



Official Minutes of the City of Cottonwood  
 Planning & Zoning Commission Meeting October 20, 2008 at 6:00 PM  
 Council Chambers 826 N. Main Street - Cottonwood, Arizona

**Call to Order**

Chairperson Gillespie called the meeting to order at 6:00 PM.

**Roll Call**

Chairperson Gillespie	Present	Member Kevin	Absent
Vice Chairperson Kiyler	Present	Member Lovett	Present
Member Fisher	Present	Member Smith	Present
Member Gonzales	Present		

Staff Present:

George Gehlert, Community Development Director  
 Wes Ballew, Planner  
 Charlie Scully, Planner  
 Carol Hulse, Planning Technician

Public Present:

Arden, Dave	McShane, Joseph	Self, Keith
Brown, Merlyn	Oliphant, Bob	Spitzke, Betty
Cornell, Chad	Richards, Bob	Spitzke, Bruce
Hurkett, Tom	Ryberg, Carol	Witte, Terry
Marshall, Janet	Ryberg, Steve	Others who did not sign in

**Consideration of the August 19, 2008 Commission meeting minutes.**

***Motion:***        ***To approve the August 19, 2008 minutes as presented.***  
***Moved by:***    ***Diane Lovett***  
***Second:***      ***Jake Gonzales***  
***Vote:***          ***Motion carried unanimously.***

**NEW BUSINESS:**

**CONSENT AGENDA to officially terminate or alter existing conditional use permits as outlined below.**

<b>PCU#</b>	<b>USE</b>	<b>ADDRESS</b>	<b>PARCEL #</b>	<b>PROPOSED ACTION</b>
<b>207</b>	Guest house in AR-20 zone	1748 Sawmill Rd.	406-04-081	Review in five years.
<b>96067</b>	Wholesale in C-1	851 S. Main St.	406-04-033B	Permanent – review in five years.
<b>98046</b>	Exceeding height limitations	102 S. Willard	406-33-001F,G,J, 406-33-003,018B,018W	Permanent – no further reviews.
<b>98061</b>	Multi-family duplex in C-1 zone	13 S. 15 <sup>th</sup> St.	406-41-012	Permanent – review in five years
<b>99004</b>	Self storage facility in C-1 zone	1055 Camino Real	406-04-056U	Void - zoning change allows use.

Director Gehlert said the consent agenda consists of five use permits that staff reviewed recently. He said staff is asking for a summary recommendation from the Planning and Zoning Commission for approval subject to the recommendations outlined in the staff memos. He read the consent agenda adding the proposed action.

After minimal discussion and clarification of a few points, the Commission took the following action.

**Motion:** *To approve the consent agenda as presented.*

**Moved by:** *Jake Gonzales*

**Second:** *Ed Kiyler*

**Vote:** *Motion carried unanimously.*

**PCU 08-002-A1 (Amendment) Consideration of a request by Minerals Research for an amendment to PCU 08-002 in order to re-define the truck route for a process facility on a portion of 12.25 acres zoned CF and located on the Verde Valley Fair Association property north of Hwy. 89A between 6<sup>th</sup> and 12<sup>th</sup> Streets. Owner: Minerals Research & Recovery, Inc. Agent: Tom Hurkett**

Director Gehlert introduced the request for an amendment to an existing Conditional Use Permit explaining that the only reason it is on the agenda is to consider a new truck route in and out of the facility. He described the previously stipulated truck route, which several neighboring residential owners opposed, and described the proposed route. He said the slag pile owner is negotiating with a neighboring property to create a truck route directly west from the site to Sixth Street.

Tom Hurkett, representing Minerals Research, explained that the property owner expressed willingness to negotiate the new route pending the Planning and Zoning Commission's approval of the new route. He emphasized that Minerals Research does not want to give up the route originally approved until the new route is successfully negotiated and that, in the end, they want only one of the two proposed routes.

Director Gehlert reminded the Commission that the original route was contingent on reconstruction of the truck route section of Aspen Street and that is in the balance.

No one spoke for or against the project and Chairperson Gillespie called for a motion.

**Motion:** *To approve amendment to PCU 08-002 to allow the previously approved Aspen Street route either with the associated stipulations or the newly proposed Sixth Street route if negotiations with the property owner are successful. The Sixth Street route would be subject to the following stipulation.*

- 1. Improvement to the access driveway as stipulated by the Public Works and the Fire Departments.*

**Moved By:** *Jake Gonzales*

**Second:** *Terry Fisher*

**Vote:** *Motion carried unanimously.*

**PCU 08-050 Consideration of a request for a conditional use permit to allow construction of a 10,700 sq. ft. church facility on approx. 15.2 acres in the C-2 and I-2 (Heavy Commercial and Heavy Industrial) zones located on APN 406-06-248H (in the vicinity of Willard and Cottonwood Streets). Applicant: River Community Fellowship. Agent: Terry Witte.**

Planner Wes Ballew introduced the proposal describing the request, location, and zoning of the property and of the surrounding property. He said it would be a 324-seat sanctuary, offices, and a covered patio. Wes Ballew said there were generally no problems with the request but noted a potential impact due to a restriction regarding issuance of new liquor licenses within 300 feet of a church building. He noted that staff mailed letters about the proposal to property owners within 300 feet of the parcel boundary, although the State liquor licensing restriction is 300 feet from the building walls. Staff received one letter of objection during the past week from the owners of Clemenceau Plaza.

Mr. Ballew said the Zoning Ordinance allows adult uses only in the I-2 zone and those have to be 500 feet from the edge of a church property (not the edge of the building). He pointed out the properties that could be affected noting that the Clemenceau Plaza building is a good distance from the subject property's boundary line. He displayed site photos, site plan, surrounding views, and a mailing area map. Director Gehlert showed the proposed building footprint and demonstrated that the 300-foot boundary from the walls of the proposed building footprint would fall mostly on the church's property.

The Commission and staff discussed the following.

- If building footprint changes, or there is subsequent development of the property, the area that would be restricted by State liquor licensing requirements would change.
- At DRB, the applicant indicated a desire to sell the commercial piece. That piece would be within the 300 feet so uses would be limited.
- As proposed, the project would not affect Clemenceau Plaza.

Chairperson Jim Gillespie invited the applicant to speak.

Terry Witte introduced himself as a church elder representing the project. He said the church is paying cash for the site and feels it is a good location vs. most industrial locations. They need the conditional use permit before they close escrow. He said staff did a good job presenting the case. The church would not put up a steel building. They would build a stucco building and landscape the property nicely. Jim Gillespie speculated that the driveway is on the commercial piece and if that piece were sold, the driveway would have to be moved. Mr. Witte assured him they have no plans to sell at this point.

Chairperson Gillespie asked if there was anyone to speak for the project and there was no response. He asked if anyone wanted to speak against it.

Joe McShane was complimentary of the church plans and said he did not oppose the construction of a church. He emphasized that he would not want anything to preclude liquor sales in Clemenceau Plaza. Otherwise, he totally approved of the project.

Phil Terbell, speaking for the Country Bank Partnership regarding the vacant property east of the proposed church property and west of Country Bank, said the vacant lots are intended for restaurant pads and would need the opportunity to have liquor licenses. He said his concerns are the same as Mr. McShane's about the 300-foot buffer and, otherwise, he is not opposed to the church.

After brief discussion about the location of the restaurant pads and determination that they are outside the 300-foot buffer, Chairperson Gillespie closed the floor to the public and opened it for Commission discussion.

Terry Fisher expressed two concerns about the proposal.

1. The potential effect of the 300-foot buffer.
2. Taking a commercial area with potential financial benefits to the city and effectively changing the zoning – there could be a more efficient use of the property providing jobs and sales tax revenue.

Commission members' questions elicited the following information.

- The driveway property is 50-feet wide and was donated to the church for access from Willard.
- A sign would be located on the driveway. There would be no signage on SR 89A.
- Parking would be in the back.

**Motion:** *To approve PCU 08-050 with the following stipulations.*

1. *That the proposal be developed in conformance with the letter of intent included in the packet dated 9/2/08.*
2. *That all Code Review comments from the meeting held on September 16 2008 be addressed.*
3. *That the Conditional Use Permit be reviewed in one (1) year.*
4. *That a Certificate of Occupancy be obtained that would be contingent on Fire Department and Building Department approval.*
5. *No changes in the proposed building footprint or any additional buildings shall be allowed without Planning and Zoning Commission approval.*

**Moved By:** *Diane Lovett*

**Second:** *Jake Gonzales*

**Vote:** *Motion carried four to two with Jim Gillespie and Terry Fisher casting the dissenting votes.*

**ZO 08-051 Discussion and possible action regarding proposed amendments to the Cottonwood Zoning Ordinance pertaining to amendments to Section 201 (Definitions)**

**regarding new definitions for various types of housing, including boarding house, bed and breakfast establishment, group home for the handicapped, correctional transitional facility, and similar institutional housing types; and amendments to Section 404 (General Provisions) adding procedures and standards for boarding house, correctional transitional facility, and bed and breakfast establishments.**

Planner Scully gave a lengthy presentation of the staff memo. He provided background and explained the proposed Ordinance revisions and additions and the Fair Housing Act (FHA) in detail.

Mr. Scully proposed new or revised definitions for the following types of housing uses:

- Assisted Living
- Bed & Breakfast Residence
- Bed & Breakfast Inn
- Bed & Breakfast Country Inn.
- Boarding House
- Correctional Transitional Facility
- Dormitory
- Family
- Foster Home
- Foster Home, Group
- Fraternity Or Sorority House
- Group Home For Developmentally Disabled
- Group Home For The Handicapped
- Halfway House
- Nursing Home
- Rooming House.

There was extensive discussion of the proposal covering topics and thoughts such as:

- How the Fair Housing Act affects the city's ability to regulate types of housing and where it is applicable.
- Intent of the Fair Housing Act is to avoid discrimination by not treating any housing type differently than a traditional single family home.
- Protected classes.
- Who qualifies as a person with a disability and who does not.
- Differences between types of housing that are similar such as boarding houses, halfway houses, group homes, and assisted living homes.
- Pros and cons of requiring ADA compliance and certified staff for all group homes for the handicapped.
- Talking about ADA compliance, Bob Oliphant said we cannot allow the people who are suffering serious handicaps to become the object of profit-making people.
- Phil Terbell said that if a handicapped person says they could live with it (whatever condition) you cannot discriminate.
- The city cannot license and/or perform periodic inspections of group homes unless they do the same for every residential home in the city, per the Fair Housing Act.

- The appropriateness of requiring ADA compliance and certified staff for all group homes for the handicapped.

*The Commission praised Mr. Scully's work to this point and asked staff to do further research and work on the following:*

- *Look into number of people in a unit in correction/transitional facilities to enable calculation of the number of units to determine the appropriate zoning for such facilities.*
- *The means of guaranteeing qualified supervision and in-house rehabilitation is in the definitions but not in the standards.*
- *Look at changing wording under Group Homes for the Handicapped from "may or may not provide on-site care" to "shall provide on-site care."*
- *Take a closer look at the ADA requirements.*
- *Add more specificity to the Boarding House definition regarding "room" and "sleeping accommodations."*
- *Work on applying housing type standards and definitions to specific zoning classifications.*

**ZO 08-052 Discussion and possible action regarding proposed amendments to the Zoning Ordinance, Section 404 (General Provisions) by adding a new section pertaining to Camping Within the City Limits, and amending Section 201 (Definitions) by adding new definitions for "camp" and "camping.**

Planner Scully presented the staff memo. He provided background and said that neither the Zoning Ordinance nor the Municipal Code provides clear regulatory guidance on camping within the city. In terms of enforcement, the codes are not clear enough where camping activities become a public safety hazard and nuisance. Clarification requires two parts: one to amend the Zoning Ordinance and one to amend the Municipal Code. The proposal would cover the following camping situations.

- On public streets/property.
- On vacant lots, washes, etc.
- In RVs in a driveway or a dies yard.

Mr. Scully said the proposal would accomplish the following.

- Provide the Police Department with the ability to address campers directly to determine if they are authorized to be on private property.
- Allow friends and relatives of homeowners to stay in an RV in their driveway or yard with restrictions so it does not become permanent housing.

Mr. Scully cautioned the Commission that other cities that have put restrictions on camping on streets faced controversy and accusations of discrimination against the homeless.

Commission member comments were as follows.

- Fisher – long overdue in Cottonwood. The City or the Police Department should post the ordinance on signs in Wal-Mart, Safeway, etc. There are people in Cottonwood whose livelihood depends on providing camping places and they cannot compete with free camping. Having people camp anywhere is a problem for the Police Department.

- Kiyler – many cities prohibit parking in Wal-Mart. He told of a town in Texas where the Police Department prohibited parking (an RV) anywhere except in designated parking lots and the Police Department charged you to park there.
- Gonzales – likes the Kingman ordinance that says no (RV) parking on commercial property.

The public did not comment on this proposal.

*Chairperson Gillespie directed staff to:*

- *Refine the ordinance.*
- *Add restrictions for camping on commercial property.*

**ZO 08-053 Discussion and possible action regarding proposed amendments to Zoning Ordinance, Section 405 (Sign Code) for the purpose of establishing standards for handheld signs (otherwise known as “sign-walkers”).**

Planner Scully presented the staff memo. S.B. 1076 was approved earlier this year by the Arizona Legislature and signed by the Governor. This new law requires cities to allow “sign walkers” for commercial advertising and other expressions of speech. The law allows such signs in the right-of-way as a matter of right; however, it allows some level of reasonable regulation regarding time, place, and manner. Cities have until December 31, 2008 before the state law becomes effective.

Mr. Scully said there are only a couple of cities who have “tackled” this so far. One is Gilbert. Gilbert restricted things such as tossing signs in the air, and that signs must pertain to something within the city.

Mr. Scully went through the proposed Ordinance explaining various aspects of it. He said the State’s intent is to prevent over-regulation. He said a few questions remain such as distance set back from an intersection, different if two side streets rather than a major intersection, permit requirements, and fees.

Chairperson Gillespie said the distance-from-a-corner restriction should match what is already in the Zoning Ordinance. He expressed concern about safety.

There was discussion about fees. Director Gehlert said it is awkward to require permits for “free speech” activities. Furthermore, we do not charge fees for some other signs such as political and benefit car wash signs. The Ordinance would provide standards to meet when they do this (sign-walk). Mr. Scully said he is talking about tying this into commercial vs. non-commercial signs. Director Gehlert said the State law makes no distinction between free speech and commercial.

There was no public comment.

Jim Gillespie and Ed Kiyler complimented Mr. Scully on his work to date, and said it is close to completion.

*No action was taken.*

### **Discussion regarding the Arizona Smart Growth Scorecard.**

Director Gehlert noted that he copied the Commission on the most recent draft of the Arizona Smart Growth Scorecard. He explained that it was a survey to determine how the City is doing on sustainability issues and a method for grading the progress. The grade would determine eligibility for discretionary State funds. This was not the final version but a response would be required soon. Director Gehlert requested input from the Commission members at the next Commission meeting.

### **Discussion of possible future work sessions.**

*No work sessions planned.*

### **Possible discussion of monthly Departmental reports, such as Building Department and Code Enforcement reports.**

Darold Smith questioned enforcement status of zoning violations against David Carl (Wild West Express) and Angela Lozano (boarding houses). George Gehlert provided updates.

### **Informational Reports and Updates.**

Director Gehlert reported:

- The Council appointed a five-member independent Board of Adjustment.
- Planning and zoning items on the Council agenda the next evening.
- The NAIPTA bus facility was on the DRB agenda that week.
- The Commission would be talking about the landscape code.
- The City Manager directed staff to look at changes to the noise ordinance and to address graffiti through the code development.
- Next month's P&Z agenda would include the group homes issue and camping.
- The Boards and Commissions Conference would be in December.

### **Call to the Public.**

Bob Oliphant referenced the minutes of the October 15, 2007 commission meeting regarding the conditional use permit for a materials processing operation on Happy Jack Way. He read the stipulation calling for a one-year review, questioned if stipulations were met, and questioned why it was not reviewed. He further noted that the operation appears to have ceased and the land is sitting vacant, tied up, even though it was set aside in 1985 for small industry use. He expressed his opinion that the current use is in clear violation of the 1985 agreement and the conditional use permit should be terminated immediately.

Dr. Bob Richards suggested that the "Call to the Public" be moved to the first part of the agenda. He referenced the previous agenda item PCU 08-050 for River Community Fellowship Church and talked about the multiple zoning classifications in the immediate area. In Richards' opinion, the zoning in Cottonwood is "haphazard" and "patchwork." He questioned if a church in a heavy commercial/heavy industrial area is a good fit for development of that area.

Dr. Richards also described four hangars on Airport Drive as toy garages for airplanes belonging to wealthy people in a heavy industrial zone instead of the intended industrial uses. He noted

that one of the “toy garages” contained a nice residence. He said that is an abuse of the zoning. The land use should be for bringing jobs into Cottonwood. The “toy garages” bring no jobs into Cottonwood once they are constructed. He recommended a requirement that those hangars be converted to an industrial use. Dr. Richards questioned if, overall, this is proper use of our zoning ordinances and suggested we look at where these things should be placed.

**Adjournment.**

*Chairperson Gillespie adjourned the meeting at 7:56 p.m.*

Minutes prepared by: Carol Hulse, Planning Technician

Date Approved: December 15, 2008