



OFFICE OF THE COCONINO COUNTY BOARD OF SUPERVISORS

SPECIAL SESSION MINUTES

March 10, 2021

5:00 p.m. – Special Session

Present: Chair Matt Ryan, Chairwoman Lena Fowler, Supervisor Jeronimo Vasquez, Supervisor Patrice Horstman and Supervisor Judy Begay were present virtually via Zoom meeting technology.

Also Present: Deputy County Manager/Public Works Director Lucinda Andreani, Deputy County Manager Joanne Keene, Deputy County Attorney Rose Winkeler, Public Affairs Director Eric Peterson, Clerk of the Board of Supervisors Lindsay Daley and Deputy Clerk of the Board Valerie Webber were present virtually via Zoom meeting technology.

Chair Ryan called the Special Session meeting to order at 5:04 p.m. and led the pledge of allegiance.

Chair Ryan explained the procedures the Board's would conduct in hearing of staff and the appellant's statements and, the amount of time for hearing public comments.

Upon inquiry from Chair Ryan, Deputy County Attorney Rose Winkeler recommended the Board enter executive session to receive legal advice prior to the hearing.

Motion: Enter executive session, **Action:** approve, **Moved by:** Supervisor Lena Fowler, **Seconded by:** Supervisor Jeronimo Vasquez. The motion passed unanimously.

Chair Ryan called for a break at 5:12 p.m. to allow time for the Board to conduct executive session.

Public Hearing:

1. Public Hearing, consideration and possible adoption of Resolution 2021-05, approving a CUP modification to CUP-14-039 to allow the sale of water from a standpipe to private individuals on 14.3 acres in the G (General, 10-acre minimum parcel size) Zone and is located at 7887 E. Old Route 66 within the Parks Area Plan and is also identified as Assessor's Parcel Number 203-17-001. **Community Development**

Present: Chair Matt Ryan, Vice Chair Lena Fowler, Supervisor Patrice Horstman and Supervisor Jeronimo Vasquez were present virtually and Supervisor Judy Begay was present telephonically.

Also Present: County Manager Jimmy Jayne, Deputy County Manager Lucinda Andreani, Deputy County Attorney Rose Winkeler, Community Development Director Jay Christelman, Community Development Director Jess McNeely, Clerk of the Board Lindsay Daley.

The Executive Session discussion started at 5:11 p.m.

Chair Ryan adjourned the executive session at 5:52 p.m.

Chair Ryan reconvened open session at 5:55 p.m.

Presenter: Assistant Community Development Director Jess McNeely.

Powerpoint: Wagon Wheel utility (standpipe) CUP; CUP-20-28.

Deputy County Attorney Rose Winkeler noted for the record that since this Conditional Use Permit (CUP) is in regards to ground water, the Board is restricted from considering the drawdown of groundwater or any other water adequacy or sufficiency issues as it relates to this CUP. The State of Arizona has passed statutes that address water management and prevents local jurisdictions from making an attempt to regulate groundwater management and in doing do, the State prohibits local jurisdictions, including counties from making an attempt to regulate groundwater. Because of that, it prohibits the Board from considering groundwater issues or water adequacy issues when applying its zoning ordinance. These issues cannot be discussed or heard by the Board. She recommended Chair Ryan ask the public and appellant or staff not to raise those issues as the Board cannot consider or discuss same.

Chair Ryan stated if anyone raises the issues stated by Deputy County Attorney Winkeler to the Board, he will ask the Clerk of the Board to cut off that particular individual's testimony as the Board cannot legally discuss or consider the information.

Assistant Community Development Director Jess McNeely presented a powerpoint that described the location of the parcel and zone change request for Wagon Wheel Utility. He explained the applicant's request to modify CUP-14-039 to allow the sale of water to private individuals that was approved by the Planning and Zoning Commission. He continued by providing vicinity maps and photos of surrounding properties and, explained the originally approved CUP-14-039 and the current appeal of the Commission's decision to approve the applicant's request to modify same under CUP-20-28; he noted the appeal is what is before the Board for consideration.

Supervisor Horstman asked if there is a limit on the number of residential end users visiting the site to get water and whether or not the temple is supplied water. Assistant Director McNeely stated there is no limit on the number of users and, the current CUP allowed the former hotel, which is now a temple, to be supplied with water, but no other commercial businesses.

Assistant Director McNeely reviewed conditions 1 through 16 included in the proposed Resolution to approve CUP-20-28.

Upon inquiry from Chair Ryan, Assistant Director McNeely explained that the applicants request was to allow sales of water from the utility to personal sales to private individuals, no off-site sales from the property.

Applicant Ann Serna, lives in Grand Canyon, Arizona, 86023, stated she was thankful for the Planning and Zoning Commission's approval of their request to modify CUP-14-039 to allow the sale of water to private individuals. She addressed Mr. Hing's appeal by stating the standpipe is no where near Interstate 40 and they have no lights there on the property at night and do not plan on adding any. The hours are dawn to dusk, and they plan to follow the conditions year-round. As far as the business, there may be 20 to 25 individuals filling up with water a day. She requested the Board's approval of the request as it will benefit the citizens in the area.

Appellant Robert Hing, lives at 6145 E. Joshua Tree Lane, Paradise Valley, Arizona, and owns property located at 8369 E. Old Route 66, Williams, Arizona, spoke about continuing sales to the public being a service station that is a commercial operation. He noted you have to look at what the business does not what it is called by Planning and Zoning. Cindy Meyer has lived there at least since 1982 and is very close to the operation. The Parks General Plan does not prevent a commercial operation and the traffic noise, etc., would not be conducive to a business on the property. Route 66 is a narrow two-lane highway with bikers and horseback riders in the area and this is a danger to everyone in the area. Everyone in the area has filed letters of opposition and he cannot find anyone who is in favor of the application. One problem with the application is how it can be enforced if granted. The property owner has been violating every rule the County has and they have put up a sign inviting customers before we even had this hearing. There are 175 acres right next door and the time is ripe for residential development but how would a resident like to buy a residence with three 25,000 gallons of water next door providing water to the County. This is a situation where the applicant has never obeyed the County's provisions and has operated the facility without a valid use permit, they did many years before. The property fronts on Route 66 and there is no way this application should be granted with all things considered.

Chair Ryan opened the public hearing for public comment at 6:47 p.m.

Cynthia Meier, resides at 8369 E. Old Route 66, Williams, Arizona, which is property owned by Mr. Hing. Ms. Meier asked if the Board received her emails of the issues. Chair Ryan affirmed they did. She spoke about an issue with a citizen meeting that staff said was held in March and April 2020, but she never knew about it. She spoke about violations that were happening in 2016 and how she sent notifications to the Board, Clerk and Christopher Laws.

She asked how this would be regulated? Who are the private individuals and what area it will encompass? She read an email into the record that she sent to the Board in opposition of the applicant's request.

Maggie Knight stated she is speaking for her husband and herself and she would like to speak for additional time to represent 7 neighbors who asked her to speak on their behalf.

Chair Ryan stated she can only speak for the three minutes.

Maggie Knight, stated her and her husband Steve Knight live at 8026 E. Old Route 66, Williams, Arizona. She said she would like the Chair to grant extra time to speak for seven of her neighbors who were unable to attend tonight's meeting.

Chair Ryan stated she could only speak for three minutes.

Ms. Knight named the seven neighbors names and their addresses into the record and read a section from the Parks Area Plan into the record. She noted there are about forty land owners and about thirty homes which are impacted by this business. She noted the CUP business owner does not have a registered business Wagon Wheel Water Hauls on ADEQ's list of standpipe locations in Coconino County. She said she believes the Planning and Zoning Commission did not take an adequate look at the Parks Area Plan with regards to commercial use and the impacts of same.

Judy Gillam, 7748 Pittman Valley Road, Williams, Arizona, said her main concern is during the Planning and Zoning meeting their comments were not even considered. She is concerned with more traffic on Route 66, which is a very narrow road. The owners have not gone by the rules even though violations have been turned in. They were never invited to any public meetings lately and the statements made by the applicant were not substantiated. She does not support the request.

Pat Bimbo, 1130 N. Bambi Road, Williams, Arizona, said this is pretty much a 55 and older type of community and most haul water from Parks. The traffic will eliminate all of us from using 66 and there are about 28 water haulers in the area, most water haulers do not use Interstate 40. This would eliminate issues with snow players in the area. He supports the applicant's request.

Dallas Howell, resides at 12060 E. Parks View Place , stated he agrees with everything Appellant Robert Hing stated, including the fact the Parks Area Plan specifically deals with commercial use in Pittman Valley. The only commercial use in Pittman Valley should be Quality Inn. The area is zoned General Residential Use, the residents are not trying to sell anything to the public and he would like it to stay that way for the safety of all the residents in Pittman Valley and surrounding areas.

Kevin Smith, lives with his wife at 7217 Smith House Road in Williams, said the applicant's applications have been heard multiple times and they are always requesting changes. He doesn't believe it needs to expand and cause more traffic. Due to the Serna's history, who has consistently shown, she will disregard regulations. Twenty to twenty-five trucks per day will be about a 12.5 hour day and will cause a safety issue on Route 66 depending on timing. Once this is opened up, it will allow other utility companies to come to the area. This is wrong and he

bought his property to have a rural residential life. This commercial use cannot be regulated and it is wrong, we don't need to allocate funds to regulate this.

Zale Delp, her and her husband live at 520 N. Good Lane, stated they are opposed to the commercial water haul by Serna Family Trust. In the past meeting, neighbors were not heard with their concerns. This is a hazard to the area with the people who like to walk, ride their bikes, etc., and they would like to keep traffic and congestion down. Williams has added a water haul next to Bearizona and there are two in commercial areas. This entity requires you to driver onto their property to get water and would be a commercial use. She does not feel there will be anyone to regulate the use.

Jerry House, 1118 N. Quigley Road, at least twenty people drive down Route 66, the standpipe would allow alternate access and he agrees with Pat Bimbo in supporting the applicant's request. He would not have to drive 25 miles to get water. The people complaining live next to Interstate 40 and that is all noise.

Lydia Baker, 7545 Old Route 66, stated she supports the applicant's request.

Chair Ryan closed the public hearing at 7:22 p.m.

Applicant Ann Serna stated her business is ADEQ approved, they have testing done and they are compliant. As far as the Veteran's sign, they allow them to use their land to train service animals. She stated she has no knowledge of any violations other than when the County called her regarding a complaint of large vehicles using the water station, which was Ponderosa Fire who had their trucks their training staff how to log-in and use the facility. She has never had other calls or notices of violations.

Robert Hain stated this water fill is not needed. He said did not specifically mention any violations however, Cynthia Meier spoke about a whole bunch of violations. He gave a short example of a recent violation and stated the testimony is very clear, this is an unnecessary utility.

Chair Ryan called for a break at 7:30 p.m. and reconvened open session at 7:37 p.m. Supervisor Begay was not present.

Chair Ryan explained the Board has heard testimony and public comment and this is the time for the Board to ask questions and discuss the matter.

Supervisor Horstman stated she does not have any questions, she has received complete information and is ready to move forward.

Vice Chair Lena Fowler inquired about the community meetings held in this matter. Assistant Jess McNeely explained there is a required citizen participation meeting, and the applicant provided a report that met requirements and due to the pandemic, the applicants were allowed to hold zoom meetings, meet outside or find other ways to meet social distancing. The applicant submitted a report that was sufficient.

Applicant Ann Serna stated she held a citizen meeting on-site but only had half the participants as they did during the meeting held in 2014. They sent out about 42 applications to neighbors further than what was required. She received 24 back that were half in support and half against the application. She stated there is no lighting now and there will be no additional lighting. They will be open dawn to dusk based on the conditions during the time of the year.

Assistant Jess McNeely noted if in the future the applicant would like to add lighting, the applicant would have to meet outdoor lighting regulations as included in the Zoning Ordinance and get a lighting permit.

Supervisor Vasquez asked if there were any plans to upgrade Route 66 to accommodate some of the traffic concerns of the residents? Assistant Jess McNeely stated there are no plans at this time for improvements and the County maintains the road and classifies it as a major collector and as such, already has improved maintenance requirements due to use.

Chair Ryan asked if a road analysis needs to be done. Assistant Jess McNeely said this does not require a traffic impact analysis, the applicant is required to maintain their driveway consistent with County regulations but there is no requirement at this time as it is based on volume. The applicant has to maintain their driveway based on County standards.

Chair Ryan noted the appellant listed six different reasons for their appeal and he asked Mr. McNeely to respond to those reasons.

Assistant Jess McNeely noted Route 66 is designated as a major collector and currently has the volume of traffic associated with its designation. As far as lighting compliance the applicant would have to apply for a permit for additional lighting and as far as the types of zoning a utility can be permitted in residential with a Conditional Use Permit (CUP). The Zoning Ordinance does not consider a utility as a commercial use.

Chair Ryan stated the Board has received and read a lot of points made by the community. He noted there is a new matrix associated with the Zoning Ordinance that does include a definition of a utility. The crux of the question between last time and this time is, is this considered a commercial use? He provided an overview of the history and conditions related to the CUP.

Supervisor Horstman stated she has reviewed all comments and over 150 pages of documents. She noted the CUP allows for a use beyond the normal G use. She highlighted the findings of fact and spoke about the Board's responsibilities with respect to considerations of the appeal.

Vice Chair Fowler noted the concerns brought up about air, light, traffic and noise, were answered by staff and there is a new updated Zoning Ordinance that addresses the definition of a utility facility. There were a lot of documents to review and public comments to consider. She noted this is a County road and is maintained by the County and also, ADEQ concerns have been answered.

Supervisor Vasquez spoke about his concerns with the impact to the area.

The Board discussed the neighbor's opposition and the findings of fact that need to be made as they relate to the applicant's request and the appeal.

Chair Ryan noted Supervisor Begay was not present as she lost her telephonic connection.

Motion: Move to uphold the appeal and that we deny the Conditional Use Permit, modifying the modification of CUP-14-039 and that we not allow the sale of water from the standpipe to private individuals and that we do not allow the Conditional Use Permit and we uphold the appeal of the appellant, **Action:** approve, **Moved by:** Supervisor Patrice Horstman, **Seconded by:** Supervisor Jeronimo Vasquez. **The motion passed with Chair Ryan, Supervisor Patrice Horstman and Supervisor Jeronimo Vasquez voting "aye" ; Vice Chair Fowler voted "naye." Supervisor Begay was not present and her vote is considered a vote of abstention.**

There being no further discussion, Chair Ryan adjourned the meeting at 8:35 p.m.

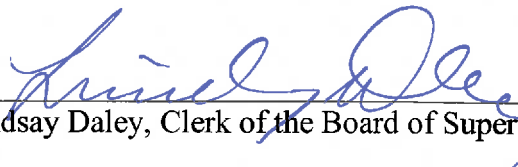
COCONINO COUNTY BOARD OF SUPERVISORS

(SEAL)



Matt Ryan, Chair

ATTEST:



Lindsay Daley, Clerk of the Board of Supervisors

