



MEMORANDUM

PUBLIC WORKS - DEVELOPMENT SERVICES

PIMA COUNTY DEVELOPMENT SERVICES DEPARTMENT

201 N. Stone Avenue, 1st Floor
Tucson, Arizona 85701-1207

CARLA BLACKWELL
Director

Phone: (520) 740-6520
FAX: (520) 798-1843

August 19, 2019

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HEARING ADMINISTRATOR'S FINDINGS AND DECISION

P19CU00010 **EQUINE VOICES RESCUE & SANCTUARY — W. DOVE WAY** **Type I Conditional Use – Animal Rescue and Sanctuary Facility**

Background/Authority

Chapter 18.97, in accordance with Section 18.13.030.B.35 of the Pima County Zoning Code, requires a Type I conditional use permit for an animal rescue and sanctuary facility on property zoned RH (Rural Homestead). This particular request pertains to a facility that has been in operation for approximately fifteen (15) years on the subject property, but which has heretofore done so without a conditional use permit. A recent complaint from a nearby property owner resulted in the filing of this Type I application for consideration by the Hearing Administrator.

Public Hearing

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on August 14, 2019. The owner (Karen Pomroy) and applicant (Adalberto Villaescusa) presented the case and addressed, to the satisfaction of the hearing administrator, the information which must be part of the conditional use-permit (CUP) testimony and answered the Hearing Administrator's various questions over the course of the hearing.

Approximately twelve (12) members of the public appeared at the hearing, eight (8) of whom chose to speak on the matter. Two (2) of the speakers could be characterized as being unconditionally supportive of the request, and offered comments indicating that the owners were dedicated individuals who operated a quality, responsible facility and whose valuable work should be allowed to continue. Six (6) of the speakers were in opposition of the request (although some commended the work done at the sanctuary), citing concerns related to smell (from manure), flies, the accumulation of manure piles and the possibility of downstream run-off from same, impacts/damage to the existing roadways from the large semi-tractor trailers delivering hay, and a general belief that this type of use is simply inappropriate in an otherwise rural residential area.

Staff indicated that several letters and emails (some in objection, some in support) had been received by prior to the public hearing, all of which had been provided to the Hearing Administrator. All of these were contemplated by the Hearing Administrator prior to rendering this decision.

Upon hearing all of the above, the Hearing Administrator closed the public hearing and indicated that he would take the case under advisement and would issue his decision in writing.

Hearing Administrator Considerations and General Comments

This is a case where there was much testimony in objection from nearby neighbors to the continued operation of this animal rescue and sanctuary facility. After due consideration of all of the testimony in this case, together with the additional written correspondence that has been put into the record, the Hearing Administrator rejects the notion that this is an exclusively rural residential area in which a non-residential use like the sanctuary is inappropriate and therefore should not be allowed. The RH zoning that pervades this entire area is clearly not an exclusively residential-only zone and, in fact, goes to great lengths to authorize a whole series of non-residential uses that it deems appropriate for rural settings. Many of these (e.g. the raising of hogs, livestock and poultry) are allowed by right and are far more invasive than the equestrian sanctuary being proposed in this conditional use permit case. Furthermore, the RH zone permits horses by right with no stipulated limit on number.

With the above in mind, the Hearing Administrator intends to approve this conditional use permit request in accordance with the formal decision rendered below and per the enumerated *Special Conditions* attached thereto. The owners currently operate a generally clean facility and do so in a responsible and professional fashion. Nonetheless, it is clear that certain modifications to its operations can be made to better respect and accommodate the surrounding neighbors. *Special Conditions* have been crafted to address these issues, which include property access, location of manure compost piles, and constraints on further expansion.

Required Standards and Findings

Following are the Hearing Administrator's findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

1. It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.

The Pima County Comprehensive Plan designates this site as *Low Intensity Rural (LIR)*, the purpose of which is, "to designate areas for residential uses at densities consistent with rural and resource-based characteristics."

It must be noted that the *LIR* category is home to several rural zoning classifications which allow a complement of uses that go far beyond residential. Rural Homestead (RH), for example, which is the zoning of the subject property, allows the following non-residential uses by right: crop production, the raising & grazing of livestock, raising of poultry & pigs, animal hospital, childcare centers, and group foster homes. The RH zone also allows horses by right, with no prescribed limit in number.

It is the Hearing Administrator's position that an animal rescue and sanctuary facility is possible and/or appropriate in a rural setting such as this when the facility operates in responsible manner and is held reasonably accountable for its particular impacts on its surroundings.

To date, and after having visited the property, the Hearing Administrator finds that this particular animal rescue facility and sanctuary is run in a clean, professional fashion and, when operated in conformance with the *Special Conditions* stipulated below, can continue to do so without undue harm to its neighbors.

In consideration of all of the above, the Hearing Administrator finds that the proposed conditional use permit application is not inconsistent or in serious conflict with the larger goals of the *Low Intensity Rural (LIR)* category of the Pima County Comprehensive Plan, nor with its RH zoning designation.

2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.

The current operation of the sanctuary is found to have certain negative impacts upon some of the surrounding properties. *Special Conditions* have been crafted to address these impacts and to require that the facility operate in a way that is more appropriate for its immediate context.

3. It has adequate accessibility to the County road network.

Access is not found to be an issue due to the comparatively low traffic-generation characteristics of this use. The site is accessed by a paved street (Dove Way) and by a dirt roadway within a private easement. *Special Conditions* have been crafted with respect to access in order to address the particulars of the existing dirt road and its use by the sanctuary.

4. It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.

Parking requirements, if any, are subject to normal permitting procedures. A formal Site Plan shall be reviewed by the Development Services Department; no formal Development Plan is required for this use.

5. It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.

The current operation of the sanctuary is found to have certain negative impacts upon the surrounding properties relating to some of the above factors. *Special Conditions* have been crafted to address these impacts and to require that the facility operate in a way that is more appropriate for its surrounding context.

6. Hours of operation will not be detrimental to adjoining residents.

Hours of operation are found to not be an issue as such a facility has no such set hours of operation and no on-going “business” outside of normal daytime hours.

7. Landscaping will be fully in conformance with zoning code regulations.

Landscaping requirements, if any, are subject to normal permitting procedures. A formal Site Plan shall be reviewed by the Development Services Department; no formal Development Plan is required for this use.

Hearing Administrator's Decision

This application for a Type I conditional use permit for an animal rescue and sanctuary facility is hereby **approved** subject to the standard requirements of the Pima County Zoning Code, together with the following *Special Conditions* as stipulated by the Hearing Administrator:

1. This conditional use permit approval is for an animal rescue and sanctuary facility only, together with its customary attendant uses. No other non-residential or commercial use is granted nor implied.
2. This conditional use permit is for the existing structures and facilities on the property only and the sanctuary is limited to a maximum number of sixty-five (65) horses. Any further expansion of the facility in terms of additional or enlarged structures, impacted/graded areas, or number of horses shall require a new conditional use permit application, public notice, and public hearing process.
3. The owner/applicant shall submit a formal Site Plan to the Development Services Department showing all existing structures and sanctuary facilities. The Planning Official or his designee shall review the Site Plan for completeness, for compliance with standard Zoning Code requirements, for compliance with these *Special Conditions*, and shall coordinate with other Pima County reviewing departments as necessary to ensure a complete review process. No formal *Development Plan* is required for this use.
4. The owner/applicant shall obtain a Floodplain Use Permit if deemed necessary by the Regional Flood Control District during the Site Plan review process.
5. The owner/operator shall maintain its daily treatment and management of manure as described at public hearing, specifically dragging all corrals and affected areas once per day, and mucking all barns and stalls twice per day.
6. The owner/operator shall maintain its regular treatment for flies and insects as described at public hearing, specifically treating all affected areas with diatomaceous earth on a monthly schedule.
7. The existing manure composting pile shall be completely removed from its current location adjacent to the neighboring property line. Any material mounds of the composted manure that have spread or spilled onto to the neighboring property shall also be removed.
8. A new location for the manure compost pile shall be established within the interior of the property. There shall be no more than one (1) composting area it shall be no more than four hundred (400) square feet in total area. It is prohibited on the sanctuary's northern parcel. It shall be located within the sanctuary's two southern parcels and shall be a minimum of two hundred feet (200') from any property line shared with a different owner. The new location of the composting pile shall be shown on the required Site Plan.
9. Primary access to and from the sanctuary shall be from the Dove Way entrance.
10. In the event that the owner/operator elects to continue using the unpaved easement roadway for hay deliveries, the sanctuary shall assume the costs for grading the roadway every six (6) months. The first roadway grading shall occur within thirty (30) days of the date on which this conditional use permit is issued, and thereafter be completed a minimum of every six (6) months. The roadway shall be graded to a minimum width of sixteen feet (16'). No use of the dirt roadway is allowed for hay deliveries if the owner/operator does not accept these roadway grading responsibilities.
11. The applicant shall record the Conditional Use Permit with the County Recorder.
12. Prior to the issuance of the Conditional Use Permit, a notarized affidavit claiming eligibility per Pima County Zoning Code Section 18.09.020(N)(3) is required.
13. Any change of ownership shall require that the new owners and operators adhere to Section 18.09.020(N)(5) and that the new owners adhere to all of the above *Special Conditions*.

This decision is subject to the standard, statutory 30-day protest period from the date of this written decision. The owner, applicant, or any owner-of-record within the legal notification area can appeal this decision, which will result in a subsequent public hearing on this matter before the Pima County Board of Supervisors.

Any party interested in filing an appeal should contact Mr. Nicholas Coussoulis, Senior Planner, Pima County Development Services Department, at phone number 520.724.9000. Please be advised that filing fees apply to any appeal, and that these fees are payable by the party filing the appeal request.

Respectfully Submitted:



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Jim Portner,
Pima County Hearing Administrator

August 19, 2019

Date