



Town of Paradise Valley

6401 E Lincoln Dr
Paradise Valley, AZ 85253

Minutes - Final

Planning Commission

Tuesday, December 1, 2020

6:00 PM

Council Chambers

**IN-PERSON ATTENDANCE AT PUBLIC MEETINGS HAS BEEN SUSPENDED UNTIL
FURTHER NOTICE. WATCH LIVE STREAMED MEETINGS AT:
<https://paradisevalleyaz.legistar.com/Calendar.aspx>**

1. CALL TO ORDER

Chairman Wainwright called the meeting to order at 6:00 p.m.

STAFF MEMBERS PRESENT

Town Attorney Andrew M. Miller (attended remotely)
Lora Rauch, Special Projects Planner
Planning Manager Paul Michaud
Town Engineer Paul Mood (attended remotely)

2. ROLL CALL

Present 7 - Commissioner Jonathan Wainwright
Commissioner Charles Covington
Commissioner Pamela Georgelos
Commissioner Daran Wastchak
Commissioner Orme Lewis
Commissioner Thomas G. Campbell
Commissioner James Rose

3. EXECUTIVE SESSION

None

4. PUBLIC HEARINGS

- A. [20-451](#) Public Hearing for Commission Recommendation regarding referral from the Town Council of an amendment to the Town Zoning Ordinance to prohibit recreational marijuana establishments.

Andrew Miller, Town Attorney, introduced the item and indicated this was being done by the request of the Town Council and that staff has not received any public comments on the issue. He explained that voters in the last election were largely in support of Proposition 207 which will take effect in December 2020 or early January 2021. He clarified that the proposition authorizes the

possession, consumption, purchase, processing, manufacturing and transporting of marijuana by those 21 years of age and older. He added that it also allows for nonprofit marijuana dispensaries or other non-dispensary applicants to apply to the Department of Health Services to become a licensed marijuana establishment. He shared that the Town has no existing marijuana dispensaries and noted that the proposition allows for municipalities to prohibit marijuana retail and testing facilities.

Mr. Miller continued his presentation and noted that the retail marijuana facilities are not desired since the Town has no retail zoning districts and such uses would generate more quick-trip traffic. He indicated that staff recommended adopting provisions to the Zoning Ordinance that would prohibit marijuana establishments and or marijuana testing facilities in Town. He noted these changes were necessary to make the prohibition.

Commissioner Georgelos asked if the Town is within their rights to make these changes since there are no retail districts within the Town.

Mr. Miller replied that was correct. He reiterated that Proposition 207 had provisions that allowed municipalities to prohibit marijuana.

Commissioner Wastchak asked why directly prohibit marijuana facilities now when the Town did not in the past.

Mr. Miller responded because of the distinction between the two different acts. He explained that the more recent act allowed the Town to not only restrict, but prohibit marijuana establishments and testing facilities.

Commissioner Wastchak inquired if this would effectively not allow for any marijuana facilities.

Mr. Miller stated that could not be guaranteed since a medical marijuana dispensary could make an application if it met the spacing and other standards.

Chairman Wainwright asked if an individual's ability to grow marijuana is addressed in the proposition.

Mr. Miller replied it was not in this ordinance, but there may be a follow up restriction on individual growing.

Commissioner Covington asked how this law would affect someone coming in for a medical marijuana dispensary application.

Mr. Miller explained someone could still apply to become a medical marijuana dispensary because under state statute a municipality can only limit this and not prohibit it.

Commissioner Covington inquired if a person would be able to apply for dual use if they were successful at getting that certification.

Mr. Miller replied he did not think they could and that it would take a lawsuit for

them to do so.

Chairman Wainwright opened the public hearing. No comments were offered, and the public hearing was closed.

A motion was made by Commissioner Wastchak, seconded by Commissioner Covington, to forward a recommendation of approval on Resolution No. 2020-30 as shown in the staff report to the Town Council. The motion carried by the following vote:

Aye: 7 - Commissioner Wainwright, Commissioner Covington, Commissioner Georgelos, Commissioner Wastchak, Commissioner Lewis, Commissioner Campbell and Commissioner Rose

5. STUDY SESSION ITEMS

- A. [20-452](#) Discussion of a minor amendment request to the R-18 CP SUP for Lot 3 Cheney Estates (SUP-20-08). 7171 E. Paradise Canyon Road (APN: 174-40-004)

Loras Rauch, Special Projects Planner, presented an overview of the request for a Minor SUP amendment to the Cheney Estates subdivision for Lot 3. She provided background on the site and noted that the SUP was only for 14 of the lots in the development. She noted the applicant desired to change the rear yard setback from 35 feet to 15 feet for a shade structure. She reviewed the minor amendment criteria. She listed the permits previously issued to the property which included permits for a pool, outdoor kitchen, and more. She noted that the shade structure had already been built and provided photos of the site.

Commissioner Campbell asked what the side yard setbacks were for ancillary structure in a standard R-18 zoning.

Ms. Rauch replied that she believed it was 10 feet on the side yard.

Commissioner Campbell inquired if there had been any other accessory structures built in this zoning district for this subdivision.

Commissioner Covington asked how the shade structure was discovered.

Ms. Rauch replied it was discovered during the inspection process.

Commissioner Campbell asked the overall square footage of the residence and if it was pushing the 5,000 square foot allowance.

Ms. Rauch remarked that they were at about 48% of what they are allowed.

Commissioner Wastchak noted it looked like there was a lot of impervious materials added with the renovation and inquired if there was anything done for storm water retention.

Ms. Rauch replied that the owner is required to submit a grading and drainage plan as part of the building permit process and show the location of the

retention.

Commissioner Campbell asked if there had been any complaints about the structure from neighbors.

Mr. Rauch responded none. She shared that the structure went up around March or April 2020 and the required noticing have been sent out.

Commissioner Georgelos asked if the livable space did not include accessory structures.

Ms. Rauch clarified that the SUP did not discuss accessory structures.

Chairman Wainwright expressed that he felt the application met the criteria for a Minor Special Use Permit.

Ms. Rauch stated staff held the same position.

Commissioner Campbell agreed. He inquired if the builder did much work in Paradise Valley.

Ken Larkin, builder, indicated his firm does pavers and landscaping throughout the valley, but not much structure work.

Chairman Wainwright asked how this was not permitted in the original application.

Joel Schaller, property owner, explained that there was confusion on the need of a variance or special use permit at which he decided to build. He indicated that as he continued building, he determined that a shade structure was still needed in order to enjoy the space and forgot to go back and get it permitted. He pointed out that there were no adjoining properties to the location of the shade structure.

Chairman Wainwright inquired if they had a structural engineer review the calculation for the shade structure.

Mr. Larkin replied yes.

Commissioner Wastchak remarked that it was unfortunate that a major structure was built without proper permitting. He noted it was frustrating seeing this happen time and again.

Chairman Wainwright requested the applicant get an acknowledgement or support from the homeowner association on this structure.

Commissioner Campbell asked if the Town is opening the door for other ancillary structures in this subdivision if this was approved.

Mr. Miller responded that it would not, since every application stands on its own.

Commissioner Campbell inquired if any notes exist on why ancillary structures were not discussed or prohibited.

Ms. Rauch replied that she looked into it as much as she could and was not able to find any of the notes or minutes when the SUP was created.

Commissioner Georgelos asked if there was any information on the CC&Rs that give definitions about ancillary structures or prohibit them. She indicated that could provide some insight as to what was intended for the subdivision.

Ms. Rauch indicated she has not looked at the CC&Rs.

Mr. Schaller indicated there were other ancillary structures on the 14 lots.

Commissioner Rose remarked that he would like to be sure the Town Engineer will be involved in the permitting process that the structure is safe.

Paul Mood, Town Engineer, clarified that the Building Division will review the structure while the Engineering Division will look at grading and drainage.

Chairman Wainwright remarked requiring a stamp from an engineer or architect, so the Town did not have to determine if it was safe or not.

No Reportable Action

6. ACTION ITEMS

None

7. CONSENT AGENDA

- A. [20-449](#) Approval of the November 2, 2020 Special Meeting Planning Commission Minutes

Commissioner Lewis had remote connection issues and was not present for the roll call vote on the minutes or adjournment.

A motion was made by Commissioner Campbell, seconded by Commissioner Georgelos, to approve the November 2, 2020 minutes. The motion carried by the following vote:

Aye: 6 - Commissioner Wainwright, Commissioner Covington, Commissioner Georgelos, Commissioner Wastchak, Commissioner Campbell and Commissioner Rose

Absent: 1 - Commissioner Lewis

8. STAFF REPORTS

None

9. PUBLIC BODY REPORTS

Commissioner Wastchak inquired if Ms. Rauch was stepping in to help on things other than the General Plan update.

Mr. Michaud replied that was correct.

10. FUTURE AGENDA ITEMS

Mr. Michaud announced that their next meeting would take place on December 15, 2020. He shared that on that meeting's agenda they would have the Cheney Estate item as well as discussion on pad height.

Commissioner Wastchak asked if they could get more information about the Scottsdale Plaza ASUP pipeline.

Mr. Michaud replied he did not believe it will come anytime soon since they have not been contacted about it since the pandemic began.

11. ADJOURNMENT

A motion was made by Commissioner Wastchak at 7:21 p.m., seconded by Commissioner Covington, to adjourn the meeting. The motion carried by the following vote:

Aye: 6 - Commissioner Wainwright, Commissioner Covington, Commissioner Georgelos, Commissioner Wastchak, Commissioner Campbell and Commissioner Rose

Absent: 1 - Commissioner Lewis

Paradise Valley Planning Commission

By: _____
Paul Michaud, Secretary