



City of Apache Junction, Arizona

Meeting Minutes Planning and Zoning Commission

Meeting location:

City Council Chambers
at City Hall
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Apache Junction, AZ
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Tuesday, October 24, 2017

7:00 PM

City Council Chambers

1. Call to Order

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

2. Pledge of Allegiance

Chair Nesser led the Pledge of Allegiance.

3. Roll Call

Present 6 - Chairperson Nesser
 Commissioner Buzzin
 Commissioner Howard
 Commissioner Frank
 Commissioner Schroeder
 Commissioner McGraw

Excused 1 - Vice Chair Heck

Staff present:

City Attorney Joel Stern

Development Services Director Larry Kirch

Development Services Senior Planner Rudy Esquivias

Development Services Assistant Planner Stephanie Bubenheim

4. Consent Agenda

approved

Yes: 6 - Chairperson Nesser, Commissioner Buzzin, Commissioner Howard,
 Commissioner Frank, Commissioner Schroeder and Commissioner McGraw

No: 0

Excused: 1 - Vice Chair Heck

Commissioner Schroeder moved that the Planning and Zoning Commission accept the Consent Agenda as presented and approve the meeting minutes from the September 12, 2017 Special Meeting. Commissioner Howard seconded the motion. The Planning and Zoning Commission accepted and approved the Consent Agenda and the minutes as presented.

[17-458](#)

Consideration of approval of agenda.

[17-459](#) Consideration of approval of special meeting minutes for September 12, 2017.

Attachments: [PZ Meeting Special Minutes 09122017](#)

5. Public Hearings

[17-460](#) Presentation, discussion, public hearing and consideration of case AM-3-17. a city-initiated text amendment to the Apache Junction City Code Volume II: Chapter 1: Zoning Code, Article 1-5 Residential Bulk Regulations, Section 1-5-2 Residential Bulk Regulations.

Attachments: [Porches and Patio Covers -Front Yard Setback Staff Report](#)
[Porches and Patio Covers -Front Yard Setback Draft Ord 10-24-17](#)

approved

Yes: 6 - Chairperson Nesser, Commissioner Buzzin, Commissioner Howard, Commissioner Frank, Commissioner Schroeder and Commissioner McGraw

No: 0

Excused: 1 - Vice Chair Heck

Director Kirch gave a presentation of case AM-3-17. a city-initiated text amendment to the Apache Junction City Code Volume II: Chapter 1: Zoning Code, Article 1-5 Residential Bulk Regulations, Section 1-5-2 Residential Bulk Regulations.

Chair Nesser asked if porches must have a roof. Director Kirch replied that if it didn't have a roof, it wouldn't meet the definition of a porch. Chair Nesser also asked if pergola roofs are allowed. Director Kirch answered that a pergola is not a front porch. Director Kirch added that if set backs are met, someone could have a pergola or a gazebo in their front yard.

Having no further questions or comments from the commission, 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.

Commissioner Schroeder moved that the Planning and Zoning Commission recommend to the Apache Junction City Council the approval of case AM-3-17, a proposed Text Amendment to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1 Zoning Ordinance, Article 1-5: Zoning Bulk and Use Regulations, Section 1-5-2 Residential Bulk Regulations, allowing for encroachments into the front setback in Single Family Residential zoning districts for front porches as amended in the October 24, 2017 Staff Report. Commission Buzzin seconded the motion. The commission approved the motion with a 6-0 vote.

[17-470](#)

Presentation, discussion, public hearing and recommendation on proposed rezoning case PZ-3-17, a request by Steve Cochrane, Trustee of the Nathan, Ethan and Adam Cochrane Residuary Trusts (owner) and George McGavin and Linda Pearson (applicants), represented by Kevin McDougall (project engineer), to rezone a 16.87-acre vacant property located at the northeast corner area of S. Tomahawk Road and US60, from RS-20/PD (Medium Density Single-family Detached Residential by Planned Development) to B-1/PD (General Commercial District by Planned Development) for the purpose of developing the property with commercial pads and a KOA-style campground.

Attachments: [PZ-3-17 PH rep w attach](#)

approved

Yes: 5 - Chairperson Nesser, Commissioner Buzzin, Commissioner Howard, Commissioner Schroeder and Commissioner McGraw

No: 1 - Commissioner Frank

Excused: 1 - Vice Chair Heck

Senior Planner Esquivias gave a presentation on proposed rezoning case PZ-3-17, a request by Steve Cochrane, Trustee of the Nathan, Ethan and Adam Cochrane Residuary Trusts (owner) and George McGavin and Linda Pearson (applicants), represented by Kevin McDougall (project engineer), to rezone a 16.87-acre vacant property located at the northeast corner area of S. Tomahawk Road and US60, from RS-20/PD (Medium Density Single-family Detached Residential by Planned Development) to B-1/PD (General Commercial District by Planned Development) for the purpose of developing the property with commercial pads and a KOA-style campground.

Chair Nesser asked City Attorney Stern if allowing people to come for longer than six months if by state law they have to become residents of the state. City Attorney Stern answered that after 29 days someone can change their residency but will have to check on the state statutes regarding vehicle registration. He reminded her that this is a planned development rezoning so that language is recommended by the zoning administrator as a time frame. Chair Nesser also asked the legal difference between “shall”, “may” and “why” as used in Condition #13. City Attorney Stern replied that the applicant didn’t like the word “shall” and the applicant can explain why. City Attorney Stern added that the city is okay with the word “may” but when it comes to the word to be used, the city prefers “shall”. This is important for things that will be excluded. The term needs to be used because there’s been litigation over the usage of the words “shall” and “may”. Using “shall” for exclusions is a stronger argument.

Senior Planner Esquivias added that in Condition #9 the wording needs to be changed from ‘...no less than 15% of the lots shall be developed with uniform...’ to ‘...no more than 15% of the lots shall be developed with uniform...’

Commissioner Frank asked about the number of tents sites vs. RV sites. Senior Planner Esquivias answered that the “Holiday” brand mentions a minimum number. Commissioner Frank asked about the maximum number of RV spots. Senior Planner Esquivias answered there is no maximum required. Commissioner Frank said that it could be full of RVs. Senior Planner Esquivias added that it will be a mix of cabins, RVs or tents. Director Kirch added that Condition #9 says that according to the “Holiday” brand there will be a minimum of 4 tent camping sites if they are following the criteria. Senior Planner Esquivias said all of the camp sites are designed to be able to accommodate an RV. Commissioner Frank added at the last meeting there was a discussion about limiting the number of RV spaces. Senior Planner Esquivias replied that staff is

recommending that the tent camping sites not have sewer but KOA likes all of their camp sites to have electricity and a light but not necessarily sewer. The other lots that aren't tent camping exclusively can be hooked up to sewer.

Chair Nesser asked about the prior discussion that mobile homes would not be allowed. Senior Planner Esquivias replied that Condition #10 covers this concern by not allowing this to happen.

Commissioner Buzzin added that he believes every lot should have water, sewer and electricity and asked where people are going to use the restroom. Senior Planner Esquivias replied that KOA regulations require that there be restrooms within 400 feet of each space. There will also be showers and laundry available. Commissioner Buzzin expressed concern over sites not being hooked up to the sewer. Senior Planner Esquivias answered that there may be an RV dumping station on site. That may be a feature that is offered but normally RVs have holding tanks in the units and would dump at a facility. City Attorney Stern added that the applicant can answer that question when they address the commission. Commissioner Buzzin expressed concerns over long term visitors. Chair Nesser asked if the spaces have hookups for sewer except for the tent spaces. Senior Planner Esquivias answered that is what staff is recommending. City Attorney Stern added that the commission should ask the applicant this question.

Commissioner Schroeder asked if the applicant will allow an RV to set up in a tent space. Senior Planner Esquivias replied that the criteria allows it.

Chair Nesser confirmed that the tent spaces don't have sewer but an RV can still be put there. Senior Planner Esquivias replied that is correct. City Attorney Stern recommended that the question be asked of the applicant. Senior Planner Esquivias added that parking an RV in a tent spot and all the spots having water, sewer and electricity is two different things.

Chair Nesser invited the applicant to address the commission.

Kevin McDougall, project engineer, addressed the commission regarding their rezoning request.

Chair Nesser asked if there were any restrictions on how long an RV will be allowed to stay in a tent space. Mr. McDougall answered in most cases, an RV would be sent to an RV space. But if the park is full and there are only tent spaces left they will allow that, but he added that someone in an RV will want to stay in an RV space. They would probably be moved to an RV site as soon as one was available. He added that he isn't aware of a time restriction for an RV on a tent space.

Commissioner Howard asked if there will be a dump site at the location. Mr. McDougall answered that there isn't a dump site in the plans at this point but wouldn't rule it out. Commissioner Howard asked when they will know if a dump site will be added. Mr. McDougall replied that every site will have a sewer hookup but understands a dump site would be handy for people coming and going and might be a good feature to add.

Chair Nesser asked City Attorney Stern if a dump site is a requirement of RV resorts. City Attorney Stern replied that for RV resorts he didn't know. But since this is a PD the commission can add the condition, but also added, as the applicant said, they would have access to the sewer but doesn't know if people show up wanting to use a dump site. Mr. McDougall said he has only heard that once at an event in Goodyear but didn't allow people to do that. City Attorney Stern asked if the other KOA had a dump site. Mr. McDougall replied that it did so therefore if that other one did, he imagines this would too.

Commissioner McGraw asked if there was any verbiage discussing a timeline for the improvement of the other piece of property. City Attorney Stern answered there isn't and reminded the commission the conditions aren't a contract and isn't a term of condition for

rezoning. If the improvements don't get done within a certain amount of time, the city can't do anything about it. He also added that it isn't a development agreement either so he believes it wouldn't be an enforceable condition. He added that this is a planned development rezoning to a zoning commercial category. Chair Nesser said the 4 acres can sit there for the next four years without being developed. City Attorney Stern replied that he believes the intent of the owner is to get it sold but the answer is yes, if no one buys it and no one wants to develop a hotel. There is a study in the process by the city which shows if it would be feasible to develop it as a hotel or motel.

Chair Nesser asked Director Kirch if 4 acres is big enough for a hotel and restaurant or something else. Director Kirch replied that it is.

Commissioner Schroeder asked the applicant if there was anything in their plan for a dump site at this location. Mr. McDougall replied that there wasn't and added this is just a request to change the zoning and once this is done, they will move into engineering and ramp up the design. He added that once the 4 acres is put up for sale that would come to the commission as a planned development. Commissioner McGraw asked if the property will be maintained until it is sold. Mr. McDougall replied that there is no language for this. Commissioner McGraw expressed concern that the area can turn into a dump area. Mr. McDougall replied that the owners wouldn't allow that to happen. City Attorney Stern added that there are property maintenance codes that are enforceable against the owner of the property. Chair Nesser asked if it can be added as a condition. City Attorney Stern added that it is in the city code so adding this as a condition isn't needed and believes the owner would keep it up. Mr. McDougall added that the other KOA park is well maintained.

Having no other questions or comments from the commission, Chair Nesser opened the public hearing portion of the item.

Having no comments from the public, Chair Nesser closed the public hearing portion of the item.

Chair Nesser called for discussion from the commission.

Commissioner Frank commented that this reminds him of another RV park in the city and believes the city doesn't need this. The only difference is that it isn't a 55+ community. The only difference is this is an all ages location.

Having no further discussion, Chair Nesser called for a motion.

Commissioner Schroeder said that as stated previously, planning staff's main concern remains that the property not turn into just another RV park. With that premise in mind, staff recommends approval of the rezoning request, but subject to the condition of approval listed under the recommended motion. Commissioner Schroeder moved that the Planning and Zoning Commission recommend to the Apache Junction City Council the approval of the planned development rezoning case PZ-3-17, a request by Steve Cochrane, Trustee of the Nathan, Ethan and Adam Cochrane Residuary Trusts and George McGavin and Linda Pearson, represented by Kevin McDougall, to rezone a 16.8 acre property located at the north east corner area of US 60 and Tomahawk Road from RS-20/PD (Medium Density Single-family Detached Residential by Planned Development), to B-1/PD (General Commercial by Planned Development), for the purpose of developing the property with commercial pads and a KOA-style campground, subject to the following conditions of approval which were discussed in case PZ-3-17 Cochrane/McGavin Rezoning revised conditions of approval dated October 24, 2017 with the exception of condition #9 where the verbiage is changed from 'no less than 15%' to 'no more than 15%'. Commissioner McGraw seconded the motion. The commission approved the motion with a 5-1 vote.

6. Old Business

None.

7. New Business

17-469

Presentation and discussion of case CUP-4-17, a request by MBD Holdings LLC (owner) and Perpetual Healthcare Inc. (applicant), represented by Lindsay Schube and Nick Sobraske of Gammage and Burnham PLC, for an amendment to a Conditional Use Permit to construct a permanent building at an existing medical marijuana cultivation and infusion facility located at 1575 E. 18th Avenue, on the southwest corner of S. Tomahawk Road and E. 18th Avenue.

Attachments: [CUP-4-17 PZ WS Staff Report 10-24-17](#)

Assistant Planner Bubenheim gave a presentation of case CUP-4-17, a request by MBD Holdings LLC (owner) and Perpetual Healthcare Inc. (applicant), represented by Lindsay Schube and Nick Sobraske of Gammage and Burnham PLC, for an amendment to a Conditional Use Permit to construct a permanent building at an existing medical marijuana cultivation and infusion facility located at 1575 E. 18th Avenue, on the southwest corner of S. Tomahawk Road and E. 18th Avenue.

Chair Nesser asked for an update of the previously approved CUP. Assistant Planner Bubenheim said the new owners are complying with the conditions of approval and have met the deadlines and have worked with staff. Chair Nesser asked what the current buildings look like. She added she would like the new buildings to look like the current buildings. Assistant Planner Bubenheim showed the commission the property from google maps. Senior Planner Esquivias added that the current buildings are stucco buildings and there are decorative walls on the 18th Avenue and Tomahawk Road sides of the property. The other two sides are 6 or 8 foot walls. On the front of the property, which would be the 18th Avenue side, there is an opaque gate that can't be seen through. Senior Planner Esquivias added that the previous owner was allowed to leave the previous decorations on the building and there are no other signs.

Commissioner McGraw asked if there were 3 mobile minis on the property. Assistant Planner Bubenheim answered that there were 6 mobile minis. Commissioner McGraw asked if they use the mobile minis because they didn't have the office space. He also asked if the new building will be for cultivation and dry storage. Assistant Planner Bubenheim replied that they wouldn't be asking for additional mobile minis. The reason they are coming back is to remove the mobile units as they are seen as temporary and that is why the permanent structure is required. The current units are labeled for different uses and the current request is for cultivation and dry storage. Staff asked the applicant what is going to happen with the remaining uses and should have that information at the next meeting. Director Kirch added the bottling unit will be moved off site in the near future which will perhaps free up additional space for cultivation.

Director Kirch added that the applicant is in attendance and will send the answers to the commissions' questions to staff after the meeting.

Chair Nesser asked for clarification on the purpose of tonight's presentation. Director Kirch replied that staff is presenting information on the item and at the next meeting there will be a public hearing on the request.

Commissioner Howard asked if the refrigerator unit will remain. Assistant Planner Bubenheim replied that the applicant is proposing to remove the unit. Chair Nesser said that everything will be gone except for the two remaining buildings and the new building. Assistant Planner Bubenheim replied that is correct.

Chair Nesser asked Senior Planner Esquivias since the business is not open to the public is one ADA space enough. Senior Planner Esquivias replied that current ADA regulations require one ADA space for every 25 spaces which is adequate in this case because they don't have more than 25 spaces.

Commissioner Schroeder asked if the original agreement included the number of employees that will be working at the location. Assistant Planner Bubenheim answered that the prior staff report noted there were 5 to 7 employees but that she didn't find a condition that would limit the number of employees. Senior Planner Esquivias added that the number of spaces provided is relative to the square footage of the combined buildings and at the next meeting will have more information on the exact parking spaces needed for the square footage on the buildings.

Having no other questions from the commission, Chair Nesser moved on to the next item.

8. Information and Reports

Director Kirch announced that the state planning conference is this week and staff will be attending.

9. Director's Report

Director Kirch thanked Commissioner Buzzin for his years of service on the Planning and Zoning Commission.

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

Commissioner Schroeder moved that the Planning and Zoning Commission hold a Special Meeting on November 14, 2017 at 5:00 pm and a Regular Meeting on November 14, 2017 at 7:00 pm in the Apache Junction City Council Chambers located at 300 E. Superstition Boulevard. Commissioner Frank seconded the motion. The commission approved the motion with a 6-0 vote.

11. Call to the Public

Chair Nesser opened Call to the Public.

Having no one wishing to address the commission, Chair Nesser closed Call to the Public.

12. Adjournment

Adjournment:

Meeting adjourned at 8:14 p.m.

Theresa Nesser
Chairperson