

**PLANNING AND ZONING COMMITTEE
MINUTES**

**Superior Town Hall Auditorium
199 N. Lobb, Avenue, Superior, AZ 85173
Thursday, June 6, 2019 6:00 P.M.**

CALL TO ORDER

Meeting was called to order at 6:00 PM by P & Z Chairperson Matt Mashaw.

PLEDGE OF ALLEGIANCE

Matt Mashaw, P & Z Chairperson led everyone in the Pledge of Allegiance.

INVOCATION

Matt Mashaw gave the Invocation.

ROLL CALL

Chairperson	Matt Mashaw
Vice Chairperson	Joy Eveland
Commissioner	Henry Munoz
Commissioner	Hank Gutierrez
Commissioner	Sherry Figdore
Commissioner	David Gunn
Commissioner	Jesse Garcia

STAFF PRESENT

Todd Pryor, Town Manager
Elizabeth Magallanez, Accounts Payable Clerk
Svetlana "Lana" Clark, Engineering Technician

PUBLIC PRESENT

David P. Lira
Elaine Griego
Marcella Fernandez
Sue Anderson
Pamela Dalton-Rabago
Susie Ketron
Tracy
Rick Cartier
Theresa Hopkins
John Tameron
Ysela Lopez
Ruben & Cheryl Castro

CONSENT AGENDA:

Approval of March 7, 2019 Regular Agenda Minutes.
Approval of April 4, 2019 Work Session Minutes.

Motion to approve the March 7, 2019 Regular Meeting Minutes made by Commissioner Joy Eveland, second by Commissioner Jesse Garcia Motion Carries.

AYES - 7 Chairperson Mashaw, Commissioners: Eveland, Munoz, Gutierrez, Figdore, Gunn, Garcia

NOES - 0

ABSENT - 0 Commissioners:

Motion to approve the April 4, 2019 Work Session Meeting Minutes made by Commissioner Joy Eveland, second by Commissioner David Gunn, Motion Carries.

AYES - 7 Chairperson Mashaw, Commissioners: Eveland, Munoz, Gutierrez, Figdore, Gunn, Garcia

NOES - 0

ABSENT 0 - Commissioners:

NEW BUSINESS:

Public Hearing/Discussion/Possible Approval of Resolution 2019-03, A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE TOWN OF SUPERIOR RECOMMENDING THAT THE TOWN COUNCIL RE-ZONE PROPERTY FROM THE URBAN RESIDENTIAL (R1-8) ZONE DISTRICT TO THE MULTIPLE RESIDENTIAL (R-3) ZONE DISTRICT

Questions and discussions regarding Resolution 2019-03 regarding Re-zone property from R1-8 to R-3. A lengthy discussion ensued.

Commissioner Hank Gutierrez asked for an overview of what the difference is between R1-8 and R-3. Mr. Pryor stated that R1 is single home residential living per lot of 8,000 square feet and R-3 is multiple high-density residential zone district that allows 20 units per acre. Commissioner Gutierrez asked for clarification of 20 Mr. Pryor responded: units per acre, residential living house, RV, mobile home.

Commissioner Joy Eveland mentioned she had been reviewing Chapter 2 of the P&Z Code she was attempting to look things up and requested clarification. Mr. Pryor informed her that it is all covered in 3.12 of the Zoning Code. Mr. Pryor mentioned that what she was referencing was outdated. He recommended that everyone purge their old records and stated the updated version can be printed but is available on the website. She also inquired about parking spaces and noise and asked if Lana could explain. Engineering Tech Lana reiterated that the Parcel known as Box 8 was up for re-zoning it is 2.3 acres and as R-3 could be used for multiple units and how it would be used is still being decided. Commissioner Eveland asked how many houses could they have Lana responded they could have up to 20 dwelling units per acre. Commissioner Eveland inquired if they can hook up to City sewer. Lana stated they would have to hook up to sewer and that each RV would have to pay and that with the 10" sanitary sewer pipe this would not be a problem. Lana suggested that in answer to her previous question regarding noise a decorative sound wall could be put up to serve 3 purposes: esthetic view, sound-proof and privacy. Lana also re-stated due to the available acres they may consider an RV Park in the future not the main reason for the re-zone right now, it is possible in the future. Mr. Pryor added in to be clear an RV Park would require a separate Conditional Use Permit. Lana added that at this time they have only paid for permits and have applied for re-zoning only. Commissioner Joy asked about the other side of the swimming pool being in Pinal County and that she heard of possible annexation into the City. Lana stated that would be up to the Owner. Mr. Pryor clarified that the Town is considering annexing that

section and added to the General Plan as whatever it is currently zoned in Pinal County. Lana stated that is a different process.

Commissioner Gutierrez asked a question about the basics of notifying residents of zoning changes and thought signage was required, some type of billboard for those driving by. Mr. Pryor responded saying that as far as he knew it had never been a requirement during his time here.

Commissioner Eveland asked about notifying the residents by letters who live within 300 feet. Lana replied that letters were sent to owners within the 300 ft radius and notices were placed in public places and also in the newspaper.

Commissioner Gutierrez stated to recap they are looking at just the zoning component for possible change and asked about the potential 50 housing units. Lana stated that she mentioned 50, 100 housing units in reference to the sanitary sewer as the 10" pipe could handle 50 or 100 housing units. Commissioner Gutierrez asked again for clarification that this was regarding re-zoning and not RV Park. Mr. Pryor responded by stating that for clarification the zoning change does request the intent of the zoning change, proposed new use is part of the requirement but it doesn't mean that they will do that, the intent is to allow and it still requires conditional use permit. Commissioner Gutierrez asked if this is approved to change to R-3 owners will be required to request a conditional use permit for RV or structures? Mr. Pryor either conditional use will require a design review they can request to sub-divide the property for an Apartment Complex which is an acceptable use, those are all acceptable use and would require the design review process. Commissioner Gutierrez asked if we would be able to hear from the neighbors. Mr. Pryor responded that is a public hearing and is open to the public anyone who wishes to address the Commission has a right to do so.

Commissioner Henry Munoz asked about the city boundary on the map(provided by Lana) Mr. Pryor referenced the map and stated the line between the house and the pool. Lana added that this is only a GIS map not a civil engineering design map. She stated the owners will have the property surveyed. She stated this map may be off about 5 feet.

Commissioner Henry Munoz asked if this was the first step of the process, if they wanted to do an RV Park. Lana responded and said yes first thing they have to do is show something to express what their future thoughts might be.

Commissioner Hank Gutierrez clarified once again if they go to R-3 RV or structure still has to come back for design review and would still need conditional use permit? Even if it is ok they still may not pass but they are not authorizing that? Mr. Pryor responded by saying this is not to approve that when it comes to design review requirements can be added such as sound walls etc, tonight is just blanket zone change.

Commissioner Joy Eveland asked Mr. Pryor if this goes to the Council and his reply was yes. She asked if there will receive a new zoning map. Mr. Pryor stated that the online map is current and up to date as it gets updated regularly. Commissioner Eveland asked if it was located on the website the answer was yes.

Commissioner David Gunn stated there was a discrepancy in the address listed in the project analysis in the second paragraph it states 266 instead of 226 listed in the application, he asked which is the correct address? Mr. Pryor stated that it is not part of the formal resolution it is just listed as part of the background information.

Commissioner Gutierrez questioned the packet and the highlighted information and asked if it was provided as general information, Lana confirmed.

Mr. Pryor suggested that Chairman Mashaw open to the Public. Chairman Mashaw opened to Call to the Public however Mr. Pryor stated that would be later as this was an agenda item and asked if anyone wanted to address this issue.

David Lira 238 W. Sunset Dr. – Stated his address and that he lives west of the property in discussion. He stated his Daughter Elaine would make her remarks on his concerns as they had discussed in length.

Elaine Griego – Introduced herself as David's daughter asked if there was already a conditional use permit approved for the property? Mr. Pryor's responded no. She wanted to address the use as an RV Park and stated that there is already trailers on the property hooking up to power and sewer next to her parent's property line.(Cheryl Castro also David's daughter interjected that the map provided was incorrect) Ms. Griego said that Harry & Helen Smith signed an easement agreement in 1988 that was granted to APS to maintain the area for health and safety. She stated there are already built outlets and city sewer hook ups, that there have been up to eight trailers at a time, families, dogs everything up to her Parent's property line so they are wondering if it was already approved. Mr. Pryor stated it was not and that the activity has initiated code enforcement action by the Town and also initiated the re-zone based on those events. Commissioner Joy Eveland asked how many trailers were there now? someone from the audience said none and Elaine stated there was two right now and they have pictures that were taken just prior to arriving for this meeting. She expressed that the map of the property was incorrect again as the bottom left on the west side her Parent's well is within yards (approx. 12 ft mentioned by Cheryl Castro) They have photos of many hook-ups. Mr. Pryor stated again that a stop work order had been issued and is a code enforcement issue that that is one of the reasons that this item has been brought here tonight. The Code Enforcement Officer is addressing to attempt to bring it legal. More concerns were made regarding the accuracy of the map. Lana stated it was a conceptual map. Mr. Pryor confirmed that code enforcement had been initiated and the First Step was the re-zoning, next would be site plan. Mr. Pryor stated that if there are RV's not they should be noticed with the Code Enforcement Officer. Cheryl Castro expressed her concern with the water well and possible spillage. Commissioner Joy Eveland asked if the water is tested. Per David Lira it was tested six months ago. Lana asked about the results. Mr. Lira stated he did not have the results but can get it re-tested. Commissioner Hank Gutierrez re-iterated that tonight's discussion was not for conditional that will happen when they submit a plan for structures or RV's. More discussion about the map and details. Commissioner Gutierrez requested that the Engineer needs to put everything as it appears today. Elaine Griego referenced HB 2672 and wonders if it affects this parcel. If this parcel would be a vacation rental that there would be different restrictions. Mr. Pryor stated he would have to check with the Town's Attorney.

Ruben Castro 110 N. High School Ave. – Relative of the Lira's cautioned the Board to make a decision that the current zoning is based on the residential neighborhood and has for years, that it serves the Town well as a residential neighborhood. He stated he is not opposed to progress and that he speaks for himself and the benefit of the community. He requests a delay before a decision is made to do further research. He requests at minimum what would serve the best of the community and not slide something in. He stated that re-zoning is not an avenue to pursue due to address the code violation. Stated how does changing the code rectify what has taken place. They should remove the construction to come into compliance. An interruption occurred and Mr. Castro respectfully requested to be able to make his comments. Chairperson Matt Mashaw commented that work sessions are held and very few are in attendance he named a few residents that are highly likely to be present. Chairperson Mashaw reminded everyone one that on the table was re-zoning only. Mr. Castro stated he will be more diligent to attend future community meetings.

Commissioner Joy Eveland asked if the trailers can stay. Per Mr. Pryor a stop order has been issued and trailers space should not be rented out, if it continues the Code Enforcement Officer should be notified.

Marcella Fernandez 217 O'Donnell Drive She stated that six weeks ago she received a letter and now there is a lot of noise, trailers coming and going, generators, they want to put in more spaces. She named the four trailer parks currently in existence and stated a Fifth one is not necessary. She said the noise is what she is mainly complaining about. She stated she is worried about the property value in the area.

John Tameron 218 Smith Dr. He stated there is an easement there and he questioned the Sanitary District at that time why the easement was put there. He stated that the sewer line should be 100 ft away from any well. He stated he inspected the line when Mr. Smith hooked up to Sewer and it was a 4" line he is wondering when it changed to a 10" line. Mr. Tameron stated there are trailers there now and that he has previously discussed this with Mr. Pryor and that he does have pictures. He stated his main concern is Mr. Lira's well and possible leakage into his well because there is a lot of leakage in our sewer system and if it will be taken care of if there is.

Commissioner Gutierrez made a couple comments but then withdrew to proceed.

Ysela Lopez 221 S. Smith Dr. She stated she has questions of what is going on now and while she understands the map is a conceptual plan she feels there is not enough information for anyone to grant a zoning change. She added that everyone knows things are going on and that they continue despite being told to stop. She referenced the definition Urban Residential R1-8 on page 5-3 2nd paragraph and read it out loud stating that changing it to R-3 would take away ????, She requests that it be looked into further before changing as things are continuing and it gets bigger and bigger.

Engineering Tech Lana stated the wastewater treatment facility Manager confirmed the 10" line and that there shouldn't be leakage. She reiterated the map is a conceptual map and did not have to be a civil design map. She stated if they decide to have an RV Park they have to consider all concerns and build a decorative sound wall and follow all rules and regulations.

Commissioner Gutierrez stated he wanted to finish his thought from before.... Things we know, there is a current violation, they have a cease to stop and he has the assumption the Town will enforce that, that those lots are in the easement, that there is a 10" line not 4" that this is all conceptual. He stated the Owners have 2.71 acres to develop an RV Park that is seasonal or homes and can't do without the zoning in place there is no guarantee that you can get approved for that because you have neighbors even if the P&Z or Town Council approve it only gives the owners the opportunity for the next step is development which may or may not happen. Directed to the Town Manager Mr. Pryor asking if that would be fair?

Mr. Pryor stated yes this is exactly how the process is supposed to work, the neighbors are notified and given the opportunity to speak for or against it, the Commission can choose to move forward or request more study or reject consideration of the zoning change. If you are a property owner you have a right to attempt to re-zone and as a Town we have the obligation to call a public hearing. This Commission has the right to sign off. Commissioner Gutierrez commented that if this is approved the property owner is will provide a plan with the facilities, set-backs, noise abatement, light abatement, sound wall, it's a risk on their part they could spend \$10,000 - \$50,000 and still not get approved because of the outcry of the neighbors.

Commissioner Joy Eveland stated that by the same token the owners are already renting and letting these people put their trailers there which is against the law. Commissioner Gutierrez stated that they are relying on the Town to enforce the stop work order. Mr. Pryor agreed that was correct and that he would verify with the Code Enforcement Officer.

Commissioner Sherry Figdore Posed the question if once the re-zone is approved they would have the legal right to say it was approved for this and now they are going to this. She also asked about spot zoning? Mr. Pryor added to be clear even if it is re-zoned to R-3 RV Parks still require conditional use permit which is a separate process that would come back before them with a set of plans with the actual lay out of the site. The zoning change only requires a conceptual idea of what will be done with a rough sketch of the property and what is already there. He stated the conditional use permits requires greater detail, the sewer taps and power connections will require a civil permit which will require an engineering stamp.

Commissioner Joy Eveland asked how these people were able to hook up to the lights and the sewer. Mr. Pryor said that power taps were constructed the Engineers advised the owners and as far as he knew no permits were issued which means they are not legal installation. They would need to acquire permits but in order to do so they need to re-zone or they can not get permits to do so.

Commissioner David Gunn commented that he respectfully disagrees that re-zoning is a remedy for code enforcement, he feels that first they need to resolve the code violation and then go and get the re-zoning. Mr. Pryor stated that often time there are construction as built in an attempt to get a permit for something that has been done, often times especially here this is done a lot people try to get the permit after construction is done, the attempt is made to correct if possible without tearing it out and that just because they did it without permits that it will not be required.

John Tameron addressed the Commission asking if they come back in to get permits to install sewer lines, water lines and electrical for what is existing do they have to be taken out and put back in? Lana responded that it is up the future design plans which will require a topographic survey with all the utility locations. Mr. Tameron asked who inspected the sewer lines, electrical and water right now? Lana responded by saying the Manager of the wastewater treatment plant. Mr. Pryor responded saying no no to be clear there are no permits so there were no inspections. All will have to be re-exposed and permitted.

Ruben Castro stated that he understands the difficulty of the situation and is sympathetic to the parties requesting the change but he asked the Board to consider denying the request at this point until it is resubmitted properly with better information with more support from the community. He wondered if denied now are they precluded from re-applying for a zoning change. He also stated that if that is not the case then caution and prudence dictate that this be denied and resubmitted when the violations are corrected.

Commissioner Joy Eveland asked Todd if they can they re apply later for a zone change, he responded saying yes if it was tabled they could reply.

Chairperson Matt asked Mr. Pryor if this could be tabled. Mr. Pryor responded strongly suggests against that as this is a fairly simple request.

Commissioner Hank Gutierrez asked several questions about putting conditions, and the code violations. Mr. Pryor responded that the code violation is a separate issue.

Commissioner Henry Munoz stated that they have been given bad maps, bad information, there are violations. He suggests they go back a little and get stuff corrected and regroup. Mr. Pryor responded that he doesn't disagree simple question but its entirely up to them. The application has been made to the Town and presented the information to act on or table. Lana added the map is a picture for re-zoning not a design plan for RV Park, just a picture to show the property that they are re-zoning. Commissioner Munoz interjected that a better picture would have been better for the description. Commissioner Gutierrez expressed his concerns with the due diligence of the Engineer. Mr. Pryor disagreed.

Commissioner Jesse Garcia expressed his opinion that there was too much of a cloud over this situation and that he personally could not make a decision, not enough information. He stated that there is a cease and desist the proper channels need to be followed to get the approvals and that he feels he can not make a decision until all the information is whole.

Chairperson Matt asked Mr. Pryor the question of possibly abstaining as a land owner who has a lot of land he feels he has a conflict of interest. Mr. Pryor responded that there is only a conflict of interest if there is personal financial gain and that he could choose to abstain if he wished.

Ysela Lopez thanked Mr. Munoz, Mr. Gutierrez, Mr. Gunn, Mr. Garcia and feels that with the code violations giving them the re-zone rewards them for the code violations. That this needs to stop.

John Tameron discussed a personal issue regarding one of his Buckboard Cabins that the wind blew down. Followed by a citation of \$400.00 and that for three years he has been trying to fix the cabin but was told by the Code Enforcement Officer to stop. He stated he can't fix up or tear them down. He also purchased an RV and was told by the Code Enforcement Officer that he was told he was doing something wrong but couldn't tell him what. He followed up with a discussion with Mr. Pryor found out when he needed to do and that is now taken care of. He stated he hopes the Code Enforcement Officer does the right thing here.

Chairman Matt named the resolution and Commissioner Gutierrez asked if they would be allowed to make comments before they cast their votes. A motion was made and seconded followed by more comments by Commissioner Gutierrez. Mr. Pryor stated the property owner was present and asked if she had anything to say.

Susie Ketron trustee for the property. She said she heard some of the questions. She acknowledged they need to do some specific things. She stated there is no construction going on right now, that the easement talked about is a utility easement, they have not constructed anything permanent to do anything to the utility easement. Commissioner Gutierrez said they have heard complaints from the neighbors that there is commercial use going on that is interfering with their lifestyle, no sound walls, no barriers. Ms. Ketron stated they can't proceed until the zoning change is accomplished. She stated they are trying to move forward and do everything that the Town requires. She also stated part of the property is in the County and they do have a legal campground permit from the County. They are trying to move forward to be an asset to the community. She stated someone mentioned a generator, they don't have generators that there was a truck parked in someone else's driveway that was running a generator for quite a while but it is not them. John Tameron said that it was a freezer and that it was him and he has a permit to operate. Mr. Pryor asked if there were trailers parked there. Ms. Ketron said one in the County and that one had been parked in the City this morning and that was her fault. Mr. Pryor asked why she stated they were coming and going. He advised her she can store an RV on her property but no one is allowed to live in them.

Commissioner Sherry Figdore asked about re-zoning for an RV Park and that it looks like it is a park model. Ms. Ketron said she didn't know where the drawing came from but that they are looking at a seasonal RV Park for the winter. Commissioner Figdore asked about time limits.

Mr. Todd Pryor added that there is approximately 27 odd acres outside Town limits and 2 ½ inside the Town limits and that is what we are talking about.

Motion to Deny Resolution 2019-03, A RESOLUTION OF THE PLANNING AND ZONING COMMISSION OF THE TOWN OF SUPERIOR RECOMMENDING THAT THE TOWN COUNCIL RE-ZONE PROPERTY FROM THE URBAN RESIDENTIAL (R1-8) ZONE DISTRICT TO THE MULTIPLE RESIDENTIAL (R-3) ZONE DISTRICT by Commissioner Gunn and seconded by Commissioner Garcia

AYES - 5 Commissioners: Munoz, Figdore, Gunn, Garcia, Eveland

NOES - 2 Chairperson Mashaw, Commissioners: Gutierrez

ABSENT - 0 Commissioners:

CALL TO THE PUBLIC

Ruben Castro – Mr. Mashaw’s point to him is taken to heart believes everyone should get more involved in our community. Maybe this project can be part later down the road. Thanked the Town and the Commissioners for all they do and hopes to get more involved in the future.

Chairman Matt Mashaw appreciates everyone present and noted that people did want more RV Lots in a recent meeting.

ADJOURNMENT

Motion to adjourn the meeting made by Commissioner Eveland, second by Commissioner Munoz, Motion carries. Meeting Adjourns at 7:24 PM.

AYES - 7 Chairperson Mashaw, Commissioners: Munoz, Gutierrez, Figdore, Gunn, Garcia, Eveland

NOES - 0

ABSENT - 0 Commissioners:



MATT MASHAW, P & Z CHAIRPERSON

ATTEST:



ELIZABETH MAGALLANEZ, A/P CLERK