



City of Apache Junction, Arizona

Meeting Minutes

Planning and Zoning Commission

Meeting location:

City Council Chambers
at City Hall
300 E Superstition Blvd
Apache Junction, AZ
85119

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Tuesday, January 9, 2018

7:00 PM

City Council Chambers

1. Call to Order

Chair Nesser called the meeting to order at 7:00 pm.

2. Pledge of Allegiance

Chair Nesser led the Pledge of Allegiance.

3. Roll Call

Staff present:

City Attorney Joel Stern

Development Services Director Larry Kirch

Development Services Senior Planner Rudy Esquivias

Development Services Assistant Planner Stephanie Bubenheim

Development Services Planning Intern Danielle Jordan

Present 7 - Chairperson Nesser
 Commissioner Frank
 Commissioner Schroeder
 Commissioner McGraw
 Vice Chair Heck
 Commissioner Howard
 Commissioner Kridler

4. Consent Agenda

Vice Chair Heck moved that the Planning and Zoning Commission accept the Consent Agenda as presented and approve the meeting minutes from the September 26, 2017, October 10, 2017 and October 24, 2017 regular meetings. Commissioner Schroder seconded the motion. The Planning and Zoning Commission accepted and approved the Consent Agenda and minutes as presented.

Yes: 7 - Chairperson Nesser, Commissioner Frank, Commissioner Schroeder,
 Commissioner McGraw, Vice Chair Heck, Commissioner Howard and
 Commissioner Kridler

No: 0

[17-528](#) Consideration of approval of agenda.

[17-529](#) Consideration of approval of regular meeting minutes of the September 26, 2017, October 10, 2017, and October 24, 2017.

5. Public Hearings

[18-025](#) Presentation, discussion, public hearing and consideration of case CUP-6-17, a request by Desert Mesa Holdings LLC, represented by Nate Shechter, for approval of a Conditional Use Permit to store explosive material in an ATF approved magazine storage container at Western Industrial, a B-5 (Industrial) zoned property at 3640 S. Cactus Road. Western Industrial is located at the southwest corner of S. Cactus Road and E. 36th Avenue alignment. The applicant is requesting to withdraw the application that has been continued from the August 22, 2017 public hearing.

Assistant Planner Bubenheim gave a presentation on case CUP-6-17, a request by Desert Mesa Holdings LLC, represented by Nate Shechter, for approval of a Conditional Use Permit to store explosive material in an ATF approved magazine storage container at Western Industrial, a B-5 (Industrial) zoned property at 3640 S. Cactus Road. Western Industrial is located at the southwest corner of S. Cactus Road and E. 36th Avenue alignment. Assistant Planner Bubenheim explained that the applicant is requesting to withdraw the application that was continued from the August 22, 2017 public hearing.

Chair Nesser invited Nate Shechter to address the commission.

Mr. Shechter addressed the commission and explained the ATF denied their request for approval of a barricade around the storage container. ATF requested a three foot barricade instead of a one foot barricade.

Chair Nesser opened the public hearing portion of the item.

Having no one wishing to speak, Chair Nesser closed the public hearing portion of the item.

Chair Nesser asked the commission if they'd like to discuss the item. Having no discussion, Chair Nesser called for a motion to accept the withdrawal of the application.

Vice Chair Heck moved that Planning and Zoning Commission accept the petition to withdraw the conditional use permit request CUP-6-17 for an ATF approved type 2 magazine storage container. Commissioner Frank seconded the motion. The motion passed with a 7-0 vote

Yes: 7 - Chairperson Nesser, Commissioner Frank, Commissioner Schroeder, Commissioner McGraw, Vice Chair Heck, Commissioner Howard and Commissioner Kridler

No: 0

18-026

Presentation, discussion, public hearing and recommendation on proposed rezoning case PZ-4-17, a request by David Dixon to rezone a 1.62 acre property located at 611 S. Vista Road, north of the northeast corner of S. Vista Road and E. 7th Avenue, from RS-GR (General Rural Low Density Single-Family Residential) to RS-GR/PD (General Rural Low Density Single-Family Residential by Planned Development) for the purpose of changing the main structure side setback from 20-feet to 10-feet. The property owner has requested a continuance to January 23, 2018.

Assistant Planner Bubenheim gave a presentation on proposed rezoning case PZ-4-17, a request by David Dixon to rezone a 1.62 acre property located at 611 S. Vista Road, north of the northeast corner of S. Vista Road and E. 7th Avenue, from RS-GR (General Rural Low Density Single-Family Residential) to RS-GR/PD (General Rural Low Density Single-Family Residential by Planned Development) for the purpose of changing the main structure side setback from 20-feet to 10-feet. The property owner has requested a continuance to January 23, 2018 due to illness.

Chair Nesser invited the commission to discuss the item. Having no one wishing to discuss the item, Chair Nesser opened up the public hearing portion of the item.

Kathy Botic, 655 S. Vista Road, Apache Junction addressed the commission. She expressed her confusion over the change of meeting dates and why Mr. Dixon is required to rezone his property. City Attorney Stern said that Assistant Planner Bubenheim will answer her concerns and questions.

Having no others wishing to speak, Chair Nesser closed the public hearing portion of the item.

With no discussion from the commission, Chair Nesser invited Assistant Planner Bubenheim to address the commission. Assistant Planner Bubenheim explained the circumstances regarding the request for continuance.

Chair Nesser called for a motion to continue the item.

Vice Chair Heck moved that the Planning And Zoning Commission continue case CUP-4-17, a request by David Dixon to rezone a 1.62 acre property located at 611 S. Vista Road, north of the northeast corner of S. Vista Road and E. 7th Avenue, from RS-GR (General Rural Low Density Single-Family Residential) to RS-GR/PD (General Rural Low Density Single-Family Residential By Planned Development) for the purpose of changing the main structure side setback from 20-feet to 10-feet until the regularly scheduled meeting on Tuesday January 23th, 2018. Commissioner Schroeder seconded the motion. The motion passed with a 7-0 vote.

Yes: 7 - Chairperson Nesser, Commissioner Frank, Commissioner Schroeder, Commissioner McGraw, Vice Chair Heck, Commissioner Howard and Commissioner Kridler

No: 0

18-023

Presentation, discussion, public hearing and recommendation on proposed rezoning case PZ-5-17, a request by Superstition Mountains Community Facilities District No. 1, represented by Darron Anglin (District Manager), to rezone three parcels, a total of 97.18 acres, located at 5661 S. Ironwood Drive, southeast of S. Ironwood Drive and W. Guadalupe Avenue from B-5 (Industrial) and RS-GR (General Rural Low Density Single-Family Detached Residential) to PI/PD (Public and Institutional by Planned Development) for the purpose of uniformly zoning the existing properties and expanding wastewater related services.

Planning Intern Danielle Jordan gave a presentation on proposed rezoning case PZ-5-17, a request by Superstition Mountains Community Facilities District No. 1, represented by Darron Anglin (District Manager), to rezone three parcels, a total of 97.18 acres, located at 5661 S. Ironwood Drive, southeast of S. Ironwood Drive and W. Guadalupe Avenue from B-5 (Industrial) and RS-GR (General Rural Low Density Single-Family Detached Residential) to PI/PD (Public and Institutional by Planned Development) for the purpose of uniformly zoning the existing properties and expanding wastewater related services.

Chair Nesser asked about the time frame of six months as outlined in one of the conditions. She wanted to know if there would be negative consequences if the six month time frame was not followed. Planning Intern Danielle Jordan replied that there wouldn't be a negative consequence, but they would have to go through the lot combination process. Chair Nesser asked if Planning Intern Jordan feels that it wouldn't happen. She answered no.

Vice Chair Heck said the entry into the parcels is owned by the county and asked if the city will be acquiring the land. Planning Intern Jordan explained the district will be acquiring the land from the county. Vice Chair Heck said he felt it was odd and asked again if it was the entry way. Director Kirch replied that it is the entry way. Director Kirch pulled up the map and explained that the conditions staff are requesting are almost the same as the landfill in regards to landscaping the entrance to the facility. The condition requires that once they acquire the land from the county, they would be required to landscape the entrance within a year. He added they don't own it at this point, but once they do, they have a set amount of time to landscape the area. Vice Chair Heck asked for an explanation on the different parcels they are requesting to combine.

Chair Nesser asked Director Kirch about the time frame on the district buying the property from the county and landscaping the entry way. Director Kirch explained that they didn't place a time frame on the district buying the property since its unknown how long it will take for the process.

Commissioner Kridler asked for clarification if the district is going to purchase the land from the county or if there will be some kind of agreement. Director Kirch replied that Darron Anglin, the District Manager, will be able to better answer that question when he addresses the commission.

Chair Nesser invited Darron Anglin, District Manager, to address the commission. Mr. Anglin explained that the district made a petition to Pinal County to which they found out there are competing agencies for the parcel. He added that it may be in the best interest of all involved for the city to take the parcel as an entry way for both Central Arizona Projects and the district. Director Kirch added if that is the case, the district can still landscape the entryway.

Chair Nesser invited the commission to ask questions.

Having none, Chair Nesser opened the public hearing portion of the item.

Having no one wishing to address the commission, Chair Nesser closed the public hearing portion of the item.

Chair Nesser asked Director Kirch if the district didn't own the property, would they still need to adhere to the condition. Director Kirch explained that the condition can be modified and asked City Attorney Stern for help with modifying the condition. City Attorney Stern said it's difficult to address a future event and asked Director Kirch if staff wanted the landscaping. Director Kirch replied that staff wants landscaping at the entry way. City Attorney Stern replied to leave the condition and believes the district wants to improve the entryway into the property.

Chair Nesser asked if there were any other questions from the commission. Having none, Chair Nesser called for a motion.

Vice Chair Heck moved that the Planning and Zoning Commission recommend to the Apache Junction City Council the approval of planned development rezoning case PZ-5-17, a request by Superstition Mountain Community Facilities District No. 1 (applicants), represented by Darron Anglin (District Manager, SMCFD), to rezone a +/-97.18 acre property, located at 5661 S. Ironwood Dr. southeast of S. Ironwood Drive and W. Guadalupe Avenue from B-5 (Industrial) and RS-GR (General Rural Low Density Single-Family Detached Residential) to PI/PD (Public and Institutional by Planned Development) subject to the conditions as stated in the Planning and Zoning Commission Staff report dated January 3rd, 2018. Commissioner Schroeder seconded the motion. The motion passed with a 7-0 vote.

Yes: 7 - Chairperson Nesser, Commissioner Frank, Commissioner Schroeder, Commissioner McGraw, Vice Chair Heck, Commissioner Howard and Commissioner Kridler

No: 0

18-029

Presentation, discussion, public hearing and consideration of case CUP-8-17, a request by Bobbie McGhee for approval of a conditional use permit to continue operating and expand her commercial horse boarding business, called Bobbie McGhee Stables, on her RS-54 (Low Density Single-family Detached Residential)-zoned properties, located at 1715 N. Vista Road.

Senior Planner Esquivias gave a presentation on case CUP-8-17, a request by Bobbie McGhee for approval of a conditional use permit to continue operating and expand her commercial horse boarding business, called Bobbie McGhee Stables, on her RS-54 (Low Density Single-family Detached Residential)-zoned properties, located at 1715 N. Vista Road.

Vice Chair Heck asked about one of the site maps and if the driveway shown is an actual drive way. Senior Planner Esquivias replied that once there is a permit application for proposed buildings the front yard can be designated but believes the applicant is happy with where her front yard is at this point in time.

Commissioner McGraw asked if there are specific fencing requirements for the perimeter of the property. Senior Planner Esquivias replied that there isn't but most horse properties have the necessary fencing. He added that in a residential zone, the fence would have a height limit of six feet.

Having no other questions, Chair Nesser asked Ms. McGhee if she had anything else to add. Ms. McGhee said she didn't but Vice Chair Heck said he had a question.

Vice Chair Heck asked Bobbie McGhee (1715 N. Vista Road, Apache Junction) where she plans to park the horse trailers. She replied wherever they will fit. He asked if she believes she has enough property to park the trailers. She replied that she did.

Commissioner Frank asked where a future bunkhouse will be placed. She said the drawing shows the spot she chose, but believes she would need to grade the property first because of the drainage and washes. Chair Nesser added that she will have to return for permits once she decides to build.

Having no further questions, Chair Nesser thanked the applicant and opened the floor to discussion from the commission.

Having no discussion, Chair Nesser opened up the public hearing portion of the item.

Ms. Lucille Diekman, 1650 N. Vista Rd., Apache Junction, addressed the commission regarding the property that Bobbie McGhee owns. She expressed how thankful she was since Ms. McGhee bought the property because she has improved it and believes she is doing a good job.

Having no others wishing to address the commission, Chair Nesser closed the public hearing portion of the item.

Chair Nesser opened the floor to discussion among the commission. Having no one wishing to discuss the item, Chair Nesser called for a motion.

Vice Chair Heck moved that the Planning and Zoning Commission approve case CUP-8-17, a request for a conditional use permit by Bobbie McGhee, to continue operating and expand a commercial horse boarding facility, subject to the following conditions of approval; all six conditions as currently stated in the Planning and Zoning Commission Public Hearing Staff Report of January 9th, 2018. Commissioner Schroeder seconded the motion. The motion passed with a 7-0 vote.

Yes: 7 - Chairperson Nesser, Commissioner Frank, Commissioner Schroeder, Commissioner McGraw, Vice Chair Heck, Commissioner Howard and Commissioner Kridler

No: 0

[18-028](#)

Presentation, discussion, public hearing and recommendation of case PA-1-17, a request by Wayne Barker (property owner) for approval of a private access way to serve proposed and existing single-family residential-zoned lots, as part of land split case LSM-2-17, located at 3025 W. Manzanita Street.

Senior Planner Esquivias gave a presentation of case PA-1-17, a request by Wayne Barker (property owner) for approval of a private access way to serve proposed and existing single-family residential-zoned lots, as part of land split case LSM-2-17, located at 3025 W. Manzanita Street.

Chair Nesser asked why it isn't considered a driveway and why does the public access have to be considered a street. Senior Planner Esquivias explained that Mr. Barker would like to create a new lot that would not have access to a city right-of-way. He added that our code doesn't allow for landlocked parcels. The city has administrative discretion over the division of property two and half acres and smaller. He said ideally, new lots created in the city should have direct access to city right-of-way or at the least an established easement. Because one of the lots Mr. Barker has asked to create doesn't have an established easement our code requires a private access way process as part of a new land split. He added, staff understands this parcel has existed for some time, and the parcel to the west is landlocked, but since there is something new going on, the creation of a new lot, a private access way or private street is needed.

Vice Chair Heck asked if the property to the west will be allowed to use the newly created access way. Senior Planner Esquivias said yes.

Commissioner McGraw asked if this request reduces the recorded size of the proposed lots. Senior Planner Esquivias replied that the owner is asking to take his 30,000 square foot net lot and make two lots. One would be approximately 20,000 square feet and the other about 10,000 square feet. They will be smaller lots but both lots will comply with the city's minimum lot size requirements.

City Attorney Stern added that the 33 foot right of way does not decrease the size of the parcels. Senior Planner Esquivias agreed and added that the city will not have any responsibility for the access way.

Chair Nesser commented that in the case of landlocked lots, the city needs to help to ensure there is access to the property. Senior Planner Esquivias replied that the city doesn't have to approve this request for a private access way. He stated the applicant would like to make better use of his property and because of the existing conditions, he is requesting to create a private access way. For various reasons staff is agreeable to a certain extent. He reminded the commission that it doesn't have to be approved and the other option would be to split the property another way and both lots would front on Cedar. The neighbor would have to find another solution to their landlocked parcel. He added there are several options, some of which are more expensive than others.

Commissioner McGraw asked Senior Planner Esquivias if the various properties can be stopped from using the public access way. Senior Planner Esquivias replied that this formally establishes an easement and the commission can add language stating perpetual right of ingress and egress but there's been times when neighbors get upset with each other and try to cut off each other's access. He added that would be in the civil arena. Staff tries to structure these requests as best they can and try to anticipate issues, but how neighbors get along is out of the city's control. He added the language will establish some kind of legal mechanism to allow access but future interaction between neighbors is outside the city's scope. Chair Nesser added she remembers a similar situation recently in the city. Senior Planner Esquivias answered yes. Commissioner McGraw asked if there was any kind of plans to mitigate this from happening. Senior Planner

Esquivias asked Commissioner McGraw if he meant a city street. Commissioner McGraw asked if there was something that can be done so that the neighbor enjoys his property and can't do that if he is reliant on Mr. Barker allowing him access. Senior Planner Esquivias replied that it's not the ideal situation but hopefully with the proper easements are recorded, it will improve the situation. Chair Nesser asked Senior Planner Esquivias if it were a civil issue and not the city's issue. City Attorney Stern replied that it's not the city's issue, but there are several ways the neighbor could gain access. City Attorney Stern reminded the commission that the neighbor, Mr. Berry, isn't here. Director Kirch added that Mr. Berry could have done through this process before he sold the property which would have guaranteed access to his parcel. Director Kirch added that Mr. Berry did create an easement that the city doesn't recognize because it didn't come through this process.

Commissioner Howard added that he believes there isn't a definite right without going through the court for legal access to their landlocked property. City Attorney Stern replied that is correct and added that once an adjacent private access way an argument can be made that it's a public easement and can be used.

Chair Nesser invited Mr. Wayne Barker, 6275 E. 22nd Ave., Apache Junction to address the commission. Mr. Barker said that Mr. Berry has been using that property for access for more than ten years and as the new property owner he could not deny his access. He has what is called a prescriptive easement, by prescription he used the property to access his lot for more than ten years and regardless of how the property is used or split, he can't be denied access. He added what is being asked for tonight is to formalize the agreement and put the maintenance agreement in place, improve it for dust control and have it official because if it isn't passed tonight, he would still use the property to access his.

Vice Chair Heck asked about the maintenance of the access way and if Mr. Berry would be contributing to it. Mr. Barker replied that there would have to be deed covenants or CC&Rs on the new deeds that state any person that benefits from the easement would have to contribute an equal share in the maintenance. Vice Chair Heck asked if Mr. Berry was in agreement with these arrangements. Mr. Barker replied that he is.

Chair Nesser asked if there needs to be something in a condition about joint responsibility for the maintenance of the private access way. Director Kirch replied that condition #4 addresses that concern. Senior Planner Esquivias agreed. City Attorney Stern added that the prescriptive agreement is the same as an implied easement or an easement by necessity. Mr. Barker added that he believes Mr. Berry submitted an affidavit to the city stating he's been using the property for access.

Having no one in the public at the meeting for the public hearing portion of the item, Chair Nesser opened the item for discussion among the commission.

Having no discussion, Chair Nesser called for a motion.

Vice Chair Heck moved that the Planning and Zoning Commission recommend to the city council the approval of case PA-1-17, a request for the private access way by Wayne Barker to serve existing and proposed property pursuant to land split case LSM-2-17, subject to the following conditions which includes all seven of the stated recommendations from the Planning and Zoning Commission Public Hearing Staff Report of January 9th, 2018. Commissioner Schroeder seconded the motion. The motion passed with a 7-0 vote.

Yes: 7 - Chairperson Nesser, Commissioner Frank, Commissioner Schroeder, Commissioner McGraw, Vice Chair Heck, Commissioner Howard and Commissioner Kridler

No: 0

6. Old Business

None.

7. New Business

[18-030](#) Election of chair and vice chair.

Chair Nesser opened the nominations for 2018 chair and vice chair.

Chair Nesser called for nominations for chair.

Commissioner Schroeder nominated Tess Nesser for chair.

Chair Nesser called for other nominations a second time.

Chair Nesser called for other nominations a third time.

Commissioner Frank seconded the motion. The motion passed with a 7-0 vote.

Chair Nesser called for a nomination for vice chair.

Commissioner Schroeder nominated Peter Heck for vice chair.

Chair Nesser called for other nominations a second time.

Chair Nesser called for other nominations a third time.

Commissioner Frank seconded the motion. The motion passed with a 7-0 vote.

Yes: 7 - Chairperson Nesser, Commissioner Frank, Commissioner Schroeder, Commissioner McGraw, Vice Chair Heck, Commissioner Howard and Commissioner Kridler

No: 0

8. Information and Reports

None.

9. Director's Report

Director Kirch reminded the commission if they wish to change the way they receive their meeting packets to reach out to Barbara Kelly in Development Services and let her know.

Director Kirch let those that participated in the selection of the consultant for active transportation plan their assistance was appreciated and that J2 esignwas selected as the consultant. They are working on the scope of work and are discussing public outreach already.

He also announced that the ASU Sustainability and Planning class will be looking at some of our peer cities and their next generation general plans. Apache Junction's is due in 2020.

10. Selection of Meeting Dates, Times, Location and Purpose

Vice Chair Heck moved that the Planning and Zoning Commission hold a regular meeting on January 23, 2018 at 7:00 pm in the Apache Junction City Council Chambers located at 300 E. Superstition Boulevard. Commissioner Schroeder seconded the motion. The motion passed with a 7-0 vote.

Yes: 7 - Chairperson Nesser, Commissioner Frank, Commissioner Schroeder, Commissioner McGraw, Vice Chair Heck, Commissioner Howard and Commissioner Kridler

No: 0

11. Call to the Public

None.

12. Adjournment

Adjournment:
Meeting adjourned at 8:25 p.m.

Theresa Nesser
Chairperson