

Minutes of the Planning and Zoning Hearing held on Monday, November 13, 2023, at 6:00 p.m. in the City Hall Conference Room, 21 Williamson Avenue, Winslow, Arizona.

STAFF

David Coolidge, City Manager

Suzy Wetzel, City Clerk

Marshall Larsen, City Inspector

Ashley Salyers, Recording Secretary

Jason Sanks, Zoning Hearing Officer (via Zoom)

Michelle Stinson, City Attorney (via Zoom)

The Zoning Hearing Officer called the hearing to order at 6:00 p.m. and stated that the intent of the hearing is to discuss an appeal for property located at 2303 North Park Drive. The applicant, Dr. Carol Yeisley, was in attendance and confirmed that she is the owner of both this property and the property adjacent to 2303 North Park Drive. In response to a question from the Zoning Hearing Officer, Ms. Yeisley stated that her legal counsel was not in attendance.

CONSIDERATION AND ACTION

A. Public Hearing, Consideration and Possible Action regarding an appeal of the City Inspector's interpretation of Chapter 17.40 – Commercial District of the Municipal Code related to boarding livestock, filed by Carol L. Yeisley for property located at 2303 North Park Drive, Winslow, Arizona, and further described as APN 103-54-030C

The Zoning Hearing Officer opened the public hearing and provided detailed information from his staff report regarding the appeal of the City Inspector's interpretation of Chapter 17.40 of the code related to keeping livestock on property that is commercially zoned. The Zoning Hearing Officer discussed the fact that the applicant was under the impression that the property had what would be considered a legal non-conforming use status to have livestock on the property when she purchased it seven or eight years ago. The Zoning Hearing Officer also discussed the zoning for adjacent properties and stated that there is no evidence showing when the animals were brought to the property or if they were ever legally introduced to the property.

After referring to the information that was provided to the city by the applicant, the Zoning Hearing Officer stated that since he was not able to determine if the legal non-conforming use was legally initiated, the appeal is denied keeping with the written determination of the City Inspector dated June 30, 2023.

Applicant Carol Yeisley was given an opportunity to speak and discussed the fact that cattle from the O'Haco ranch have been running in the area since 1912. Ms. Yeisley referred to a conversation she had with the former Code Compliance Officer regarding a fence that she constructed to keep the cattle from getting on the road and stated that he indicated to her that she could have both cattle and horses on the property which is why she proceeded with purchasing it.

In response to Ms. Yeisley's comments, the Zoning Hearing Officer clarified that the property in question has not allowed for keeping livestock since at least 1995 and stated that it has not been clearly established that the applicant has a legal non-conforming right to keep them on the property. Ms. Yeisley stated again that the cattle were there when she purchased the property and have been there since the early 1900's. Ms. Yeisley further stated that there was a written agreement in place with the previous owners of the property to allow cattle on the property and she signed an addendum to continue this practice after purchasing the property.

The Zoning Hearing Officer asked the applicant if she feels that she can provide additional information regarding the fact that animals were previously allowed on the property and the applicant responded by stating that Mr. O'Haco, who could not be in attendance tonight, could provide that because they both want to continue to use the property for agricultural use. The Zoning Hearing Officer reiterated that livestock is not allowed on commercial property and stated that additional information is needed that would show that allowing livestock predated the zoning so that it can be established as a legal non-conforming use status.

Bill Lawler, who also resides on North Park Drive and is the previous owner's son-in-law, spoke and stated that he knows for a fact that there was a pre-existing lease with Mr. O'Haco to allow his cattle to run on the property that is now owned by Ms. Yeisley. Mr. Lawler also stated that he checked with the city prior to the sale of the property and was told that horses could be kept on the property. Ms. Yeisley stated that she would not have purchased the property if she had known that horses were not allowed.

Mr. Lawler feels that the horses should be allowed to remain on the property since Ms. Yeisley has done everything that the city wanted her to do. Mr. Lawler explained that he continued to check with the Code Compliance Officer prior to the sale of the property and was told that the city was going to rezone the property, however this was not done and the employee no longer works for the city. After Mr. Lawler continued to speak in favor of the applicant being allowed to keep the horses on the property, the Zoning Hearing Officer stated that the property was rezoned from MFR to commercial in 2005.

In response to a question from Ms. Yeisley, the Zoning Hearing Officer stated that a letter from Mr. O'Haco would be sufficient and clarified that the letter needs to include information that proves it is a legal non-conforming use. Ms. Yeisley stated that Mr. O'Haco would be the one that could provide that information since his family have always run cattle on the property.

The Zoning Hearing Officer referred to the appeal process and confirmed that what was presented is not sufficient to establish legal non-conforming use status, therefore the appeal is denied based on those facts. The Zoning Hearing Officer explained that it is the applicant's right to appeal his decision to the Board of

Adjustment but suggested that she continue to work with the city by providing additional information related to the issue.

After further discussion regarding both the current zoning of the property and the zoning prior to it being rezoned, the Zoning Hearing Officer stated that his decision is based on the material that was provided by the applicant. Ms. Yeisley commented again on the fact that there is a current agreement in place to allow the O'Haco's cattle to run on her property and, in turn, her horses are allowed to run on their property.

Ms. Yeisley stated that she is a veterinarian with a DEA license and has assisted animal control in the past with livestock issues. Mr. Lawler stated that the horses are taken care of and fed and he has no problems with them being on the property. The Zoning Hearing Officer stated that the issue is that not that the animals are not cared for but that animals are not allowed in commercially zoned property.

At the request of Ms. Yeisley, the Zoning Hearing Officer provided clarification that she should provide written documentation to the city establishing the date that animals were originally brought to the property. The Zoning Hearing Officer also clarified that his recommended motion is to deny the appeal based on the information that was provided by the applicant.

Ms. Yeisley commented further on the fact that cattle have been run on the north range since 1912. Ms. Yeisley stated that she will contact Mr. O'Haco and ask him to provide a letter to the city. The Zoning Hearing Officer stated that if there is evidence that the animals were introduced to the property at a time when they were allowed, the city can then determine that a legal non-conforming use preexisted.

Ms. Yeisley referred to her agreement with the O'Hacos and stated that neither of them wanted to lose access to each other's property for use by their livestock. Ms. Yeisley stated that she finds it very odd that she bought the property 2015 and the city just now is having an issue with her horses. Ms. Yeisley also stated that she utilizes a composting program that was developed by ASU so that everything on the property is composted.

Ms. Yeisley discussed the daily fine referenced in the City Inspector's letter and reiterated that she has no place to move the horses to except her ranch in Texas. The City Manager and the City Attorney stated that the city will continue to work with the applicant to find a resolution and requested that the letter be provided to the city in a timely manner.

After closing the public hearing, the Zoning Hearing Officer confirmed that the appeal is denied and the city will continue to work with the applicant as more information is provided.

ADJOURNMENT

The hearing was adjourned by the Zoning Hearing Officer at 6:45 p.m.