranda opened for a motion and discussion.

Commissioner Brad Peterson motioned to approve as presented.

Commissioner Carey Dobson second the motion.

Commissioner John Freeman motioned to amend the motion to include the comments made early that if we need to protect Mrs. Begovac, to amend the language in the CUP as needed to reflect the use from residential to commercial by legal staff.

Mr. Miranda clarified that after legal researched and decided, we include that language.

Mr. Freeman agreed.

No second to Mr. Freeman amended motion.

Motion to amend failed.



No further discussion.

Vice-Chairman Oscar Miranda called the question for the original motion.

No further discussion

Vote unanimous, 6 ayes to 0 nays.

Original motion carried

Item #8 PUBLIC HEARING, consideration, and possible recommendation for approval of a Zone Change application to allow Sanjay Patel with Shivam Enterprise, LLC to rezone their 50-acre parcel from agricultural general (AG) to general commercial (C2) for sale and future commercial development. Property is located near Chambers, AZ. A.P.N 207-12-001J.

Director Matthew Fish provided staff report, recommended approval without conditions.

Applicant, Sanjay Patel lives in California explained his proposed zone change and the benefits of the new development, without the zone change the sale would not go through and the property would remain vacant. He stated that the new owner was aware that he would still need an approved CUP to develop the property.

Mr. Jarvis confirmed the parcel size. Mr. Patel advised it was 50-acres.

Mr. Fish advised the commission that per county ordinance a CUP was still required within a C2 zone because of the covered gas pump pavilion.

Mr. Freeman asked staff if the drainage report, safety reports, impact reports be brought before the commission. Mr. Fish stated they would.

Mr. Miranda opened the public meeting.

No comments.

Mr. Miranda closed the public meeting.

Vice-Chairman Oscar Miranda opened for a motion and discussion.

Commissioner Bobby Fite motioned to approve as presented.

Commissioner Carey Dobson second the motion.

No further Discussion

Vote unanimous, 6 ayes to 0 nays

Motion carried

Item #9 Report from Staff to the Commission



Mr. Fish advised that Ruben Aranda had been hired as the full-time code enforcer and shared his credentials.

Mr. Fish referred to the work session and stated that there was a lot more work that needed to be regarding the proposed Alpine project and recommended taking time.

Mr. Freeman recommended that staff put together a list of the issues that needed to be addressed and resolved.

Mr. Fish clarified if it was preferred to receive via email or continue to address in the work sessions.

Mr. Dobson noted that clarification was needed regarding the Alpine Community Plan and appendixes to clear up any confusion.

Mr. Fish noted that in 2019 the Apache County Comp Plan with subcommunity plans were reapproved, whether that means that the Alpine appendix was approved was a legal question and was being researched by staff and legal.

Mr. Freeman stated that was key, if in fact the appendix was included with the community plan.

Mrs. Hauser requested that staff send an email to the commissioners when this was determined.

Mr. Fish advised the commission that staff had only been able to find is a statement from Mr. Ollerton in 2010 that those appendixes would be adopted later. Mr. Freeman requested a copy.

Mr. Fish read for the record from Apache County Planning and Zoning Commission Meeting minutes September 27th 2001.

“Milton Ollerton stated that they are not adopting the Alpine overlay as a zoning ordinance just yet. It is an appendix at this time, we can go over issues, but it is not an official document and will be adopted only as an appendix”

Commission agreed to let legal do their research.

Mr. Jarvis added that he felt a clarification was also needed form legal regarding Airbnb's. Mr. Peterson noted that the subcommittee was meeting on October 31, 2022.

Item #10 Adjourn.

Vice-Chairman Oscar Miranda opened for a motion to adjourn.

Commissioner Kay Hauser motioned to adjourn.

Commissioner Carey Dobson second the motion.



Approval 12/1/2022

Vote, 7 ayes to 0 nays

Adjournment 2:05 p.m.