

**CITY OF EL MIRAGE
PLANNING AND ZONING COMMISSION
REGULAR MEETING MINUTES
APRIL 9, 2013**

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Vice-Chair Brandon Forrey called the meeting to order at 6:00 p.m. & led the Pledge.

II. ROLL CALL

Members present were Brandon Forrey, Frank Carnal, Robert Jones, and Justin McCarty. Doug Doede was out of town. Staff present were Dep. City Manager Sue McDermott, Senior Planner Mark Smith, and GIS Technician Jose Macias.

III. APPROVAL OF THE MINUTES OF JANUARY 15, 2013

There being no changes, Carnal made a motion to approve the minutes of March 14, 2013, seconded by McCarty, and the motion passed on a vote of 4 to 0.

IV. PUBLIC HEARING ITEM

Fightertown Paintball Park CUP in EI with 65db Ldn at 9825 N. 121st Ave.
Smith presented a PowerPoint on the request for a conditional use permit to allow outdoor recreation in Employment/Industry with 65db overlay on a 6.36 acre parcel on 121st Avenue south of the Wastewater Plant. The rear portion is in the floodplain and not useable. He noted that it is isolated so it does not affect residential or retail areas, but road access is limited. The use is only on weekends and the applicants propose no permanent improvements. Staff is recommending a chip seal road and a decomposed granite parking lot. The applicants propose electrical generators, a 400-gallon water tank, portable restrooms, modular office and storage buildings, mobile food vendor, and shaded break areas. They will be using non-toxic, biodegradable balls and training participants.

Applicant Henry Ruiz introduced himself and Tony Carioscia. Ruiz said they received a letter from Olive Avenue, LLC, & changed their parking lot to the north end farther away from heavy equipment and a buffer from the parcel north.

Carnal asked who would be responsible for cleanup of trash on the property. Ruiz said they would take care of all that once they purchase the property. Carnal asked if they were originally in Surprise. Ruiz said they were at Speed World for three and a half years but the County had problems with Speed World and shut them down and so they have to find another location.

Forrey asked if they planned to get settled and then go more permanent or if it was a more indefinite period. Ruiz said they keep everything mobile so people do not get bored. It is in their favor to move everything around. That is what is hard about permanent utilities. It makes it harder to move them around. It will be a while with a parking lot and all, but if they expand they could move them around.

Jones asked if there were utilities there. Ruiz said there were none presently. He asked if they were hauling water. Ruiz said they did not use much water except cleaning. They do offer drinking water but most people bring their own. They do not allow alcohol. Caroscia said they have a licensed mobile vendor that also offers water and they also supply water without charge to anyone that asks for it.

Richard Auerbach who owns 12001 W. Peoria Avenue plus the property north of this one and two other properties in El Mirage, said he was not aware that 121st Avenue was a public right-of-way. Smith said 121st Avenue is a public easement dedicated by different owners at different times. Auerbach said he was not opposed to the use but he services paintball facilities with portable toilets and storage boxes and the amount of damage done to them made them unusable again. His concern is the area may be paint-balled and who would be responsible for cleanup. There is also a lot of dumping, vandalism, and robberies in the area on his and other properties. They would get a lot more traffic than they really need. If they want to name someone as additional insured, he would like to be named.

Forrey asked staff whether codes make the owner responsible for vandalism. Smith said the paintball park would not be responsible for someone else vandalizing property. If the police could determine who did it, they would be responsible. He thought Auerbach was concerned about the attractive nuisance and who would clean it up. McCarty asked what if the park were open and shooting onto adjacent property. Smith said they would be responsible for damage from their property. Forrey asked what kind of fencing they will have. Ruiz said the netting will protect adjacent areas from paintballs. Jones asked if he knew Auerbach's property. Ruiz said it was to the north and that is one reason why they moved the parking lot to that side. Jones asked if they had supervision. If people break the rules they make them sit out. If they keep doing it they ask them to leave.

Adjacent owner Bruce Balls asked about the improvement of the street. Smith said it would be two-lane chip seal road with decomposed granite parking lot. Balls asked if it was a change in policy. Smith said it was not a change in code. This is not industry with truck traffic but an activity a twice a week. Staff is suggesting that they do not need an asphalt street to accommodate that type of use. Balls said he owned the property across the way and there was a heavy development agreement with a half-street improvement with pavement in front of his property. Forrey asked what type of development it was. Balls said it was a contractor's yard. If there was a change in policy he was delighted to know that but if not why is this different than the one he presented. Forrey understood that the treatment was different. He asked if Council would have to officially waive the improvements. McDermott said it would be part of the conditional use permit. At one time there were plans for the City to do a capital improvement on 121st Avenue but that no longer in the Capital Improvements Program.

Applicant Tony Carioscia thanked the Commission for considering their application. He owns five companies in the City including a construction company, a couple large heavy metal equipment rental companies, a trucking business and investment company. He is looking to bring another business which is a beautiful family park. He recognizes they are asking for variance on some of the improvements. They are there only on weekends. Maybe it is not per code for permanent structures. They were successful at Speed World but the State of Arizona did not like the way Speed World ran their business. They are professional and safe. The netting will not allow balls through. There is no chance anyone will get damage from their paintballs. If it hits skin it may cause a welt but will not damage anything else and they will clean them up. McCarty asked what measures they had to prevent trespass after hours. Carioscia said that anyone can jump a fence, but they will take measures to prevent that. McCarty asked about fencing. Carioscia said some sides are fenced to prevent paintballs. McCarty asked about the frontage. Carioscia said that would be fenced.

Forrey redirected the discussion to the road improvements. McDermott asked the applicant how many cars they get. Carioscia said they get about 200 players with two to four per car, so 40 to 50 cars. McDermott said the street treatment that staff is asking for is consistent with the pavement adjacent to City property.

Jones said he was familiar with paintball and airsoft guns. The problems he has seen was if people are there when they are closed they are doing things they should not be doing like graffiti, not paintball. When they are closed you generally don't see people there. These facilities are popping up all over the Valley and it is family recreation. I did not think there should be a problem unless they come up on the river on quads which he did not think is legal. He did not think they were asking too much for this conditional use permit.

Forrey was concerned about the minimized improvements was an issue knowing that half-street improvements, water, and sewer are standard for any development. The argument that it is limited use it almost makes it like a one-time use like a fair which happens twice a year as opposed to every weekend. It may be appropriate to have a limited time frame with options for renewal if that is an available option to get a chance to check back in. If things are not working out after a few months, maybe something else can be explored. His biggest concern is a development getting in place. If you do not get the half-street improvements when they develop you may not get another opportunity to get them. If permanent structures are built, that would be another opportunity to get them. Smith said that they could set a time frame if you want to check the progress and status, but in this case staff tied it to more permanent structures or it happens all the time instead of just on weekends. That is an automatic built into this recommendation, but you could set a time frame if you want to review it again. Forrey recognized that requiring a half-street when you are tying into chip-seal is a challenge. This may be a decent compromise. Jones said he understood that there are no permanent structures now or in the future. The applicant said they never plan that. Forrey said if they never

have permanent structures the City will never be an opportunity to require the improvements. Smith said that in this case it would be more practical to do it with an improvement district with all the owners participating including the City. Forrey confirmed that it was not in the current plan. McDermott said it was not. McCarty said he was concerned that we are not requiring the half-street for this development but the other owner cannot develop his property without the half street. Forrey asked if he proposed any solutions. McCarty asked about the traffic rating on the chip-seal. McDermott said it was in use now with City trucks and the City maintains it. The difference between this use and the other use is the amount of truck traffic. Smith said they were talking heavy equipment and the asphalt has to be able to hold that up. Forrey said it was valid point to bring up the inequity on the surface but they had to look at the specifics and see if it is merited to lessen the requirements for this applicant. Balls said he was not opposed to what they are asking for. That was not his purpose for being present. Forrey understood it was a valid point and it was his concern on this item. Matching the existing pavement is customary and that is chip seal. Sidewalk could not be tied to anything. McDermott reiterated Smith's point that an improvement district could be formed in the future to improve the road.

McCarty made a motion to recommend approval subject to staff stipulations:

1. All improvements shall be in accordance with the narrative provided. However, if the park wants to expand its operation to additional days, the conditional use permit will be reconsidered and more permanent on-site and off-site improvements may be required.
2. All permits and inspections for improvements shall be done in accordance with applicable codes and policies prior to occupancy.
3. Applicant shall extend existing chip-seal pavement on a two-lane half-street to the south end of the property and provide barricades at the end of the pavement to prevent continued travel to the south.
4. Frontage landscaping shall be provided per City Code 154.103(X).
5. Parking areas shall be on an acceptable dust-proofed surface.

Jones seconded. He said he understood that is temporary and limited use with no permanent structures and they must fulfill recommendations from the City.

Forrey proposed an amendment that the conditional use permit be reviewed in six months to give the City a chance to review the site and make any adjustments if necessary. Carnal seconded. McCarty asked why the developer would put in improvements if in six months it could change. It would be a large burden on the owner. Jones said if there were complaints it could be revoked. Forrey asked if that was true. McDermott said that was correct. Forrey asked what the trigger would be. Smith said if it did not meet conditions staff could revoke it or bring it back to the hearing process. Forrey asked if one year was better. McCarty said he could not agree to a time frame. If you look at a business investment, if you have one year you can't afford the investment. Jones agreed you could not uproot a business just so the City could review it. McCarty said it was an unreasonable burden on the property owner. Forrey said it did not address the inequity.

McDermott said if there were violations it can be revoked, so a time frame would be redundant. Carnal withdrew his second to the amendment. The vote on the original motion for approval with stipulations recommended by staff passed 3 to 1 with Forrey in opposition.

V. DISCUSSION ITEM

Temporary Sign Regulations

Forrey asked that this item be tabled until Chair Doug Doede could be present.

VI. STAFF REPORT

Staff had nothing to report to the Commission.

VII. COMMISSIONER COMMENTS

None of the Commission members had anything to report.

XIII. ADJOURNMENT

Vice-Chair Forrey adjourned the Commission meeting at 6:45 p.m.

Mark L. Smith, Senior Planner

Brandon Forrey, Vice Chairman